

HOUSE BILL No. 4987

June 21, 2001, Introduced by Reps. Bishop, Raczkowski, Adamini, Shackleton, Koetje, Anderson, Shulman, Ehardt, Spade and Lemmons and referred to the Committee on Commerce.

A bill to amend 1980 PA 299, entitled
"Occupational code,"
by amending section 2512 (MCL 339.2512), as amended by 2000
PA 436.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

HB4987, As Passed House, December 11, 2001

2

1 (c) Represents or attempts to represent a real estate broker
2 other than the employer without the express knowledge and consent
3 of the employer.

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

6 (e) Changes a business location without notification to the
7 department.

8 (f) In the case of a real estate broker, fails to return a
9 real estate salesperson's license within 5 days as provided in
10 section 2507.

11 (g) In the case of a licensee engaged in property manage-
12 ment, violates section 2512c(2), (5), or (6).

13 (h) Except as provided in section 2512b, shares or pays a
14 fee, commission, or other valuable consideration to a person not
15 licensed under this article including payment to any person pro-
16 viding the names of, or any other information regarding, a poten-
17 tial seller or purchaser of real estate but excluding payment for
18 the purchase of commercially prepared lists of names. However, a
19 licensed real estate broker may pay a commission to a licensed
20 real estate broker of another state if the nonresident real
21 estate broker does not conduct in this state a negotiation for
22 which a commission is paid.

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

25 (j) Except in the case of property management accounts,
26 fails to deposit in ~~a~~ THE REAL ESTATE BROKER'S custodial trust

HB4987, As Passed House, December 11, 2001

1 or escrow account money belonging to others coming into the hands
2 of the licensee in compliance with the following:

3 (i) A real estate broker shall retain a deposit or other
4 money ~~accepted by~~ MADE PAYABLE TO a person, partnership, corpo-
5 ration, or association holding a real estate broker's license
6 under this article pending consummation or termination of the
7 transaction involved and shall account for the full amount of the
8 money at the time of the consummation or termination of the
9 transaction.

10 (ii) A real estate salesperson shall pay over to the real
11 estate broker, upon receipt, a deposit or other money on a trans-
12 action in which the real estate salesperson is engaged on behalf
13 of the real estate broker.

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

18 (iv) A real estate broker shall deposit, within 2 banking
19 days after the broker has received notice that an offer to pur-
20 chase is accepted by all parties, money belonging to others ~~in~~
21 MADE PAYABLE TO THE REAL ESTATE BROKER INTO a separate custodial
22 trust or escrow account maintained by the real estate broker with
23 a bank, savings and loan association, credit union, or recognized
24 depository until the transaction involved is consummated or ter-
25 minated, at which time the real estate broker shall account for
26 the full amount received.

HB4987, As Passed House, December 11, 2001

HB 4987 as amended December 6, 2001 4

1 (v) A real estate broker shall keep records of funds
2 deposited in ~~a~~ ITS custodial trust or escrow account, which
3 records shall indicate clearly the date and from whom the money
4 was received, the date deposited, the date of withdrawal, and
5 other pertinent information concerning the transaction, and shall
6 show clearly for whose account the money is deposited and to whom
7 the money belongs. The records shall be subject to inspection by
8 the department. A REAL ESTATE BROKER'S separate custodial trust
9 or escrow account shall designate the real estate broker as
10 trustee, and the custodial trust or escrow account shall provide
11 for withdrawal of funds without previous notice. This article
12 and the rules promulgated pursuant to this article do not pro-
13 hibit the deposit of money accepted under this section in a non-
14 interest bearing account of a state or federally chartered sav-
15 ings and loan association or a state or federally chartered
16 credit union.

17 (vi) IF A PURCHASE AGREEMENT SIGNED BY A SELLER AND PUR-
18 CHASER PROVIDES THAT A DEPOSIT BE HELD BY AN ESCROWEE OTHER THAN
19 A REAL ESTATE BROKER, A LICENSEE IN POSSESSION OF SUCH A DEPOSIT
20 SHALL CAUSE THE DEPOSIT TO BE DELIVERED TO THE NAMED ESCROWEE
[WITHIN 2 BANKING DAYS AFTER THE LICENSEE HAS RECEIVED NOTICE THAT
AN OFFER TO PURCHASE IS ACCEPTED BY ALL PARTIES].