

# HOUSE BILL No. 6554

September 20, 2006, Introduced by Rep. Hildenbrand and referred to the Committee on Regulatory Reform.

A bill to amend 1980 PA 299, entitled  
"Occupational code,"  
by amending sections 2501, 2502a, 2503, 2504, 2505, 2506, 2507,  
2512, 2512c, and 2514 (MCL 339.2501, 339.2502a, 339.2503, 339.2504,  
339.2505, 339.2506, 339.2507, 339.2512, 339.2512c, and 339.2514),  
sections 2501, 2504, and 2505 as amended by 2003 PA 196, section  
2502a as added by 2002 PA 611, section 2503 as amended by 1990 PA  
269, sections 2506 and 2507 as amended by 1988 PA 463, section 2512  
as amended by 2002 PA 42, and section 2512c as added by 1994 PA  
333.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 2501. As used in this article:

2       (A) "EMPLOY" OR "EMPLOYMENT" MEANS THE RELATIONSHIP BETWEEN AN

1 INDIVIDUAL LICENSED UNDER A REAL ESTATE BROKER AND THAT REAL ESTATE  
2 BROKER, WHICH MAY INCLUDE AN INDEPENDENT CONTRACTOR RELATIONSHIP.  
3 THE EXISTENCE OF AN INDEPENDENT CONTRACTOR RELATIONSHIP BETWEEN A  
4 REAL ESTATE BROKER AND AN INDIVIDUAL LICENSED TO THE REAL ESTATE  
5 BROKER SHALL NOT RELIEVE THE REAL ESTATE BROKER OF THE  
6 RESPONSIBILITY TO SUPERVISE ACTS OF THE LICENSEE REGULATED BY THIS  
7 ARTICLE.

8 (B) "INDEPENDENT CONTRACTOR RELATIONSHIP" MEANS A RELATIONSHIP  
9 BETWEEN A REAL ESTATE BROKER AND AN ASSOCIATE BROKER OR REAL ESTATE  
10 SALESPERSON THAT SATISFIES BOTH OF THE FOLLOWING CONDITIONS:

11 (i) A WRITTEN AGREEMENT EXISTS IN WHICH THE REAL ESTATE BROKER  
12 DOES NOT CONSIDER THE ASSOCIATE BROKER OR REAL ESTATE SALESPERSON  
13 AS AN EMPLOYEE FOR FEDERAL AND STATE INCOME TAX PURPOSES.

14 (ii) NOT LESS THAN 75% OF THE ANNUAL COMPENSATION PAID BY THE  
15 REAL ESTATE BROKER TO THE ASSOCIATE BROKER OR REAL ESTATE  
16 SALESPERSON IS FROM COMMISSIONS FROM THE SALE OF REAL ESTATE.

17 (C) "LEASING PROFESSIONAL" MEANS A PERSON WHO FOR COMPENSATION  
18 OR OTHER VALUABLE CONSIDERATION IS EMPLOYED EITHER DIRECTLY OR  
19 INDIRECTLY BY A LICENSED REAL ESTATE BROKER TO LEASE, OR OFFER TO  
20 LEASE, OR RENT, OR OFFER TO RENT, OR TO ENGAGE IN PROPERTY  
21 MANAGEMENT REGARDING REAL PROPERTY CONSISTING OF 1 OR MORE DWELLING  
22 UNITS.

23 (D) "NEGOTIATE THE MORTGAGE OF REAL ESTATE" MEANS ENGAGING IN  
24 ACTIVITY NOT REGULATED BY THE MORTGAGE BROKERS, LENDERS, AND  
25 SERVICERS LICENSING ACT, 1987 PA 173, MCL 445.1651 TO 445.1684.

26 (E) ~~-(a)-~~ "Property management" means ~~the leasing or renting,~~  
27 ~~or the offering to lease or rent, of~~ ANY OF THE FOLLOWING

1 **ACTIVITIES UNDERTAKEN, AS A WHOLE OR PARTIAL VOCATION, REGARDING**  
2 real property of others **AND THAT ARE PERFORMED** for a fee,  
3 commission, compensation, or other valuable consideration pursuant  
4 to a property management employment contract: —

5 (i) **ADVERTISING AND PROMOTION.**

6 (ii) **LEASING.**

7 (iii) **OVERALL MANAGEMENT.**

8 (iv) **SUPERVISION OF THE ACTIVITIES DESCRIBED IN SUBPARAGRAPHS**

9 (i) **THROUGH (iii).**

10 (F) ~~—(b)—~~ "Property management account" means an interest-  
11 bearing or noninterest-bearing account or instrument used in the  
12 operation of property management.

