



# HOUSE BILL No. 5470

December 12, 1995, Introduced by Reps. Kaza, DeHart, Middleton, Johnson, Goschka, Pitoniak, Weeks, Hanley, DeLange, Dolan, Green, Galloway and Jersevic and referred to the Committee on Regulatory Affairs.

A bill to amend section 2512 of Act No. 299 of the Public Acts of 1980, entitled as amended "Occupational code," as amended by Act No. 333 of the Public Acts of 1994, being section 339.2512 of the Michigan Compiled Laws.

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

1 Section 1. Section 2512 of Act No. 299 of the Public Acts  
2 of 1980, as amended by Act No. 333 of the Public Acts of 1994,  
3 being section 339.2512 of the Michigan Compiled Laws, is amended  
4 to read as follows:

5 Sec. 2512. A licensee shall be subject to the penalties set  
6 forth in article 6 ~~who commits~~ IF THE LICENSEE DOES 1 OR MORE  
7 of the following:

1 (a) Except in a case involving property management, ~~acting~~  
2 ACTS for more than 1 party in a transaction without the knowledge  
3 of the parties.

4 (b) ~~Beginning January 1, 1994, failing~~ FAILS to provide a  
5 written agency disclosure to a prospective buyer or seller in a  
6 real estate transaction.

7 (c) ~~Representing~~ REPRESENTS or ~~attempting~~ ATTEMPTS to  
8 represent a real estate broker other than the employer, without  
9 the express knowledge and consent of the employer.

10 (d) ~~Failure~~ FAILS to account for or to remit money coming  
11 into the licensee's possession which belongs to others.

12 (e) ~~Changing~~ CHANGES a business location without notifica-  
13 tion to the department.

14 (f) In the case of a real estate broker, ~~failing~~ FAILS to  
15 return a real estate salesperson's license within 5 days as pro-  
16 vided in section 2507.

17 (g) In the case of a licensee engaged in property manage-  
18 ment, ~~violation of~~ VIOLATES section 2512c(2), (5), or (6).

19 (h) Except as provided in section 2512b, ~~sharing~~ SHARES or  
20 ~~paying~~ PAYS a fee, commission, or valuable consideration to a  
21 person not licensed under this article including payment to any  
22 person providing the names of, or any other information regard-  
23 ing, a potential seller or purchaser of real estate but excluding  
24 payment for the purchase of commercially prepared lists of  
25 names. However, a licensed real estate broker may pay a commis-  
26 sion to a licensed real estate broker of another state if the

1 nonresident real estate broker does not conduct in this state a  
2 negotiation for which a commission is paid.

3 (i) ~~Conducting~~ CONDUCTS or ~~developing~~ DEVELOPS a market  
4 analysis not in compliance with the requirements imposed in sec-  
5 tion 2601(a)(ii).

6 (j) Except in the case of property management accounts,  
7 ~~failure~~ FAILS to deposit in a custodial trust or escrow account  
8 money belonging to others coming into the hands of the licensee  
9 in compliance with the following:

10 (i) A deposit or other money accepted by a person, partner-  
11 ship, corporation, or association holding a real estate broker's  
12 license under this article shall be retained by a real estate  
13 broker pending consummation or termination of the transaction  
14 involved, and shall be accounted for in the full amount of the  
15 money at the time of the consummation or termination.

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

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

24 (iv) A real estate broker shall deposit within 2 banking  
25 days after the signing of a purchase agreement by all parties,  
26 but not later than 5 days after receipt, money belonging to  
27 others in a separate custodial trust or escrow account maintained

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

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