

OCCUPATIONAL CODE (EXCERPT)
Act 299 of 1980

ARTICLE 25

339.2501 Definitions.

Sec. 2501. As used in this article:

(a) "Associate broker" or "associate real estate broker" means an individual who meets the requirements for licensure as a real estate broker under this article and who is licensed as an associate real estate broker under section 2505 to provide real estate brokerage services as an employee or independent contractor of a real estate broker.

(b) "Business entity" means a person described in section 105(5)(b) or (c), except a sole proprietorship.

(c) "Classroom course" means an educational course of instruction that is provided at either of the following:

(i) A physical location where instruction is offered and students and an instructor are present.

(ii) A location where a student receives instruction provided by distance learning.

(d) "Clock hour" means either of the following:

(i) For a classroom course at a location described in subdivision (c)(i), a period of 50 to 60 minutes of actual classroom instruction, not including outside assignments and reading.

(ii) For a classroom course at a location described in subdivision (c)(ii), the period required for a student to process the amount of material provided in 50 minutes of distance learning instruction.

(e) "Control person" means an individual who is a sole proprietor, is a partner in a partnership or limited partnership, is an officer, director, or shareholder in a corporation, is a member or manager in a limited liability company, or holds a responsible position in any other form of business entity authorized under the laws of this state or the state in which the entity is organized or formed.

(f) "Distance learning" means the technology and educational process used to provide instruction to a student when the student and the instructor are not necessarily physically present at the same time or place. The term includes, but is not limited to, instruction provided through an interactive classroom, computer conferencing, or an interactive computer system.

(g) "Employ" or "employment" means the relationship between a real estate broker and an associate real estate broker or a real estate salesperson which may include an independent contractor relationship. The existence of an independent contractor relationship between a real estate broker and an individual licensed to the real estate broker does not relieve the real estate broker of the responsibility to supervise acts of the licensee that are regulated under this article.

(h) "Independent contractor relationship" means a relationship between a real estate broker and an associate real estate broker or real estate salesperson that satisfies both of the following conditions:

(i) A written agreement exists in which the real estate broker does not consider the associate real estate broker or real estate salesperson as an employee for federal and state income tax purposes.

(ii) At least 75% of the annual compensation paid by the real estate broker to the associate real estate broker or real estate salesperson is from commissions from the sale of real estate.

(i) "License cycle" means the term of a license issued under this article.

(j) "Limited service agreement" means a written service provision agreement by which a real estate broker and client establish an agency relationship in which certain enumerated services, as set forth in section 2512d(3)(b), (c), and (d), are knowingly waived in whole or part by the client.

(k) "Negotiate the mortgage of real estate" means engaging in activity in connection with a mortgage that is not regulated under the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684, the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to MCL 493.81, or the mortgage loan originator licensing act, 2009 PA 75, MCL 493.131 to 493.171.

(l) A "nonprincipal" of a real estate broker means a control person who is licensed as an associate real estate broker under this article, but is not designated as a principal under section 2505(1).

(m) "Place of business" means a physical location that a real estate broker, by advertisement, signage, or otherwise, represents to the public is a place where clients and customers may consult or do business with a licensee.

(n) "Pocket card" means the pocket card that contains information about the license that the department provides under section 2506 when it issues a license under this article.

(o) "Prelicensure course" means a course that is represented to the public as fulfilling, in whole or in part, the requirements of section 2504.

(p) A "principal" of a real estate broker means a control person who is licensed as an associate real estate

broker and is designated as a principal under section 2505(1).

(q) "Professional designation" means a certification from a real estate professional association that demonstrates that an individual has attained proven skills or education in a real estate occupational area and may include the right to use a title or letters after the licensee's name that represent the designation awarded by the certifying entity.

(r) "Property management" means leasing or renting, or offering to lease or rent, real property of others for a fee, commission, compensation, or other valuable consideration pursuant to a property management employment contract.

(s) "Property management account" means an interest-bearing or noninterest-bearing account or instrument used in the operation of property management.

(t) "Property management employment contract" means a written agreement that is entered into between a real estate broker and client concerning the real estate broker's employment as a property manager for the client; that describes the real estate broker's duties, responsibilities, and activities as a property manager; and that describes the handling, management, safekeeping, investment, disbursement, and use of property management money, funds, and accounts.