13 (G) ~~—(e)—~~ "Property management employment contract" means the  
14 written agreement entered into between a real estate broker and  
15 client concerning the real estate broker's employment as a property  
16 manager for the client; setting forth the real estate broker's  
17 duties, responsibilities, and activities as a property manager; and  
18 setting forth the handling, management, safekeeping, investment,  
19 disbursement, and use of property management money, funds, and  
20 accounts.

21 (H) ~~—(d)—~~ "Real estate broker" means an individual, sole  
22 proprietorship, partnership, association, corporation, common law  
23 trust, or a combination of those entities who with intent to  
24 collect or receive a fee, compensation, or valuable consideration,  
25 sells or offers for sale, buys or offers to buy, provides or offers  
26 to provide market analyses, lists or offers or attempts to list, or  
27 negotiates the purchase or sale or exchange or mortgage of real

1 estate, or negotiates for the construction of a building on real  
2 estate; who leases or offers or rents or offers for rent real  
3 estate or the improvements on the real estate for others, as a  
4 whole or partial vocation; who engages in property management as a  
5 whole or partial vocation; who sells or offers for sale, buys or  
6 offers to buy, leases or offers to lease, or negotiates the  
7 purchase or sale or exchange of a business, business opportunity,  
8 or the goodwill of an existing business for others; or who, as  
9 owner or otherwise, engages in the sale of real estate as a  
10 principal vocation.

11 (I) ~~-(e)-~~ "Real estate salesperson" means a person who for  
12 compensation or valuable consideration is employed either directly  
13 or indirectly by a licensed real estate broker to sell or offer to  
14 sell, to buy or offer to buy, to provide or offer to provide market  
15 analyses, to list or offer or attempt to list, or to negotiate the  
16 purchase or sale or exchange or mortgage of real estate, or to  
17 negotiate for the construction of a building on real estate, or to  
18 lease or offer to lease, rent or offer for rent real estate, who is  
19 employed by a real estate broker to engage in property management,  
20 or who sells or offers for sale, buys or offers to buy, leases or  
21 offers to lease, or negotiates the purchase or sale or exchange of  
22 a business, business opportunity, or the goodwill of an existing  
23 business for others, as a whole or partial vocation.

24 ~~— (f) "Employ" or "employment" means the relationship between a~~  
25 ~~real estate broker and an associate broker or a real estate~~  
26 ~~salesperson which may include an independent contractor~~  
27 ~~relationship. The existence of an independent contractor~~

1 ~~relationship between a real estate broker and an individual~~  
2 ~~licensed to the real estate broker shall not relieve the real~~  
3 ~~estate broker of the responsibility to supervise acts of the~~  
4 ~~licensee regulated by this article.~~

5 ~~—— (g) "Independent contractor relationship" means a relationship~~  
6 ~~between a real estate broker and an associate broker or real estate~~  
7 ~~salesperson that satisfies both of the following conditions:~~

8 ~~—— (i) A written agreement exists in which the real estate broker~~  
9 ~~does not consider the associate broker or real estate salesperson~~  
10 ~~as an employee for federal and state income tax purposes.~~

11 ~~—— (ii) Not less than 75% of the annual compensation paid by the~~  
12 ~~real estate broker to the associate broker or real estate~~  
13 ~~salesperson is from commissions from the sale of real estate.~~

14 (J) ~~—(h)—~~ "Professional designation" means a certification  
15 from a real estate professional association demonstrating  
16 attainment of proven skills or education in a real estate  
17 occupational area, and may include the right to use a title or  
18 letters after the licensee's name that represent the designation  
19 bestowed by the certifying entity.

20 Sec. 2502a. ~~Beginning November 1, 2003, the~~ **THE** department  
21 shall issue a license for real estate broker, associate real estate  
22 broker, **LEASING PROFESSIONAL**, and real estate salesperson for a  
23 term of 3 years.

24 Sec. 2503. **(1) A PERSON SHALL NOT ENGAGE IN OR OFFER TO ENGAGE**  
25 **IN ANY OF THE FOLLOWING UNLESS LICENSED IN THE APPROPRIATE CAPACITY**  
26 **OR EXEMPT FROM LICENSURE UNDER THIS ARTICLE:**

27 **(A) ACT AS A REAL ESTATE BROKER OR ASSOCIATE BROKER.**

1 (B) ACT AS A REAL ESTATE SALESPERSON.

2 (C) ACT AS A LEASING PROFESSIONAL.

3 (D) ENGAGE IN PROPERTY MANAGEMENT.

