

SENATE BILL No. 641

October 23, 2013, Introduced by Senators KOWALL, BIEDA, ANANICH, MEEKHOF and RICHARDVILLE and referred to the Committee on Regulatory Reform.

A bill to amend 1980 PA 299, entitled "Occupational code," by amending sections 2502a, 2504, and 2508 (MCL 339.2502a, 339.2504, and 339.2508), section 2502a as added by 2002 PA 611, section 2504 as amended by 2003 PA 196, and section 2508 as amended by 1988 PA 16, and by adding section 2504a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2502a. (1) ~~Beginning November 1, 2003, the~~ **THE** department
2 shall issue a license for **A** real estate broker, associate real
3 estate broker, and real estate salesperson for a term of 3 years.

4 (2) **THE DEPARTMENT SHALL RENEW A LICENSE FOR A REAL ESTATE**
5 **BROKER, ASSOCIATE REAL ESTATE BROKER, OR REAL ESTATE SALESPERSON IF**

1 THE DEPARTMENT RECEIVES AN APPLICATION FOR RENEWAL ON A FORM
2 PRESCRIBED BY THE DEPARTMENT, AND PAYMENT OF THE APPROPRIATE FEES,
3 WITHIN THE TIME PERIOD DESCRIBED IN SECTION 411(1) OR (2), AND THE
4 APPLICABLE REQUIREMENTS OF SECTION 2504 ARE MET.

5 (3) THE DEPARTMENT MAY RELICENSE WITHOUT EXAMINATION A PERSON
6 THAT FAILS TO RENEW A LICENSE ISSUED UNDER THIS ARTICLE WITHIN THE
7 TIME PERIOD DESCRIBED IN SUBSECTION (2) IF ALL OF THE FOLLOWING ARE
8 MET:

9 (A) THE PERSON APPLIES WITHIN 3 YEARS AFTER THE EXPIRATION
10 DATE OF THE PERSON'S LAST LICENSE.

11 (B) THE PERSON PAYS AN APPLICATION PROCESSING FEE, THE LATE
12 RENEWAL FEE, AND THE PER-YEAR LICENSE FEE FOR THE UPCOMING
13 LICENSURE PERIOD.

14 (C) THE PERSON SUBMITS PROOF OF COMPLETION OF 6 CLOCK HOURS OF
15 CONTINUING EDUCATION FOR EACH YEAR AND PARTIAL YEAR THAT HAVE
16 ELAPSED SINCE THE EXPIRATION OF THE APPLICANT'S LAST LICENSE, ON
17 THE TOPICS DESCRIBED IN SECTION 2504A(1).

18 (4) THE DEPARTMENT MAY RELICENSE A PERSON THAT FAILED TO RENEW
19 A REAL ESTATE BROKER LICENSE WITHIN 3 YEARS AFTER THE EXPIRATION
20 DATE OF THE PERSON'S LAST LICENSE IF THE PERSON PAYS AN APPLICATION
21 PROCESSING FEE, THE LATE RENEWAL FEE, AND THE PER-YEAR LICENSE FEE
22 FOR THE UPCOMING LICENSURE PERIOD AND SUBMITS PROOF THAT THE
23 PERSON, IF THE PERSON IS AN INDIVIDUAL, OR THE INDIVIDUAL
24 DESIGNATED AS THE PERSON'S PRINCIPAL UNDER SECTION 2505 IF THE
25 PERSON IS NOT AN INDIVIDUAL, MEETS ANY OF THE FOLLOWING:

26 (A) HAS COMPLETED A TOTAL OF 6 CLOCK HOURS OF CONTINUING
27 EDUCATION FOR EACH YEAR AND PARTIAL YEAR THAT HAVE ELAPSED SINCE

1 THE EXPIRATION OF THE PERSON'S LAST LICENSE, ON THE TOPICS
2 DESCRIBED IN SECTION 2504A(1).

3 (B) HAS COMPLETED 90 CLOCK HOURS OF PRELICENSURE COURSES
4 DESCRIBED IN SECTION 2504(3).