(u) "Real estate broker" means an individual or business entity that, with intent to collect or receive a fee, compensation, or valuable consideration, sells or offers for sale, buys or offers to buy, provides or offers to provide market analyses of, lists or offers or attempts to list, or negotiates the purchase, sale, or exchange of real estate; that negotiates the mortgage of real estate; that negotiates for the construction of a building on real estate; that leases or offers or rents or offers for rent real estate or the improvements on the real estate for others, as a whole or partial vocation; that engages in property management as a whole or partial vocation; that sells or offers for sale, buys or offers to buy, leases or offers to lease, or negotiates the purchase or sale or exchange of a business, business opportunity, or the goodwill of an existing business for others; or that, as owner or otherwise, engages in the sale of real estate as a principal vocation.

(v) "Real estate salesperson" means an individual who for compensation or valuable consideration is employed either directly or indirectly by a licensed real estate broker to sell or offer to sell, buy or offer to buy, provide or offer to provide market analyses of, list or offer or attempt to list, or negotiate the purchase, sale, or exchange of real estate; to negotiate the mortgage of real estate; to negotiate for the construction of a building on real estate, or to lease or offer to lease, or rent or offer for rent, real estate; who is employed by a real estate broker to engage in property management; or who sells or offers for sale, buys or offers to buy, leases or offers to lease, or negotiates the purchase or sale or exchange of a business, business opportunity, or the goodwill of an existing business for others, as a whole or partial vocation.

(w) "Service provision agreement" means a buyer agency agreement or listing agreement that is executed by a real estate broker and a client and establishes an agency relationship.

(x) "Sponsor" means a person that represents to the public that the courses it conducts for purposes of this article fulfill the requirements of section 2504a for continuing education.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1988, Act 16, Imd. Eff. Feb. 18, 1988;—Am. 1990, Act 269, Eff. July 1, 1991;—Am. 1993, Act 93, Imd. Eff. July 13, 1993;—Am. 1994, Act 333, Imd. Eff. Oct. 18, 1994;—Am. 2003, Act 196, Imd. Eff. Nov. 10, 2003;—Am. 2008, Act 90, Eff. July 1, 2008;—Am. 2016, Act 502, Eff. Mar. 29, 2017.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Popular name: Act 299

339.2502 Board of real estate brokers and salespersons; creation.

Sec. 2502. The board of real estate brokers and salespersons is created.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

Popular name: Act 299

339.2502a Real estate broker, associate real estate broker, and real estate salesperson; license; term; renewal; relicensure; licensure following revocation.

Sec. 2502a. (1) The department by rule shall establish the term of the license cycle for a license for a real estate broker, associate real estate broker, and real estate salesperson granted under this article. The department shall not issue a license to an individual who is under the age of 18 years.

(2) The department shall renew a license for a real estate broker, associate real estate broker, or real estate salesperson if the department receives an application for renewal on a form prescribed by the department, and payment of the appropriate fees, within the time period described in section 411(1) or (2), and the applicable requirements of section 2504a are met.

(3) The department may relicense a business entity that fails to renew a real estate broker's license issued under this article within the time period described in subsection (2) if the business entity pays an application processing fee, the late renewal fee, and the per-year license fee for the upcoming license period and designates a principal under section 2505(1)(d).

(4) The department may relicense without examination an individual who fails to renew a license issued under this article within the time period described in subsection (2) if all of the following are met:

(a) The individual applies within 3 years after the expiration date of the person's last license.

(b) The individual pays an application processing fee, the late renewal fee, and the per-year license fee for the upcoming licensure period.

(c) The individual completes 6 clock hours of continuing education for each year and partial year that have elapsed since the expiration of his or her last license, on the topics described in section 2504a(1).

(5) The department may relicense an individual who failed to renew a real estate broker or associate broker license within 3 years after the expiration date of his or her last real estate broker or associate broker license if he or she pays an application processing fee, the late renewal fee, and the per-year license fee for the upcoming licensure period and submits proof that he or she meets any of the following:

(a) Has completed a total of 6 clock hours of continuing education for each year and partial year that have elapsed since the expiration of his or her last real estate broker or associate real estate broker license, on the topics described in section 2504a(1).