4 (2) ~~—(1) This~~ THE LICENSURE REQUIREMENTS OF THIS article  
5 ~~shall~~ DO not apply to ~~an~~ THE FOLLOWING:

6 (A) AN individual, partnership, association, or corporation,  
7 who as owner, sells or offers for sale a detached, single family  
8 dwelling, duplex, triplex, or quadruplex, which has never been  
9 occupied and ~~which~~ was built by the individual, partnership,  
10 association, or corporation while licensed under article 24. ~~This~~  
11 ~~article does not apply to an~~

12 (B) AN individual, partnership, association, or corporation,  
13 who as owner or lessor or as attorney-in-fact acting under a duly  
14 executed and recorded power of attorney from the owner or lessor,  
15 or who has been appointed by a court, performs an act as a real  
16 estate broker or real estate salesperson with reference to property  
17 owned by it, unless performed as a principal vocation not through a  
18 licensed real estate broker.

19 (C) ~~—(2) This article shall not include the services rendered~~  
20 ~~by an attorney at law as an~~ AN attorney at law ~~—, nor shall it~~  
21 ~~include a~~ PERFORMING LEGAL SERVICES PERTAINING TO THE SALE, LEASE,  
22 OR PURCHASE OF REAL ESTATE OR AN INTEREST IN REAL ESTATE FOR A  
23 CLIENT.

24 (D) A receiver, trustee in bankruptcy, administrator,  
25 executor, OR a person selling real estate under order of a court.  
26 ~~, nor a~~

27 (E) A trustee selling under a deed of trust. This exemption of

1 a trustee shall not apply to repeated or successive sales of real  
2 estate by the trustee, unless the sale is made through a licensed  
3 real estate broker.

4 (F) ~~—(3) This article does not apply to a~~ A person ~~who is~~  
5 regulated under the mortgage brokers, lenders, and servicers  
6 licensing act, ~~Act No. 173 of the Public Acts of 1987, being~~  
7 ~~sections 445.1651 to 445.1683 of the Michigan Compiled Laws, and~~  
8 1987 PA 173, MCL 445.1651 TO 445.1684, who does not perform any  
9 other act requiring a license as a real estate broker, associate  
10 broker, LEASING PROFESSIONAL, or real estate salesperson.

11 ~~——(4) For the purposes of this article, "negotiate the mortgage~~  
12 ~~of real estate" as described in section 2501, means engaging in~~  
13 ~~activity not regulated under Act No. 173 of the Public Acts of~~  
14 ~~1987.~~

15 (G) AN INDIVIDUAL EMPLOYED BY OR ACTING AS AN INDEPENDENT  
16 CONTRACTOR FOR A BROKER, SALESPERSON, OR LEASING PROFESSIONAL,  
17 WHOSE ACTIVITIES ARE LIMITED TO 1 OR MORE OF THE FOLLOWING:

18 (i) DELIVERY TO ANOTHER PERSON OF A LEASE APPLICATION, A LEASE,  
19 OR ANY AMENDMENT TO A LEASE.

20 (ii) RECEIVING A LEASE APPLICATION, LEASE, OR ANY AMENDMENT TO  
21 A LEASE; A SECURITY DEPOSIT; RENTAL PAYMENT; OR ANY RELATED PAYMENT  
22 FOR DELIVERY TO A PROPERTY MANAGER OR OWNER.

23 (iii) SHOWING A RENTAL UNIT TO ANY PERSON OR PROVIDING  
24 INFORMATION REGARDING A RENTAL UNIT, LEASE, APPLICATION FOR LEASE,  
25 OR THE STATUS OF A SECURITY DEPOSIT OR THE PAYMENT OF RENT.

26 (iv) ASSISTING IN THE PERFORMANCE OF PROPERTY MANAGEMENT  
27 FUNCTIONS BY ENGAGING IN ADMINISTRATIVE, CLERICAL, OR MAINTENANCE

1 TASKS.

2 (3) AN INDIVIDUAL LICENSED AS A LEASING PROFESSIONAL IS  
3 RESTRICTED TO ACTIVITIES WITHIN THE SCOPE OF PRACTICE OF PROPERTY  
4 MANAGEMENT AND IS PROHIBITED FROM ENGAGING IN ACTIVITIES WITHIN THE  
5 SCOPE OF PRACTICE OF A REAL ESTATE BROKER OR A REAL ESTATE  
6 SALESPERSON.

7 Sec. 2504. (1) Before receiving a real estate broker's  
8 license, an applicant shall submit an application as described in  
9 section 2505 and shall have successfully completed not less than 90  
10 clock hours of approved classroom courses in real estate of which  
11 not less than 9 clock hours shall be instruction on civil rights  
12 law and equal opportunity in housing. The 90 hours shall be in  
13 addition to the hours required to obtain a real estate  
14 salesperson's license.

15 (2) Before being permitted to take the real estate  
16 salesperson's examination, an applicant shall show proof of  
17 successful completion of not less than 40 clock hours of classroom  
18 courses in principles of real estate, of which not less than 4  
19 clock hours shall be instruction on civil rights law and equal  
20 opportunity in housing.