5 (C) HAS PASSED THE EXAMINATION REQUIRED FOR A REAL ESTATE
6 BROKER LICENSE UNDER SECTION 2505(5).

7 (5) THE DEPARTMENT MAY RELICENSE AN INDIVIDUAL WHO FAILED TO
8 RENEW A REAL ESTATE SALESPERSON LICENSE WITHIN 3 YEARS AFTER THE
9 EXPIRATION DATE OF HIS OR HER LAST LICENSE IF HE OR SHE PAYS AN
10 APPLICATION PROCESSING FEE, THE LATE RENEWAL FEE, AND THE PER-YEAR
11 LICENSE FEE FOR THE UPCOMING LICENSURE PERIOD AND SUBMITS PROOF
12 THAT HE OR SHE MEETS ANY OF THE FOLLOWING:

13 (A) HAS COMPLETED A TOTAL OF 6 CLOCK HOURS OF CONTINUING
14 EDUCATION FOR EACH YEAR AND PARTIAL YEAR THAT HAVE ELAPSED SINCE
15 THE EXPIRATION OF HIS OR HER LAST LICENSE, ON THE TOPICS DESCRIBED
16 IN SECTION 2504A(1).

17 (B) HAS COMPLETED 40 CLOCK HOURS OF PRELICENSURE COURSES
18 DESCRIBED IN SECTION 2504(3).

19 (C) HAS PASSED THE EXAMINATION REQUIRED FOR A REAL ESTATE
20 SALESPERSON LICENSE UNDER SECTION 2505(5).

21 Sec. 2504. (1) ~~Before receiving~~ BOTH OF THE FOLLOWING MUST BE
22 MET BEFORE AN APPLICANT RECEIVES a real estate broker's license ~~and~~
23 ~~an applicant shall~~ UNDER THIS ARTICLE:

24 (A) THE APPLICANT MUST submit an application ~~as described in~~
25 UNDER section 2505. ~~and shall have successfully completed not less~~
26 ~~than~~

27 (B) THE APPLICANT, IF THE APPLICANT IS AN INDIVIDUAL, OR THE

1 INDIVIDUAL DESIGNATED AS THE PRINCIPAL OF THE APPLICANT UNDER
2 SECTION 2505 IF THE APPLICANT IS NOT AN INDIVIDUAL, MUST
3 SUCCESSFULLY COMPLETE AT LEAST 90 clock hours of approved
4 PRELICENSURE classroom courses in real estate, of which ~~not less~~
5 ~~than~~ **AT LEAST** 9 clock hours ~~shall be~~ **IS** instruction on civil rights
6 law and equal opportunity in housing. The 90 hours ~~shall be~~ **ARE** in
7 addition to the hours required to obtain a real estate
8 salesperson's license.

9 (2) Before ~~being~~ **HE OR SHE IS** permitted to take the real
10 estate salesperson's examination, ~~an~~ **THE** applicant ~~shall~~ **MUST** show
11 proof ~~of successful completion of not less than~~ **THAT HE OR SHE HAS**
12 **SUCCESSFULLY COMPLETED AT LEAST** 40 clock hours of **APPROVED**
13 **PRELICENSURE** classroom courses in principles of real estate, of
14 which ~~not less than~~ **AT LEAST** 4 clock hours ~~shall be~~ **IS** instruction
15 on civil rights law and equal opportunity in housing.

16 (3) For purposes of subsections (1) and (2), approved
17 **PRELICENSURE** courses may be on the following topics:

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

19 (b) Real property law, including property interests and
20 restrictions.

21 (c) Federal, state, and local tax laws affecting real
22 property.

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

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

26 (f) Appraisal of real property.

27 (g) Design and construction.

1 (h) Marketing, exchanging, and counseling.

2 (i) The law of agency.

3 (j) Sales and office management, including listing and selling
4 techniques.

5 (k) Real estate securities and syndications.

6 (l) Investments, including property management.