(b) Has completed 90 clock hours of prelicensure courses described in section 2504(3) in the 12-month period preceding the date of the application.

(c) Has passed the examination required for a real estate broker license under section 2505(5).

(6) The department may relicense an individual who failed to renew a real estate salesperson license within 3 years after the expiration date of his or her last license if he or she pays an application processing fee, the late renewal fee, and the per-year license fee for the upcoming licensure period and submits proof that he or she meets any of the following:

(a) Has completed a total of 6 clock hours of continuing education for each year and partial year that have elapsed since the expiration of his or her last license, on the topics described in section 2504a(1).

(b) Has completed 40 clock hours of prelicensure courses described in section 2504(3) in the 12-month period preceding the date of the application.

(c) Has passed the examination required for a real estate salesperson license under section 2505(5).

(7) An individual whose license is revoked shall not apply for a new license for at least 3 years after the service of the final order of the revocation. To be considered for a license following a revocation, an applicant shall meet all educational and examination requirements in effect at the time of application, and the applicant shall not receive credit for education or experience acquired, or examinations passed, before the revocation.

History: Add. 2002, Act 611, Imd. Eff. Dec. 20, 2002;—Am. 2014, Act 106, Eff. Jan. 1, 2015;—Am. 2016, Act 502, Eff. Mar. 29, 2017.

Popular name: Act 299

339.2502b Owner of real estate engaging in sale of real estate as principal vocation; license as real estate broker required.

Sec. 2502b. (1) Unless the owner engages the services of a real estate broker in connection with those sales, an individual who is the owner of real estate must obtain a license as a real estate broker to engage in the sale of that real estate as a principal vocation. For purposes of this subsection, each of the following is considered engaging in the sale of real estate as a principal vocation:

(a) Engaging in more than 5 real estate sales in any 12-month period.

(b) Representing to the public that he or she is principally engaged in the sale of real estate.

(c) Devoting over 50% of his or her working time, or more than 15 hours per week in any 6-month period, to the sale of real estate.

(d) If he or she is a real estate salesperson, a sale of real estate other than his or her principal residence.

(2) A sale of real estate that is owned by, or under option to, a real estate broker or associate real estate broker is subject to the provisions of this article.

(3) If a licensee is selling property that is owned by the licensee or in which the licensee has an interest, the licensee shall reveal the facts of the licensee's ownership or interest and the licensee's licensure to the purchaser, in writing, before an offer to purchase is signed. A licensee shall provide written proof of this disclosure that is satisfactory to the department on request by the department.

History: Add. 2016, Act 502, Eff. Mar. 29, 2017.

Popular name: Act 299

339.2503 Exemptions.

Sec. 2503. (1) This article does not apply to a person that, as owner, sells or offers for sale a detached, single family dwelling, duplex, triplex, or quadruplex, that has never been occupied and that was built by the person while licensed under article 24. This article does not apply to an owner or lessor, an attorney-in-fact acting under a duly executed and recorded power of attorney from the owner or lessor, or a person appointed by a court, that performs an act as a real estate broker or real estate salesperson with reference to property owned by it, unless performed as a principal vocation not through a licensed real estate broker.

(2) This article does not apply to an attorney-at-law who is rendering services as an attorney-at-law; to a receiver, trustee in bankruptcy, administrator, executor, a person selling real estate under order of a court; or to a trustee selling under a deed of trust, unless the trustee makes repeated or successive sales of real estate not through a licensed real estate broker.

(3) This article does not apply to a person that is regulated under the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684, and that does not perform any other act requiring a license as a real estate broker, associate broker, or real estate salesperson.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1987, Act 63, Imd. Eff. June 25, 1987;—Am. 1987, Act 174, Imd. Eff. Nov. 18, 1987;—Am. 1990, Act 269, Eff. July 1, 1991;—Am. 2016, Act 502, Eff. Mar. 29, 2017.

Popular name: Act 299

339.2504 Real estate broker's license; prelicensure classroom courses; suspension or revocation of approval; prohibited representations; conduct of prelicensure course; violation of subsection (4); penalties; real estate clinic, meeting, course, or institute; sponsoring studies, research, and programs; contract with statewide real estate association.