21 (3) BEFORE BEING PERMITTED TO TAKE THE LEASING PROFESSIONAL'S  
22 EXAMINATION, AN APPLICANT SHALL SHOW PROOF OF SUCCESSFUL COMPLETION  
23 OF NOT LESS THAN 40 CLOCK HOURS OF CLASSROOM COURSES IN PROPERTY  
24 MANAGEMENT ACCEPTABLE TO THE BOARD AND THE DEPARTMENT. FOR PURPOSES  
25 OF THIS SUBSECTION, APPROVED COURSES INCLUDE, BUT ARE NOT LIMITED  
26 TO, THE FOLLOWING TOPICS:

27 (A) THE PROVISIONS OF THIS ACT APPLICABLE TO LEASING



1 PROFESSIONALS.

2 (B) FAIR HOUSING ISSUES RELATING TO RESIDENTIAL LEASING.

3 (C) ADVERTISING AND MARKETING ISSUES.

4 (D) LEASES, APPLICATIONS, AND CREDIT REPORTS.

5 (E) OWNER-TENANT RELATIONSHIPS AND OWNER-TENANT LAWS.

6 (F) THE HANDLING OF PROPERTY MANAGEMENT FUNDS.

7 (G) MICHIGAN LAWS RELATING TO SECURITY DEPOSITS AND TENANT  
8 RIGHTS.

9 (H) LEASING OFFICE MANAGEMENT AND MODEL APARTMENTS.

10 (4) ~~—(3)—~~ For purposes of subsections (1) and (2), approved  
11 courses may be on the following topics:

12 (a) Real estate license law and related regulatory laws.

13 (b) Real property law, including property interests and  
14 restrictions.

15 (c) Federal, state, and local tax laws affecting real  
16 property.

17 (d) Conveyances, including contracts, deeds, and leases.

18 (e) Financing, including mortgages, land contracts,  
19 foreclosure, and limits on lending procedures and interest rates.

20 (f) Appraisal of real property.

21 (g) Design and construction.

22 (h) Marketing, exchanging, and counseling.

23 (i) The law of agency.

24 (j) Sales and office management, including listing and selling  
25 techniques.

26 (k) Real estate securities and syndications.

27 (l) Investments, including property management.

1       (5) ~~—(4)—~~ Except as otherwise provided in this subsection,  
2 before being permitted to renew an active real estate broker's, ~~or~~  
3 real estate salesperson's, **OR LEASING PROFESSIONAL'S** license, a  
4 licensee shall have successfully completed, within the preceding 12  
5 months, not less than 6 clock hours of continuing education  
6 approved by the department involving any topics relevant to the  
7 management, operation, and practice of real estate and covering  
8 changes in economic conditions, law, rules, court cases, and  
9 interpretations, or any combination of those changes, relating to  
10 real property which are pertinent to the activities of a real  
11 estate broker, ~~or~~ real estate salesperson, **OR LEASING**  
12 **PROFESSIONAL**. Beginning November 1, 2003, a licensee shall complete  
13 not less than 18 hours of continuing education per 3-year license  
14 cycle. A licensee shall complete at least 6 hours of the required  
15 18 hours of continuing education courses during the time period  
16 from November 1, 2003 and ending on December 31, 2004. During  
17 calendar year 2005, a licensee shall complete at least 6 hours of  
18 the required 18 hours of continuing education courses. During  
19 calendar year 2006, a licensee shall complete at least 4 hours of  
20 the required 18 hours of continuing education courses. During  
21 calendar year 2007 and thereafter, a licensee shall complete at  
22 least 2 hours per calendar year of the required 18 hours of  
23 continuing education courses. Any education successfully completed  
24 by a licensee for further professional designation and approved by  
25 the department as continuing education may be counted toward the  
26 total continuing education credits required for the 3-year license  
27 cycle. Each licensee, in completing the appropriate number of clock

1 hours, will have the option of selecting the education courses in  
2 that licensee's area of expertise, as long as the education courses  
3 are approved by the department and as long as at least 2 hours of  
4 an education course per calendar year involve law, rules, and court  
5 cases regarding real estate. Notwithstanding the provisions of this  
6 subsection, the department may renew the license of a licensee who  
7 has completed not less than 18 hours of continuing education in the  
8 subject matter areas required by this subsection during the 3-year  
9 license cycle but has not otherwise met the requirements of this  
10 section if the licensee provides evidence satisfactory to the  
11 department that he or she has good cause for not complying with the  
12 requirements in this subsection.

