

SUBSTITUTE FOR  
HOUSE BILL NO. 4417

A bill to amend 1980 PA 299, entitled  
"Occupational code,"  
by amending section 2517 (MCL 339.2517), as amended by 2000 PA  
436.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 2517. (1) A licensee shall disclose to a potential  
2 buyer or seller in a real estate transaction all types of agency  
3 relationships available and the licensee's duties that each  
4 agency relationship creates before the disclosure by the  
5 potential buyer or seller to the licensee of any confidential  
6 information specific to that potential buyer or seller.

7       (2) **UNLESS KNOWINGLY WAIVED BY EXECUTION OF A LIMITED**

1 SERVICE AGREEMENT, A REAL ESTATE BROKER OR REAL ESTATE  
2 SALESPERSON PROVIDING SERVICES UNDER ANY SERVICE PROVISION  
3 AGREEMENT SHALL, AT A MINIMUM, PROVIDE TO THE CLIENT THE DUTIES  
4 DESCRIBED IN SECTION 2512D(2) AND THE SERVICES DESCRIBED IN  
5 SECTION 2512D(3).

6 (3) ~~(2)~~—The disclosure of the type of agency relationship  
7 shall be in writing, **SHALL BE PROVIDED TO THE CLIENT**, and **SHALL**  
8 substantially conform to the following:

9 DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIPS

10 Before you disclose confidential information to a real  
11 estate licensee regarding a real estate transaction, you should  
12 understand what type of agency relationship you have with that  
13 licensee. A real estate transaction is a transaction involving  
14 the sale or lease of any legal or equitable interest in real  
15 estate consisting of not less than 1 or not more than 4  
16 residential dwelling units or consisting of a building site for a  
17 residential unit on either a lot as defined in section 102 of the  
18 land division act, 1967 PA 288, MCL 560.102, or a condominium  
19 unit as defined in section 4 of the condominium act, 1978 PA 59,  
20 MCL 559.104.

21 (1) **AN AGENT PROVIDING SERVICES UNDER ANY SERVICE PROVISION**  
22 **AGREEMENT OWES, AT A MINIMUM, THE FOLLOWING DUTIES TO THE CLIENT:**

23 (A) **THE EXERCISE OF REASONABLE CARE AND SKILL IN**  
24 **REPRESENTING THE CLIENT AND CARRYING OUT THE RESPONSIBILITIES OF**  
25 **THE AGENCY RELATIONSHIP.**

26 (B) **THE PERFORMANCE OF THE TERMS OF THE SERVICE PROVISION**

1 AGREEMENT.

2 (C) LOYALTY TO THE INTEREST OF THE CLIENT.

3 (D) COMPLIANCE WITH THE LAWS, RULES, AND REGULATIONS OF THIS  
4 STATE AND ANY APPLICABLE FEDERAL STATUTES OR REGULATIONS.

5 (E) REFERRAL OF THE CLIENT TO OTHER LICENSED PROFESSIONALS  
6 FOR EXPERT ADVICE RELATED TO MATERIAL MATTERS THAT ARE NOT WITHIN  
7 THE EXPERTISE OF THE LICENSED AGENT.

8 (F) AN ACCOUNTING IN A TIMELY MANNER OF ALL MONEY AND  
9 PROPERTY RECEIVED BY THE AGENT IN WHICH THE CLIENT HAS OR MAY  
10 HAVE AN INTEREST.

11 (G) CONFIDENTIALITY OF ALL INFORMATION OBTAINED WITHIN THE  
12 COURSE OF THE AGENCY RELATIONSHIP, UNLESS DISCLOSED WITH THE  
13 CLIENT'S PERMISSION OR AS PROVIDED BY LAW, INCLUDING THE DUTY NOT  
14 TO DISCLOSE CONFIDENTIAL INFORMATION TO ANY LICENSEE WHO IS NOT  
15 AN AGENT OF THE CLIENT.

16 (2) A REAL ESTATE BROKER OR REAL ESTATE SALESPERSON ACTING  
17 PURSUANT TO A SERVICE PROVISION AGREEMENT SHALL PROVIDE THE  
18 FOLLOWING SERVICES TO HIS OR HER CLIENT:

19 (A) WHEN THE REAL ESTATE BROKER OR REAL ESTATE SALESPERSON  
20 IS REPRESENTING A SELLER OR LESSOR, THE MARKETING OF THE CLIENT'S  
21 PROPERTY IN THE MANNER AGREED UPON IN THE SERVICE PROVISION  
22 AGREEMENT.