Sec. 2504. (1) Both of the following must be met before an applicant receives a real estate broker's license under this article:

(a) The applicant must submit an application under section 2505.

(b) The applicant, if the applicant is an individual, or the individual designated as the principal of the applicant under section 2505 if the applicant is a business entity, must successfully complete at least 90 clock hours of approved prelicensure classroom courses in real estate. All of the following apply to these 90 hours of instruction:

(i) At least 9 clock hours must be instruction on civil rights law and fair housing law.

(ii) The 90 hours are in addition to the hours required to obtain a real estate salesperson's license.

(iii) The applicant must complete the 90 hours within the 36-month period preceding the date of the application unless the applicant has held an active license as a real estate salesperson for that period.

(iv) The department by rule may determine that possession of 1 or more of the following credentials is the equivalent to completing prelicensure classroom courses described in this subdivision, and the appropriate number of clock hours of credit that an applicant or principal of an applicant, as applicable, receives for possessing each credential:

(A) A law degree.

(B) A bachelor's degree in business or finance from a degree- or certificate-granting public or independent nonprofit college or university, junior college, or community college.

(C) A master's degree in business or finance from a degree- or certificate-granting public or independent nonprofit college or university, junior college, or community college.

(D) Any other educational credential that the department, in consultation with the board, determines is the equivalent to completing prelicensure classroom courses described in this subdivision.

(2) Before he or she is permitted to take the real estate salesperson's examination, an applicant must show proof that he or she has successfully completed at least 40 clock hours of approved prelicensure classroom courses in principles of real estate, including at least 4 clock hours of instruction on civil rights law and equal opportunity in housing. The applicant must complete the 40 hours of prelicensure education within the 36-month period preceding the date of the application.

(3) For purposes of subsections (1) and (2), an approved prelicensure course is a classroom course that meets all of the following:

(a) Meets criteria established by the department. The department may promulgate rules to establish these criteria.

(b) Covers 1 or more of the following topics:

(i) Real estate license law and related regulatory laws.

(ii) Real property law, including property interests and restrictions.

(iii) Federal, state, and local tax laws affecting real property.
(iv) Conveyances, including contracts, deeds, and leases.
(v) Financing, including mortgages, land contracts, foreclosure, and limits on lending procedures and interest rates.

- (vi) Appraisal of real property.
(vii) Design and construction.
(viii) Marketing, exchanging, and counseling.
(ix) The law of agency.
(x) Sales and office management, including listing and selling techniques.
(xi) Real estate securities and syndications.
(xii) Investments, including property management.

(4) A person that offers or conducts a precicensure course or courses of study that are represented to meet the educational requirements of this section shall first obtain approval from the department and shall comply with the rules of the department concerning curriculum, instructor qualification, grading system, and other related matters. A course shall be designed to be taught for at least 1 clock hour, not including time spent on breaks, meals, or other unrelated activities. The department may suspend or revoke the approval of a person approved under this subsection for a violation of this article or of the rules promulgated under this article. A person that offers or conducts a course shall not represent that its students are assured of passing an examination required by the department. A person shall not represent that the issuance of departmental approval under this subsection is a recommendation or endorsement of the person to which it is issued or of a course of instruction given by it. A precicensure course approved under this section shall be conducted by 1 of the following:

- (a) A local public school district.
(b) A community college.
(c) An institution of higher education authorized to grant degrees.

(d) Any other education provider approved by the department under this subsection, if that provider meets any requirements for precicensure education providers established by the department by rule, in consultation with the board.

(5) A person that violates subsection (4) in operating a school that provides 1 or more courses described in this section is subject to the penalties set forth in article 6.

(6) The department may conduct, hold, or assist in conducting or holding, a real estate clinic, meeting, course, or institute, which shall be open to a person licensed under this article, and may incur the necessary expenses in connection with the clinic, meeting, course, or institute. The department, in the public interest, may assist educational institutions in this state in sponsoring studies, research, and programs for the purpose of raising the standards of professional practice in real estate and the competence of a licensee.