13       (6) ~~—(5)—~~ The department may relicense without examination a  
14 licensee whose license has lapsed for less than 3 years if the  
15 licensee shows proof of completion of not less than 6 clock hours  
16 of continuing education for each year the license was lapsed, on  
17 topics as described in subsection ~~—(4)—~~ (5).

18       (7) ~~—(6)—~~ The department may relicense a broker whose license  
19 has lapsed for 3 or more continuous years if the licensee provides  
20 proof of the successful completion of 1 of the following:

21       (a) Six clock hours of continuing education for each of the  
22 years the license was lapsed on topics described in subsection ~~—(4)—~~  
23 (5).

24       (b) Ninety clock hours of instruction described in subsections  
25 (1) and ~~—(3)—~~ (4).

26       (c) Passing the examination required for licensure as a broker  
27 as provided for in section 2505(5).

1       (8) ~~—(7)—~~ A salesperson **OR LEASING PROFESSIONAL** whose license  
 2 has been lapsed for 3 or more continuous years may be relicensed if  
 3 the licensee provides proof of the successful completion of 1 of  
 4 the following:

5       (a) Six clock hours of continuing education for each of the  
 6 years the license was lapsed on topics described in subsection ~~—(4)—~~  
 7 (5).

8       (b) Forty clock hours of instruction described in ~~—subsections~~  
 9 **SUBSECTION (2) ~~—and—~~ OR (3) AND SUBSECTION (4).**

10       (c) Passing the examination required for licensure as a  
 11 salesperson **OR LEASING PROFESSIONAL** as provided in section 2505(5).

12       (9) ~~—(8)—~~ The department shall not apply the course credits  
 13 used to meet continuing education requirements provided in  
 14 subsections ~~—(4)—~~ (5) through ~~—(7)—~~ (8) towards the real estate  
 15 broker's license education requirements provided in subsection (1),  
 16 and course credits taken under real estate broker's license  
 17 education requirements shall not be applied towards the continuing  
 18 education requirements. The department shall apportion the approved  
 19 course credits eligible for education requirements in subsection  
 20 (1) and subsections ~~—(4)—~~ (5) through ~~—(7)—~~ (8) to meet either  
 21 requirement upon the licensee's request.

22       (10) ~~—(9)—~~ For real estate brokers, associate brokers, **LEASING**  
 23 **PROFESSIONALS**, and salespersons who receive a license issued in the  
 24 second or third years of a 3-year license cycle, continuing  
 25 education shall be in compliance with subsection ~~—(4)—~~ (5), except  
 26 for the following:

27       (a) A real estate broker, associate broker, **LEASING**

1 **PROFESSIONAL**, or salesperson who receives a license issued in the  
2 second year of the 3-year license cycle is required to complete 12  
3 hours of continuing education to renew his or her license.

4 (b) A real estate broker, associate broker, **LEASING**  
5 **PROFESSIONAL**, or salesperson who receives a license issued in the  
6 third year of the 3-year licensing cycle is required to complete 6  
7 hours of continuing education to renew his or her license.

8 **(11)** ~~-(10)-~~ A person who offers or conducts a course or  
9 courses of study represented to meet the educational requirements  
10 of this article first shall obtain approval from the department and  
11 shall comply with the rules of the department concerning  
12 curriculum, instructor qualification, grading system, and other  
13 related matters. In addition to other requirements imposed under  
14 rule, in order to receive approval a course shall be designed to be  
15 taught for not less than 1 clock hour, not including time spent on  
16 breaks, meals, or other unrelated activities, provided the course  
17 is only approved for less than 2 clock hours if, based upon the  
18 subject matter, course outline, instructional materials,  
19 methodology, and other considerations consistent with rules of the  
20 department, the department determines that the course objectives  
21 can be effectively met in the proposed time period. The department  
22 may suspend or revoke the approval of a person for a violation of  
23 this article or of the rules promulgated under this article. A  
24 person offering or conducting a course shall not represent that its  
25 students are assured of passing an examination required by the  
26 department. A person shall not represent that the issuance of  
27 departmental approval is a recommendation or indorsement of the

1 person to which it is issued or of a course of instruction given by  
2 it. A pre-licensure course approved under this article shall be  
3 conducted by a local public school district, a community college,  
4 an institution of higher education authorized to grant degrees, or  
5 a proprietary school licensed by the department ~~of career~~  
6 ~~development~~ under 1943 PA 148, MCL 395.101 to 395.103.

7 (12) ~~—(11)—~~ A person who in operating a school violates  
8 subsection ~~—(10)—~~ (11) is subject to the penalties set forth in  
9 article 6.