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

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

~~18 ——— (5) The department may relicense without examination a
19 licensee whose license has lapsed for less than 3 years if the
20 licensee shows proof of completion of not less than 6 clock hours
21 of continuing education for each year the license was lapsed, on
22 topics as described in subsection (4).~~

~~23 ——— (6) The department may relicense a broker whose license has
24 lapsed for 3 or more continuous years if the licensee provides
25 proof of the successful completion of 1 of the following:~~

~~26 ——— (a) Six clock hours of continuing education for each of the
27 years the license was lapsed on topics described in subsection (4).~~

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

3 ~~—— (c) Passing the examination required for licensure as a broker~~
4 ~~as provided for in section 2505(5).~~

5 ~~—— (7) A salesperson whose license has been lapsed for 3 or more~~
6 ~~continuous years may be relicensed if the licensee provides proof~~
7 ~~of the successful completion of 1 of the following:~~

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

10 ~~—— (b) Forty clock hours of instruction described in subsections~~
11 ~~(2) and (3).~~

12 ~~—— (c) Passing the examination required for licensure as a~~
13 ~~salesperson as provided in section 2505(5).~~

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

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

27 ~~—— (a) A real estate broker, associate broker, or salesperson who~~

1 ~~receives a license issued in the second year of the 3 year license~~
2 ~~cycle is required to complete 12 hours of continuing education to~~
3 ~~renew his or her license.~~

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

8 (4) ~~(10)~~ A person ~~who~~ **THAT** 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~~ **AT LEAST** 1 clock hour, not including time
16 spent on breaks, meals, or other unrelated activities, provided the
17 course is only approved for less than 2 clock hours if, based ~~upon~~
18 **ON** the 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~~ **THAT OFFERS OR CONDUCTS** a course
25 shall not represent that its students are assured of passing an
26 examination required by the department. A person shall not
27 represent that the issuance of departmental approval is a

1 recommendation or indorsement of the person to which it is issued
 2 or of a course of instruction given by it. A ~~pre-licensure~~
 3 **PRELICENSURE** course approved under this ~~article~~-**SECTION** shall be
 4 conducted by a local public school district, a community college,
 5 an institution of higher education authorized to grant degrees, or
 6 a proprietary school licensed by the department of career
 7 development under **THE PROPRIETARY SCHOOLS ACT, 1943 PA 148, MCL**
 8 **395.101 to 395.103.**

9 (5) ~~(11)~~-A person who ~~in operating a school~~-**THAT** violates
 10 subsection ~~(10)~~-**(4) IN OPERATING A SCHOOL THAT PROVIDES 1 OR MORE**
 11 **COURSES DESCRIBED IN THIS SECTION** is subject to the penalties set
 12 forth in article 6.

13 (6) ~~(12)~~-The department may conduct, hold, or assist in
 14 conducting or holding, a real estate clinic, meeting, course, or
 15 institute, which shall be open to a person licensed under this
 16 article, and may incur the necessary expenses in connection with
 17 the clinic, meeting, course, or institute. The department, in the
 18 public interest, may assist educational institutions ~~within~~-**IN** this
 19 state in sponsoring studies, research, and programs for the purpose
 20 of raising the standards of professional practice in real estate
 21 and the competence of a licensee.

22 **SEC. 2504A. (1) WITHIN EACH 3-YEAR LICENSE CYCLE, A LICENSEE**
 23 **SHALL SUCCESSFULLY COMPLETE AT LEAST 18 CLOCK HOURS OF CONTINUING**
 24 **EDUCATION COURSES CONDUCTED BY A PERSON DESCRIBED IN SECTION**
 25 **2504(4) THAT INVOLVE ANY TOPICS THAT ARE RELEVANT TO THE**
 26 **MANAGEMENT, OPERATION, AND PRACTICE OF REAL ESTATE OR THAT ARE**
 27 **OTHERWISE PERTINENT TO THE ACTIVITIES OF A REAL ESTATE BROKER OR**

1 REAL ESTATE SALESPERSON. ALL OF THE FOLLOWING APPLY TO THIS
2 CONTINUING EDUCATION REQUIREMENT:

3 (A) IN EACH CALENDAR YEAR OF EACH 3-YEAR LICENSE CYCLE, A
4 LICENSEE SHALL COMPLETE AT LEAST 2 HOURS OF THE REQUIRED 18 HOURS
5 OF CONTINUING EDUCATION COURSES.

