

BANKING CODE OF 1999 (EXCERPT)
Act 276 of 1999

487.14104 Real estate brokerage.

Sec. 4104. (1) A bank may engage directly in, or own in whole or in part, a real estate brokerage business as provided under article 25 of the occupational code, 1980 PA 299, MCL 339.2501 to 339.2518.

(2) A bank that engages directly in the real estate brokerage business or owns in whole or in part a real estate brokerage business shall provide written notice of its licensure as a real estate broker or its ownership of a real estate brokerage business to the commissioner within 10 days of licensure or ownership. The notice required by this subsection shall include the name and business address of the real estate brokerage.

(3) A bank that engages directly in the real estate brokerage business or owns in whole or in part a real estate brokerage business shall not do any of the following:

(a) Impose a requirement, verbally or in writing, that a borrower must contract for or enter into any other arrangement for real estate brokerage services with a particular real estate broker.

(b) Impose a requirement, verbally or in writing, that as a condition of approving a loan a borrower must contract or enter into any other arrangement for real estate brokerage services.

(c) Impose a requirement, verbally or in writing, that a real estate brokerage customer shall make application for a loan or any other service or services of a particular bank or any of its subsidiaries, agencies, or service entities.

(d) Impose a requirement, verbally or in writing, that a condition of providing real estate brokerage services is that the customer shall make an application for a loan or any other arrangement for other services of the bank or any of its subsidiaries, agencies, or service entities.

(e) Offer or provide more favorable consideration, terms, or conditions for any financial products or services to induce or attempt to induce a person to enter into any arrangement for real estate brokerage services with any particular real estate broker.

(f) Offer or provide more favorable terms or conditions for any real estate brokerage services to induce or attempt to induce a person to apply for a loan or obtain any other services of a particular bank or any of its subsidiaries, agencies, or service entities.

(g) Any other activity prohibited by order or declaratory ruling of the commissioner.

(4) A bank that engages directly in the real estate brokerage business or owns in whole or in part a real estate brokerage business under this section shall clearly disclose in writing to any person who applies for credit related to a real estate transaction or applies for prequalification or preapproval for credit related to a real estate transaction, that the person is not required to contract for or enter into an arrangement for real estate brokerage services with a particular real estate broker. Compliance with the disclosure requirements of this subsection shall not be necessary when a person applies for credit or prequalification for credit solely for the purpose of refinancing an existing indebtedness.

(5) A real estate brokerage that is affiliated with a bank shall clearly disclose in writing, before the time an agency agreement for real estate brokerage services is executed, that the person is not required to apply, contract for, or enter into any other arrangement for services of a particular bank or any of its subsidiaries, agencies, or service entities.

(6) The requirements of subsections (4) and (5) do not apply when the person has been given the affiliated business arrangement disclosure statement required by the real estate settlement procedures act of 1974, Public Law 93-533, 88 Stat. 1724.

(7) If the commissioner finds that a bank has violated this section, the commissioner may issue an order requiring the bank to cease and desist the activity that violates this section. If the commissioner additionally finds that the violation was knowingly committed, the commissioner may order any of the following:

(a) A civil fine of not more than \$500.00 for each violation but not to exceed an aggregate civil penalty of \$10,000.00.

(b) That restitution be made to a customer for actual damages directly attributable to the acts that are found to be a violation of this section.

(8) An action under this section shall not be brought more than 3 years after the date of the violation that is the basis of the action.

History: 1999, Act 276, Eff. Mar. 1, 2000.