23 (B) ACCEPTANCE OF DELIVERY AND PRESENTATION OF OFFERS AND  
24 COUNTEROFFERS TO BUY, SELL, OR LEASE THE CLIENT'S PROPERTY OR THE  
25 PROPERTY THE CLIENT SEEKS TO PURCHASE OR LEASE.

26 (C) ASSISTANCE IN DEVELOPING, COMMUNICATING, NEGOTIATING,  
27 AND PRESENTING OFFERS, COUNTEROFFERS, AND RELATED DOCUMENTS OR

House Bill No. 4417 (H-2) as amended February 26, 2008

1 NOTICES UNTIL A PURCHASE OR LEASE AGREEMENT IS EXECUTED BY ALL  
2 PARTIES AND ALL CONTINGENCIES ARE SATISFIED OR WAIVED.

3 (D) AFTER EXECUTION OF A PURCHASE AGREEMENT BY ALL PARTIES,  
4 ASSISTANCE AS NECESSARY TO COMPLETE THE TRANSACTION UNDER THE  
5 TERMS SPECIFIED IN THE PURCHASE AGREEMENT.

6 (E) [FOR A BROKER OR ASSOCIATE BROKER WHO IS INVOLVED AT THE  
7 CLOSING OF A REAL ESTATE OR BUSINESS OPPORTUNITY TRANSACTION FURNISHING,  
8 OR CAUSING TO BE FURNISHED, TO THE BUYER AND SELLER, A COMPLETE AND  
9 DETAILED CLOSING STATEMENT SIGNED BY THE BROKER OR ASSOCIATED BROKER  
10 SHOWING EACH PARTY ALL RECEIPTS AND DISBURSEMENTS AFFECTING THAT PARTY.]

Michigan law requires real estate licensees who are acting  
11 as agents of sellers or buyers of real property to advise the  
12 potential sellers or buyers with whom they work of the nature of  
13 their agency relationship.

#### 14 Seller's Agents

15 A seller's agent, under a listing agreement with the seller,  
16 acts solely on behalf of the seller. A seller can authorize a  
17 seller's agent to work with subagents, buyer's agents and/or  
18 transaction coordinators. A subagent is one who has agreed to  
19 work with the listing agent, and who, like the listing agent,  
20 acts solely on behalf of the seller. Seller's agents and  
21 subagents will disclose to the seller known information about the  
22 buyer which may be used to the benefit of the seller. **INDIVIDUAL**  
23 **SERVICES MAY BE WAIVED BY THE SELLER THROUGH EXECUTION OF A**  
24 **LIMITED SERVICE AGREEMENT. ONLY THOSE SERVICES SET FORTH IN**  
25 **PARAGRAPH (2) (B), (C), AND (D) ABOVE MAY BE WAIVED BY THE**

1 **EXECUTION OF A LIMITED SERVICE AGREEMENT.**

2 Buyer's Agents

3 A buyer's agent, under a buyer's agency agreement with the  
4 buyer, acts solely on behalf of the buyer. Buyer's agents and  
5 subagents will disclose to the buyer known information about the  
6 seller which may be used to benefit the buyer. **INDIVIDUAL**  
7 **SERVICES MAY BE WAIVED BY THE BUYER THROUGH EXECUTION OF A**  
8 **LIMITED SERVICE AGREEMENT. ONLY THOSE SERVICES SET FORTH IN**  
9 **PARAGRAPH (2) (B), (C), OR (D) ABOVE MAY BE WAIVED BY EXECUTION OF**  
10 **A LIMITED SERVICE AGREEMENT.**

11 Dual Agents

12 A real estate licensee can be the agent of both the seller  
13 and the buyer in a transaction, but only with the knowledge and  
14 informed consent, in writing, of both the seller and the buyer.

15 In such a dual agency situation, the licensee will not be  
16 able to disclose all known information to either the seller or  
17 the buyer.

18 The obligations of a dual agent are subject to any specific  
19 provisions set forth in any agreement between the dual agent, the  
20 seller, and the buyer.