(7) For purposes of subsection (3)(b), the department may contract under section 210 with a statewide real estate association that has a membership representing more than 18,000 licensees to do any of the following:

- (a) Review precicensure courses and make recommendations to the department of whether the department should approve a precicensure course, based on criteria established by the department.
(b) Review precicensure courses to determine whether the subject matter of the courses is relevant to the practice of real estate.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1983, Act 144, Eff. Jan. 1, 1985;—Am. 1984, Act 413, Eff. Mar. 29, 1985;—Am. 2002, Act 611, Imd. Eff. Dec. 20, 2002;—Am. 2003, Act 196, Imd. Eff. Nov. 10, 2003;—Am. 2014, Act 106, Eff. Jan. 1, 2015;—Am. 2016, Act 502, Eff. Mar. 29, 2017.

Popular name: Act 299

Administrative rules: R 339.22101 et seq. of the Michigan Administrative Code.

339.2504a Continuing education.

Sec. 2504a. (1) Subject to subsection (7), a licensee must successfully complete at least the following number of hours of eligible continuing education courses in each license cycle:

(a) Beginning with the license cycle after the effective date of the rules promulgated under subsection (2)(e), the number of hours determined by the department by rule.

(b) In each license cycle before the license cycle described in subdivision (a), 18 clock hours.

(2) All of the following apply to the continuing education requirement described in subsection (1):

(a) In completing the appropriate number of hours of eligible continuing education courses, a licensee must complete at least 2 hours of eligible continuing education courses in each year of a license cycle that involve law, rules, and court cases regarding real estate. The licensee may select any continuing education courses in his or her area of expertise to complete the remaining hours of eligible continuing education courses required

under subsection (1) and may complete those hours at any time during the license cycle. For purposes of this subdivision only, the license cycle year beginning November 1, 2019 ends on December 31, 2020.

(b) At the time he or she attends an eligible continuing education course, a licensee shall do both of the following to confirm his or her identity:

(i) Present his or her pocket card, or provide his or her license identification number, from the department to the course provider.

(ii) Present his or her operator's license or chauffeur's license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, an official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300, or other government-issued photo identification to the course provider.

(c) If a licensee successfully completes an education course to obtain a professional designation, the number of hours of that course is counted toward the total number of hours of continuing education courses required in a license cycle.

(d) If a licensee successfully completes an eligible continuing education course, he or she does not earn additional hours toward the requirements of this section if he or she repeats that course.

(e) The department by rule shall do all of the following:

(i) Determine and provide for the publication of the number of hours of eligible continuing education courses a licensee must successfully complete in a license cycle, including the 2 hours of courses involving statutes, rules, and court cases required in each year of a license cycle under subdivision (a). The department shall determine the number of hours that are required in a license cycle by multiplying the number of years in the license cycle by 6.

(ii) Establish the standards for determining if a continuing education course is an eligible continuing education course for purposes of this section.

(3) An applicant for license renewal under section 2502a shall certify compliance with subsections (1) and (2) to the department. A licensee shall retain evidence acceptable to the department that demonstrates he or she has met the continuing education requirements under this section, for at least 4 years after the date of that certification, and shall produce the following information at the request of the department:

(a) The name and contact information of the continuing professional education program sponsor.

(b) The participant's name.

(c) The course title and course field of study.

(d) The date the course was offered or completed.

(e) If applicable, the location of the course.

(f) Verification by a representative of the continuing professional education program sponsor of the participant's completion of the course.

(g) The number of hours of instruction included in the course and a time statement from the continuing professional education program sponsor that states that continuing professional education credits for the course were granted on a 50-minute hour.

(4) An applicant for license renewal under section 2502a is subject to audit by the department for compliance with subsections (1) and (2), or (7), and may be required to submit the documentation described in subsection (3) to the department on request.

(5) If the department finds as the result of an audit under subsection (4) that an applicant for license renewal under section 2502a did not complete sufficient hours of eligible continuing education courses to renew his or her license, any penalty imposed by the department shall include a requirement that the licensee must complete both of the following, if applicable:

(a) A sufficient number of additional hours of continuing education to fulfill the requirements for the period determined by audit to be deficient.

(b) If the period determined by the audit to be deficient is at least 60 days, additional hours of continuing education in 1 of the following amounts:

(i) If the deficiency period is at least 60 days and less than 120 days, 4 hours.

(ii) If the deficiency period is 120 days or more, 8 hours.