10 (13) ~~—(12)—~~ The department may conduct, hold, or assist in  
11 conducting or holding, a real estate clinic, meeting, course, or  
12 institute, which shall be open to a person licensed under this  
13 article, and may incur the necessary expenses in connection with  
14 the clinic, meeting, course, or institute. The department, in the  
15 public interest, may assist educational institutions within this  
16 state in sponsoring studies, research, and programs for the purpose  
17 of raising the standards of professional practice in real estate  
18 and the competence of a licensee.

19 Sec. 2505. (1) An applicant for a real estate broker's license  
20 shall file an application setting forth the applicant's present  
21 address, both of business and residence; the complete address of  
22 each former place where the applicant has resided or been engaged  
23 in business, or acted as a real estate salesperson, for a period of  
24 60 days or more, during the 5 years immediately preceding the date  
25 of application. An applicant for a real estate broker's license  
26 shall state the name of the individual, sole proprietorship,  
27 partnership, association, corporation, limited liability company,

1 common law trust, or a combination of those entities and the  
2 location of the place for which the license is desired, and set  
3 forth the period of time which the applicant has been engaged in  
4 the business. The application shall be executed by the person, or  
5 by an officer or member of the applicant. An applicant for a real  
6 estate broker's license which is a partnership, association,  
7 corporation, limited liability company, common law trust, or a  
8 combination of those entities shall designate which individuals who  
9 are officers or members of the partnership, association, limited  
10 liability company, or corporation will be performing acts regulated  
11 by this article as principals.

12 (2) The department shall not issue a real estate broker's  
13 license to a new applicant who has been convicted of embezzlement  
14 or misappropriation of funds.

15 (3) A real estate broker shall maintain a place of business in  
16 this state. If a real estate broker maintains more than 1 place of  
17 business within the state, a branch office license shall be secured  
18 by the real estate broker for each branch office maintained. A  
19 branch office maintained in excess of 25 miles from the city limits  
20 in which the broker maintains a main office shall be under the  
21 personal, direct supervision of an associate broker.

22 (4) An applicant for a salesperson's **OR LEASING PROFESSIONAL'S**  
23 license shall set forth the period of time during which the  
24 individual has been engaged in the business, stating the name of  
25 the applicant's last employer and the name and the place of  
26 business of the individual, partnership, association, limited  
27 liability company, corporation, common law trust, or combination of

1 those entities then employing the applicant or in whose employ the  
2 applicant is to enter. The application shall be signed by the real  
3 estate broker in whose employ the applicant is to enter.

4 (5) Before issuing a license, the department may require and  
5 procure satisfactory proof of the business experience, competence,  
6 and good moral character of an applicant for a real estate  
7 broker's, **LEASING PROFESSIONAL'S**, or salesperson's license or of an  
8 officer or member of an applicant. The department shall require an  
9 applicant for a **REAL ESTATE** broker's, **LEASING PROFESSIONAL'S**, or  
10 salesperson's license to pass an examination developed by the  
11 department or contracted for with a recognized outside testing  
12 agency establishing, in a manner satisfactory to the department,  
13 that the applicant has a fair knowledge of the English language,  
14 including reading, writing, spelling, and elementary arithmetic; a  
15 satisfactory understanding of the fundamentals of real estate  
16 practice and of the laws and principles of real estate  
17 conveyancing, deeds, mortgages, land contracts, and leases; the  
18 obligations of a broker to the public and a principal; and the law  
19 defining, regulating, and licensing real estate brokers, **LEASING**  
20 **PROFESSIONALS**, and salespersons. The department may require written  
21 examination or written reexamination of a **REAL ESTATE** broker,  
22 **LEASING PROFESSIONAL**, or **REAL ESTATE** salesperson, and in that case  
23 a passing score satisfactory to the department is required as a  
24 condition precedent to relicensure of a **REAL ESTATE** broker, **LEASING**  
25 **PROFESSIONAL**, or **REAL ESTATE** salesperson. The department shall  
26 require proof that each applicant for a real estate broker's  
27 license has the equivalent of 3 years of full-time experience in



1 the business of real estate or in a field that is determined by the  
2 department to be relevant and related to the business of real  
3 estate.

4       Sec. 2506. (1) The license of a real estate salesperson **AND**  
5 **LEASING PROFESSIONAL** shall be delivered or mailed to the real  
6 estate broker by whom the real estate salesperson **OR LEASING**  
7 **PROFESSIONAL** is employed and shall be kept in the custody and  
8 control of the **REAL ESTATE** broker. A real estate broker shall  
9 conspicuously display the real estate broker's license and the  
10 license of each real estate salesperson **AND LEASING PROFESSIONAL**  
11 employed by the real estate broker in the real estate broker's  
12 place of business. Written notice shall be given to the department  
13 by a licensee of a change of either a principal or branch business  
14 location.