6 (B) IN COMPLETING THE APPROPRIATE NUMBER OF CONTINUING
7 EDUCATION COURSES, A LICENSEE MAY SELECT EDUCATION COURSES IN HIS
8 OR HER AREA OF EXPERTISE, BUT AT LEAST 2 HOURS OF THE EDUCATION
9 COURSES IN A CALENDAR YEAR MUST INVOLVE LAW, RULES, AND COURT CASES
10 REGARDING REAL ESTATE.

11 (C) AT THE TIME HE OR SHE ATTENDS A CONTINUING EDUCATION
12 COURSE, A LICENSEE SHALL PRESENT TO THE COURSE PROVIDER HIS OR HER
13 POCKET CARD AND AN OPERATOR'S LICENSE OR CHAUFFEUR'S LICENSE ISSUED
14 UNDER THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.1 TO 257.923,
15 AN OFFICIAL STATE PERSONAL IDENTIFICATION CARD ISSUED UNDER 1972 PA
16 222, MCL 28.291 TO 28.300, OR OTHER GOVERNMENT-ISSUED PHOTO
17 IDENTIFICATION TO CONFIRM HIS OR HER IDENTITY.

18 (D) ANY EDUCATION COURSE THAT THE LICENSEE SUCCESSFULLY
19 COMPLETES TO OBTAIN A PROFESSIONAL DESIGNATION IS COUNTED TOWARD
20 THE TOTAL CONTINUING EDUCATION CREDITS REQUIRED IN A 3-YEAR LICENSE
21 CYCLE IF THE COURSES ARE CONDUCTED BY A PERSON DESCRIBED IN SECTION
22 2504(4).

23 (2) AN APPLICANT FOR LICENSE RENEWAL UNDER SECTION 2502A SHALL
24 CERTIFY COMPLIANCE WITH SUBSECTION (1) TO THE DEPARTMENT. A
25 LICENSEE SHALL RETAIN EVIDENCE THAT DEMONSTRATES HE OR SHE HAS MET
26 THE CONTINUING EDUCATION REQUIREMENTS UNDER THIS SECTION FOR AT
27 LEAST 4 YEARS AFTER THE DATE OF THAT CERTIFICATION AND SHALL

1 PRODUCE THE RECORD THAT CONTAINS THAT EVIDENCE AT THE REQUEST OF
2 THE DEPARTMENT.

3 (3) A REAL ESTATE BROKER, ASSOCIATE BROKER, OR SALESPERSON WHO
4 RECEIVES A LICENSE ISSUED IN THE SECOND OR THIRD YEAR OF A 3-YEAR
5 LICENSE CYCLE IS REQUIRED TO COMPLY WITH THE CONTINUING EDUCATION
6 REQUIREMENTS UNDER SUBSECTION (1), EXCEPT AS FOLLOWS:

7 (A) A REAL ESTATE BROKER, ASSOCIATE BROKER, OR SALESPERSON WHO
8 RECEIVES A LICENSE ISSUED IN THE SECOND YEAR OF THE 3-YEAR LICENSE
9 CYCLE IS REQUIRED TO COMPLETE 12 HOURS OF CONTINUING EDUCATION.

10 (B) A REAL ESTATE BROKER, ASSOCIATE BROKER, OR SALESPERSON WHO
11 RECEIVES A LICENSE ISSUED IN THE THIRD YEAR OF THE 3-YEAR LICENSE
12 CYCLE IS REQUIRED TO COMPLETE 6 HOURS OF CONTINUING EDUCATION.