(6) Hours of additional continuing education required under subsection (5)(b) do not apply toward continuing education required in a license cycle. The department may waive the requirement for additional hours under subsection (5)(b) if the applicant demonstrates to the department that the additional hours would present an undue hardship on the applicant.

(7) If a real estate broker, associate real estate broker, or salesperson receives a license that is issued after the beginning of the current license cycle for that license, the department may prorate the number of hours of eligible continuing education that licensee is required to complete under subsections (1) and (2) for the year of the license cycle in which the license is issued.

(8) Course credits used to meet continuing education requirements under this section do not apply toward

the real estate broker's license prelicensure education requirements under section 2504, and course credits successfully completed under real estate broker's license prelicensure education requirements under section 2504 do not apply toward the continuing education requirements of this section.

(9) As used in this section, "eligible continuing education course" means a continuing education course that meets the standards established by the department by rule under subsection (2)(e) and, if successfully completed by a licensee, is counted toward the licensee's continuing education requirements under this section.

History: Add. 2014, Act 106, Eff. Jan. 1, 2015;—Am. 2016, Act 502, Eff. Mar. 29, 2017;—Am. 2017, Act 56, Eff. Sept. 13, 2017;—Am. 2020, Act 342, Imd. Eff. Dec. 30, 2020.

Popular name: Act 299

339.2505 Real estate broker's license; application; contents; execution of application; effect of certain convictions; place of business; branch office license; signature; proof; examination; experience.

Sec. 2505. (1) An individual or business entity that is applying for a real estate broker's license shall file an application with the department. All of the following apply to an application for a real estate broker's license:

(a) The application must include the applicant's current business address; if the applicant is an individual, the address of his or her residence; and the complete address of each former place where the applicant resided or was engaged in business, or acted as a real estate salesperson, for a period of 60 days or more, during the 5 years immediately preceding the date of application.

(b) The application must include the name of the individual or business entity that is the proposed licensee; the location of the place for which the license is sought; and the period of time in which the applicant has been engaged in the business.

(c) The application must be executed by the applicant, if the applicant is an individual, or by a principal of the applicant if the applicant is a business entity.

(d) If the applicant is a business entity, the application shall designate which individuals who are control persons of the entity will be performing acts regulated by this article as principals. An applicant shall not designate a control person as a principal unless that control person is licensed as an associate real estate broker under this article.

(2) The department shall not issue a real estate broker's license to an individual who has been convicted of embezzlement or misappropriation of funds.

(3) A real estate broker shall maintain a place of business in this state. If a real estate broker maintains more than 1 place of business in this state, the real estate broker must obtain a branch office license for each of those additional places of business. If a branch office is located more than 25 miles from the nearest boundary of the municipality in which the main office of the real estate broker is located, the broker shall ensure that the branch office is under the direct supervision of an associate broker. As used in this subsection, "direct supervision" means that an associate broker is physically present at the branch office on a regular basis to supervise and manage the business during ordinary business hours.

(4) An application for a real estate salesperson's license shall be signed by the real estate broker that will employ the applicant. The department shall only issue a real estate salesperson's license to an individual.

(5) Before issuing a license, the department may require and procure satisfactory proof of the business experience, competence, and good moral character of an applicant for a license under this article if the applicant is an individual or of each principal if the applicant is a business entity. Subject to subsection (6), the department shall require that each of those individuals pass an examination developed by the department or contracted for with a recognized outside testing agency that establishes, in a manner satisfactory to the department, that he or she has a fair knowledge of the English language, including reading, writing, spelling, and elementary arithmetic; a satisfactory understanding of the fundamentals of real estate practice and of the laws and principles of real estate conveyancing, deeds, mortgages, land contracts, and leases; the obligations of a broker to the public and a principal; and the law defining, regulating, and licensing real estate brokers and salespersons. The department may require written examination or written reexamination of an individual described in this subsection, and if the department does require a written examination or reexamination under this subsection, the department shall not issue a license unless the individual taking the examination or reexamination achieves a passing score satisfactory to the department.

(6) All of the following apply to the written examination requirement described in subsection (5):

(a) The department may relicense without examination an individual who is applying for a real estate broker's or associate real estate broker's license; has previously held a real estate broker's or associate real estate broker's license that has lapsed; and has been continuously licensed as a real estate salesperson since the lapse of the previous license.