15       (2) If the department determines that it will be unable to  
16 issue a real estate salesperson's **OR LEASING PROFESSIONAL'S** license  
17 under subsection (1) within 2 weeks after the department determines  
18 that the applicant for a real estate salesperson's **OR LEASING**  
19 **PROFESSIONAL'S** license has met all requirements for licensure, or  
20 the department is in fact unable to issue the real estate  
21 salesperson's **OR LEASING PROFESSIONAL'S** license within 2 weeks, the  
22 department shall issue to the applicant, without payment of an  
23 additional fee, a temporary license pursuant to section 213.

24       Sec. 2507. If a real estate salesperson **OR LEASING**  
25 **PROFESSIONAL** is discharged or terminates employment with a real  
26 estate broker by giving the employer a written notice of the  
27 termination, the real estate broker shall deliver or mail by

1 certified mail to the department, within 5 days, the real estate  
2 salesperson's **OR LEASING PROFESSIONAL'S** license. If a written  
3 notice of termination of employment is not served upon the real  
4 estate broker by the real estate salesperson **OR LEASING**  
5 **PROFESSIONAL**, an application to the department for a transfer of  
6 license by the real estate salesperson **OR LEASING PROFESSIONAL**  
7 shall be communicated in writing by the department to the real  
8 estate broker. As of the date of the communication, the notice  
9 shall operate as if a written notice were served by the real estate  
10 salesperson **OR LEASING PROFESSIONAL** upon the real estate broker.  
11 The real estate broker, at the time of mailing the real estate  
12 salesperson's **OR LEASING PROFESSIONAL'S** license to the department,  
13 shall address a communication to the last known residence address  
14 of the real estate salesperson **OR LEASING PROFESSIONAL**, which  
15 communication shall advise the real estate salesperson **OR LEASING**  
16 **PROFESSIONAL** that the license has been delivered or mailed to the  
17 department. A copy of the communication to the real estate  
18 salesperson **OR LEASING PROFESSIONAL** shall accompany the license  
19 when mailed or delivered to the department. A real estate  
20 salesperson **OR LEASING PROFESSIONAL** shall not perform an act  
21 regulated by this article either directly or indirectly under  
22 authority of the license after the date of the department's receipt  
23 of the license from a **REAL ESTATE** broker. Another license shall not  
24 be issued to a real estate salesperson **OR LEASING PROFESSIONAL**  
25 until the person returns the former pocket card to the department  
26 or satisfactorily accounts to the department for the pocket card.  
27 Not more than 1 license shall be issued to a real estate

1 salesperson **OR LEASING PROFESSIONAL** for the same period of time.

2 Sec. 2512. A licensee who commits 1 or more of the following  
3 is subject to the penalties set forth in article 6:

4 (a) Except in a case involving property management, acts for  
5 more than 1 party in a transaction without the knowledge of the  
6 parties.

7 (b) Fails to provide a written agency disclosure to a  
8 prospective buyer or seller in a real estate transaction as defined  
9 in section 2517.

10 (c) Represents or attempts to represent a real estate broker  
11 other than the employer without the express knowledge and consent  
12 of the employer.

13 (d) Fails to account for or to remit money coming into the  
14 licensee's possession which belongs to others.

15 (e) Changes a business location without notification to the  
16 department.

17 (f) In the case of a real estate broker, fails to return a  
18 real estate salesperson's **OR LEASING PROFESSIONAL'S** license within  
19 5 days as provided in section 2507.

20 (g) In the case of a licensee engaged in property management,  
21 violates section 2512c(2), (5), or (6).

22 (h) Except as provided in section 2512b, shares or pays a fee,  
23 commission, or other valuable consideration to a person not  
24 licensed under this article including payment to any person  
25 providing the names of, or any other information regarding, a  
26 potential seller or purchaser of real estate but excluding payment  
27 for the purchase of commercially prepared lists of names. However,

1 a licensed real estate broker may pay a commission to a licensed  
2 real estate broker of another state if the nonresident real estate  
3 broker does not conduct in this state a negotiation for which a  
4 commission is paid.

5 (i) Conducts or develops a market analysis not in compliance  
6 with section 2601(a)(ii).

7 (j) Except in the case of property management accounts, fails  
8 to deposit in the real estate broker's custodial trust or escrow  
9 account money belonging to others coming into the hands of the  
10 licensee in compliance with the following:

11 (i) A real estate broker shall retain a deposit or other money  
12 made payable to a person, partnership, corporation, or association  
13 holding a real estate broker's license under this article pending  
14 consummation or termination of the transaction involved and shall  
15 account for the full amount of the money at the time of the  
16 consummation or termination of the transaction.

17 (ii) A real estate salesperson shall pay over to the real  
18 estate broker, upon receipt, a deposit or other money on a  
19 transaction in which the real estate salesperson is engaged on  
20 behalf of the real estate broker.