13 (4) COURSE CREDITS USED TO MEET CONTINUING EDUCATION
14 REQUIREMENTS UNDER THIS SECTION DO NOT APPLY TOWARD THE REAL ESTATE
15 BROKER'S LICENSE PRELICENSURE EDUCATION REQUIREMENTS UNDER SECTION
16 2504, AND COURSE CREDITS SUCCESSFULLY COMPLETED UNDER REAL ESTATE
17 BROKER'S LICENSE PRELICENSURE EDUCATION REQUIREMENTS UNDER SECTION
18 2504 DO NOT APPLY TOWARD THE CONTINUING EDUCATION REQUIREMENTS OF
19 THIS SECTION.

20 Sec. 2508. (1) ~~A~~ **THE DEPARTMENT MAY ISSUE A** real estate
21 broker's license ~~may be issued to~~ an individual, ~~sole~~
22 ~~proprietorship,~~ partnership, association, corporation, **LIMITED**
23 **LIABILITY COMPANY**, common law trust, or a combination of those
24 entities. A real estate broker's license **THAT IS** issued to an
25 individual ~~or a sole proprietorship shall entitle~~ **ENTITLES** the
26 individual named on the license to perform acts regulated ~~by~~ **UNDER**
27 this article. Subject to subsection (2), a real estate broker's

1 license issued to a partnership, association, corporation, **LIMITED**
2 **LIABILITY COMPANY**, common law trust, or a combination of those
3 entities ~~shall entitle~~ **ENTITLES** those individuals designated as
4 principals under section 2505(1) to perform acts regulated ~~by~~ **UNDER**
5 this article. A broker's license issued to a partnership,
6 association, corporation, **LIMITED LIABILITY COMPANY**, common law
7 trust, or a combination of those entities is not transferable.

8 (2) Before performing acts regulated under this article, each
9 principal shall apply for and obtain, and any other individual may
10 apply for and obtain, an associate real estate broker's license. An
11 applicant for an associate real estate broker's license ~~shall be~~ **IS**
12 subject to the same requirements as an applicant for a real estate
13 broker's license. ~~An~~ **THE DEPARTMENT SHALL ONLY ISSUE AN** associate
14 real estate broker's license ~~shall only be issued to individuals.~~ **AN**
15 **INDIVIDUAL.**

16 (3) The associate real estate broker's license of a principal
17 who ceases to be connected with a partnership, association,
18 corporation, **LIMITED LIABILITY COMPANY**, common law trust, or a
19 combination of those entities ~~shall be~~ **IS** suspended automatically.

20 (4) An associate real estate broker's license **THAT IS** issued
21 to a principal is not transferable. An associate real estate
22 broker's license issued to a nonprincipal may be transferred in the
23 same manner as provided in section 2507 for the transfer of a real
24 estate salesperson's license.

25 ~~Upon the revocation of~~ **IF** a real estate broker's license
26 **IS REVOKED**, the licenses of all real estate salespersons **WHO ARE**
27 employed by the real estate broker and all affiliated associate

1 real estate brokers ~~shall~~**ARE** automatically ~~be~~suspended, pending a
2 change of employer and the issuance of a new license. ~~A~~**IF THE REAL**
3 **ESTATE BROKER'S LICENSE IS REVOKED AS A RESULT OF THE DEATH OR**
4 **DISABILITY OF THE SOLE PRINCIPAL ASSOCIATE BROKER, THE DEPARTMENT**
5 **MAY ALLOW ALL AFFILIATED REAL ESTATE LICENSEES A REASONABLE TIME TO**
6 **EITHER WIND UP THE BUSINESS OF THE REAL ESTATE BROKER OR DESIGNATE**
7 **A NEW PRINCIPAL ASSOCIATE BROKER. THE DEPARTMENT SHALL ISSUE A new**
8 license ~~shall be issued~~**UNDER THIS SUBSECTION** without charge ~~—~~if
9 the license is issued during the same term in which the original
10 license was issued.