21 Licensee Disclosure (check one)

22 I hereby disclose that the agency status of the licensee  
23 named below is:

1        \_\_\_\_\_ Seller's Agent  
 2        \_\_\_\_\_ **SELLER'S AGENT - LIMITED SERVICE AGREEMENT**  
 3        \_\_\_\_\_ Buyer's Agent  
 4        \_\_\_\_\_ **BUYER'S AGENT - LIMITED SERVICE AGREEMENT**  
 5        \_\_\_\_\_ Dual Agent  
 6        \_\_\_\_\_ None of the above

7                      Affiliated Licensee Disclosure (check one)

8        \_\_\_\_\_ Only the licensee's broker and a named supervisory  
 9 broker have the same agency relationship as the licensee named  
 10 below. If the other party in a transaction is represented by an  
 11 affiliated licensee, then the licensee's broker and all named  
 12 supervisory brokers shall be considered disclosed consensual dual  
 13 agents.

14        \_\_\_\_\_ All affiliated licensees have the same agency  
 15 relationship as the licensee named below.

16              Further, this form was provided to the buyer or seller  
 17 before disclosure of any confidential information.

18	_____	_____
19	Licensee	Date
20	_____	_____
21	Licensee	Date

22                                      Acknowledgment

23              By signing below, the parties ~~confirm~~ **ACKNOWLEDGE** that they  
 24 have received and read the information in this agency disclosure  
 25 statement and **ACKNOWLEDGE** that this form was provided to them  
 26 before the disclosure of any confidential information. ~~specific~~

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Date

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Date

(4) ON A SEPARATE FORM, THE FOLLOWING INFORMATION IN THE FOLLOWING FORMAT SHALL BE PROVIDED TO A CLIENT DESIRING TO WAIVE ANY OF THE SERVICES REQUIRED UNDER SECTION 2512D(3)(B), (C), AND (D) BY EXECUTION OF A LIMITED SERVICE AGREEMENT:

PURSUANT TO MICHIGAN LAW CERTAIN SERVICES PROVIDED BY  
A REAL ESTATE LICENSE MAY BE WAIVED.

A REAL ESTATE LICENSEE IS REQUIRED TO PERFORM CERTAIN SERVICES FOR HIS OR HER CLIENT UNLESS THESE SERVICES ARE WAIVED BY THE CLIENT. BY SIGNING BELOW, YOU AGREE THAT THE REAL ESTATE LICENSEE WILL NOT BE REQUIRED TO PERFORM THE SERVICES INITIALED (ONLY INITIAL THE SERVICES WAIVED).

INITIAL IF WAIVED:

--ACCEPTANCE OF DELIVERY AND PRESENTATION OF OFFERS AND COUNTEROFFERS TO BUY, SELL, OR LEASE YOUR PROPERTY OR THE PROPERTY YOU SEEK TO PURCHASE OR LEASE.

--ASSISTANCE IN DEVELOPING, COMMUNICA-  
TING, NEGOTIATING, AND PRESENTING  
OFFERS, COUNTEROFFERS, AND RELATED  
DOCUMENTS OR NOTICES UNTIL A PURCHASE  
OR LEASE AGREEMENT IS EXECUTED BY ALL

PARTIES AND ALL CONTINGENCIES ARE  
SATISFIED OR WAIVED. \_\_\_\_\_

--AFTER EXECUTION OF A PURCHASE  
AGREEMENT BY ALL PARTIES,  
ASSISTANCE AS NECESSARY TO COMPLETE  
THE TRANSACTION UNDER THE TERMS  
SPECIFIED IN THE PURCHASE AGREEMENT. \_\_\_\_\_

AGREEMENT TO WAIVE  
BY SIGNING BELOW, I ACKNOWLEDGE THAT THE DUTIES OWED TO  
ME PURSUANT TO MICHIGAN LAW HAVE BEEN EXPLAINED TO ME AND  
THAT I KNOWINGLY AGREE THAT THE REAL ESTATE LICENSEE  
WHO REPRESENTS ME WILL NOT PROVIDE THE SERVICES THAT ARE  
INITIALED ABOVE. I ALSO UNDERSTAND THAT IN ANY PROPOSED  
REAL ESTATE TRANSACTION, NO OTHER REAL ESTATE LICENSEE  
IS REQUIRED TO PROVIDE THE WAIVED SERVICES UNLESS I  
SUBSEQUENTLY HIRE THEM TO DO SO. I ALSO ACKNOWLEDGE  
THAT IN ORDER TO PROTECT MY INTERESTS I MAY NEED TO  
RETAIN OTHER PROFESSIONALS, SUCH AS AN ATTORNEY.

\_\_\_\_\_  
SELLER OR BUYER \_\_\_\_\_ DATE

\_\_\_\_\_  
SELLER OR BUYER \_\_\_\_\_ DATE

\_\_\_\_\_  
REAL ESTATE BROKER OR SALESPERSON \_\_\_\_\_ DATE

\_\_\_\_\_  
BROKERAGE NAME

(5) ~~(3)~~—This article does not prevent a licensee from acting  
as a transaction coordinator upon proper notice to all parties to  
a real estate transaction.