21 (iii) A real estate broker shall not permit an advance payment  
22 of funds belonging to others to be deposited in the real estate  
23 broker's business or personal account or to be commingled with  
24 funds on deposit belonging to the real estate broker.

25 (iv) A real estate broker shall deposit, within 2 banking days  
26 after the broker has received notice that an offer to purchase is  
27 accepted by all parties, money belonging to others made payable to

1 the real estate broker into a separate custodial trust or escrow  
2 account maintained by the real estate broker with a bank, savings  
3 and loan association, credit union, or recognized depository until  
4 the transaction involved is consummated or terminated, at which  
5 time the real estate broker shall account for the full amount  
6 received.

7 (v) A real estate broker shall keep records of funds deposited  
8 in its custodial trust or escrow account, which records shall  
9 indicate clearly the date and from whom the money was received, the  
10 date deposited, the date of withdrawal, and other pertinent  
11 information concerning the transaction, and shall show clearly for  
12 whose account the money is deposited and to whom the money belongs.  
13 The records shall be subject to inspection by the department. A  
14 real estate broker's separate custodial trust or escrow account  
15 shall designate the real estate broker as trustee, and the  
16 custodial trust or escrow account shall provide for withdrawal of  
17 funds without previous notice. This article and the rules  
18 promulgated pursuant to this article do not prohibit the deposit of  
19 money accepted under this section in a noninterest bearing account  
20 of a state or federally chartered savings and loan association or a  
21 state or federally chartered credit union.

22 (vi) If a purchase agreement signed by a seller and purchaser  
23 provides that a deposit be held by an escrowee other than a real  
24 estate broker, a licensee in possession of such a deposit shall  
25 cause the deposit to be delivered to the named escrowee within 2  
26 banking days after the licensee has received notice that an offer  
27 to purchase is accepted by all parties.

1       Sec. 2512c. (1) Except as otherwise provided in this section,  
2 all property management duties, responsibilities, and activities  
3 performed by a real estate broker and ~~his or her agent engaged in~~  
4 ~~property management~~ **LEASING PROFESSIONAL** shall be governed by and  
5 performed in accordance with a property management employment  
6 contract.

7       (2) A real estate broker who engages in property management  
8 shall maintain property management accounts separate from all other  
9 accounts. Except as provided in this section, a property management  
10 account shall be managed in accordance with the property management  
11 employment contract.

12       (3) A property management account may be an interest-bearing  
13 account or instrument, unless the property management employment  
14 contract provides to the contrary. The interest earned on a  
15 property management account shall be handled in accordance with the  
16 property management employment contract.

17       (4) A real estate broker or any designated employee ~~of the~~  
18 ~~real estate broker engaged in property management~~ **OR LEASING**  
19 **PROFESSIONAL** may be signatory on drafts or checks drawn on property  
20 management accounts.

21       (5) A person who engages in property management shall maintain  
22 records of funds deposited and withdrawn from property management  
23 accounts. Property management account records shall indicate the  
24 date of the transaction, from whom the money was received or to  
25 whom it was given, and other pertinent information concerning the  
26 transaction the property management employment contract may  
27 require.

1           (6) A real estate broker engaged in property management shall  
2 render an accounting to his or her property management client and  
3 remit all money strictly in accordance with the property management  
4 employment contract.

5           (7) All records required to be kept pursuant to this section  
6 or pursuant to the property management employment contract shall be  
7 subject to inspection by the department.

8           Sec. 2514. A nonresident of this state may become a real  
9 estate broker, **A LEASING PROFESSIONAL**, or a real estate salesperson  
10 by conforming to the requirements of this article. A nonresident  
11 applicant shall file an irrevocable consent that an action may be  
12 commenced against the applicant in the proper court of a county of  
13 this state in which a cause of action may arise in which the  
14 plaintiff may reside, by the service of process or pleading  
15 authorized by the laws of this state on the department, the consent  
16 stipulating and agreeing that service of process or pleadings on  
17 the department shall be taken and held in court to be as valid and  
18 binding as if due service had been made upon the applicant in this  
19 state. An instrument containing a consent shall be authenticated by  
20 a seal, if a corporation, or by the acknowledged signature of a  
21 member or officer of the corporation, if otherwise. An application,  
22 except from an individual, shall be accompanied by the certified  
23 copy of the resolution of the proper officer or managing board  
24 authorizing the proper officer to execute the application. If a  
25 process or pleading mentioned in this article is served upon the  
26 department it shall be by duplicate copies, 1 of which shall be  
27 filed in the department and the other immediately forwarded by

- 1 registered mail to the main office of the applicant against which
- 2 the process or pleading is directed.