(6) ~~(4)~~—A broker and a client may enter into a designated  
agency agreement. In the absence of a written designated agency



1 agreement, a client is considered to have an agency relationship  
2 with the broker and all affiliated licensees.

3       (7) ~~(5)~~—A designated agency agreement shall contain the name  
4 of all associate brokers who are authorized to act as supervisory  
5 brokers. If designated agents who are affiliated licensees  
6 represent different parties in the same real estate transaction,  
7 the broker and all supervisory brokers are considered disclosed  
8 consensual dual agents for that real estate transaction.

9 Designated agents who are affiliated licensees representing  
10 different parties in the same transaction shall notify their  
11 clients that their broker represents both buyer and seller before  
12 an offer to purchase is made or presented.

13       (8) ~~(6)~~—Except as otherwise provided in subsection ~~(5)~~—(7),  
14 a client with a designated agency agreement is not considered to  
15 have an agency relationship with any affiliated licensees of the  
16 designated agent. Two designated agents who are affiliated  
17 licensees may each represent a different party in the same  
18 transaction and shall not be considered dual agents. The  
19 designated agent's knowledge of confidential information of a  
20 client is not imputed to any affiliated licensee not having an  
21 agency relationship with that client.

22       (9) ~~(7)~~—A designated agent shall not disclose confidential  
23 information of a client to any licensee, whether or not an  
24 affiliated licensee, except that a designated agent may disclose  
25 to any supervisory broker confidential information of a client  
26 for purposes of seeking advice or assistance for the benefit of  
27 the client. A licensee who represents a client in an agency

1 capacity does not breach any duty or obligation owed to that  
2 client by failing to disclose to that client information obtained  
3 through a present or prior agency relationship.

4 (10) ~~(8)~~—A listing agreement or a buyer's agency agreement  
5 may be amended to establish a designated agency relationship, to  
6 change a designated agent, or to change supervisory brokers at  
7 any time pursuant to a written addendum signed by the parties.

8 (11) ~~(9)~~—As used in this section:

9 (a) "Affiliated licensees" means individuals licensed as  
10 salespersons or associate brokers who are employed by the same  
11 broker.

12 (b) "Buyer" means a purchaser, tenant, or lessee of any  
13 legal or equitable interest in real estate.

14 (c) "Buyer's agent" means a licensee acting on behalf of the  
15 buyer in a real estate transaction who undertakes to accept the  
16 responsibility of serving the buyer consistent with those  
17 fiduciary duties existing under common law.

18 (d) "Designated agent" means an individual salesperson or an  
19 associate broker who is designated by the broker as the client's  
20 legal agent pursuant to a designated agency agreement.

21 (e) "Designated agency agreement" means a written agreement  
22 between a broker and a client in which an individual salesperson  
23 or associate broker affiliated with that broker is named as that  
24 client's designated agent.

25 (f) "Dual agent" means a licensee who is acting as the agent  
26 of both the buyer and the seller and provides services to  
27 complete a real estate transaction without the full range of

1 fiduciary duties owed by a buyer's agent and a seller's agent.

2 (g) "Real estate transaction" means the sale or lease of any  
3 legal or equitable interest in real estate where the interest in  
4 real estate consists of not less than 1 or not more than 4  
5 residential dwelling units or consists of a building site for a  
6 residential unit on either a lot as defined in section 102 of the  
7 land division act, 1967 PA 288, MCL 560.102, or a condominium  
8 unit as defined in section 4 of the condominium act, 1978 PA 59,  
9 MCL 559.104.

10 (h) "Seller" means the equitable or legal owner of real  
11 estate.

12 (i) "Seller's agent" means a licensee acting on behalf of  
13 the seller in a real estate transaction who undertakes to accept  
14 the responsibility of serving the seller consistent with those  
15 fiduciary duties existing under common law.

16 (j) "Supervisory broker" means an associate broker  
17 designated in a written agency agreement to act in a supervisory  
18 role in an agency relationship.

19 (k) "Transaction coordinator" means a licensee who is not  
20 acting as the agent of either the buyer or the seller.

21 Enacting section 1. This amendatory act does not take effect  
22 unless House Bill No. 4416 of the 94th Legislature is enacted  
23 into law.

24 Enacting section 2. This amendatory act takes effect July 1,  
25 2008.