(b) A passing score on an examination, or on a portion of an examination if the examination is given in separate parts, is valid for 1 year from the date of the examination.

(7) The department shall require proof that each applicant for a real estate broker's license, if the applicant is an individual, or each principal if the applicant is a business entity, has the equivalent of 3 years of full-time experience in the business of real estate. All of the following apply in determining whether an individual meets this experience requirement:

(a) If state law requires that a person hold a license to be licensed to perform an activity that is considered the business of real estate, an individual shall not receive credit for experience performing that activity without proper licensure.

(b) For purposes of calculating whether an individual has the equivalent of 3 years of experience, the department shall grant the following credit or credits toward that 3-year requirement:

(i) If the individual is a real estate salesperson, 1 year of credit for each 12-month period of licensure in which he or she closed 5 or more real estate transactions.

(ii) If the individual is a builder, 1 year of credit for each 12-month period in which he or she built and personally sold or leased at least 5 residential units, commercial units, or industrial units or a combination of those types of units.

(iii) If the individual is a real estate investor, 6 months of credit for each 5 real property transactions personally negotiated for a purchase or sale by the individual for his or her own account, with a maximum of 1 year of credit allowed. However, an individual shall not receive credit under this subdivision if he or she engaged in more than 5 sales in any 12-month period in violation of section 2502b.

(iv) If the individual is a land or condominium developer, 1 year of credit for each 2 developments or subdivisions that contain at least 10 units or parcels that he or she bought, subdivided, and improved for sale as lots or dwellings.

(v) If the individual is an attorney, 1 year of credit for each year in which he or she acted as the attorney for at least 6 real estate transactions.

(vi) If the individual is a real estate appraiser who is licensed under article 26, 1 year of credit for each period equivalent to at least 40 hours per week, and at least 48 weeks per year, in which he or she acted as a real estate appraiser.

(vii) One year of credit for each period equivalent to at least 40 hours per week, and at least 48 weeks per year, in which the individual worked in a capacity directly related to the acquisition, financing, or conveyance of real estate, or in a position in which the individual was directly involved in a real estate business, including serving as the decision-making authority in any of the following positions:

(A) A loan or trust officer of a federal or state-regulated depository institution.

(B) A loan or trust officer of a mortgage company.

(C) A real estate officer of a corporation, and who is not a licensed real estate broker.

(D) A title insurance company officer engaged in the closing of escrow accounts and real estate closings.

(viii) Credit for any other experience that is approved by the department by rule, in consultation with the board, as equivalent to the experience described in this subsection.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 1988, Act 16, Imd. Eff. Feb. 18, 1988;—Am. 1988, Act 463, Eff. Sept. 1, 1989;—Am. 2003, Act 196, Imd. Eff. Nov. 10, 2003;—Am. 2016, Act 502, Eff. Mar. 29, 2017.

Popular name: Act 299

339.2506 Real estate broker, associate real estate broker, associate real estate broker, or real estate salesperson; license and pocket card or temporary license required; delivering or mailing real estate salesperson's license to broker; custody and control of license; notice of change of location; notice of suspended or revoked license; forward of pocket card and license to department; transfer of license to new real estate broker; application.

Sec. 2506. (1) Except as provided in subsection (5), an individual shall not act as a real estate broker, associate real estate broker, or real estate salesperson if he or she has not received from the department his or her license and pocket card or received a temporary license. An individual licensed under this article shall not act as a real estate broker, associate real estate broker, or real estate salesperson if he or she does not have, on his or her person, his or her pocket card or temporary license or a photocopy or digital image of that pocket card or temporary license.

(2) The department shall deliver or mail the license of a real estate salesperson to the real estate broker that employs the real estate salesperson, and the broker shall retain custody and control of the salesperson's certificate of license and deliver the pocket card for that license to the salesperson.

(3) A licensee shall give written notice to the department of any change of either a principal or branch

business location.

(4) If he or she receives notice that his or her license is suspended or revoked, a real estate salesperson, or an associate real estate broker that is not the sole associate real estate broker for a real estate broker that is a business entity, shall immediately forward his or her pocket card to the department and the real estate broker to which the individual was licensed shall immediately forward the salesperson's or associate real estate broker's license to the department. If he or she receives notice that his or her license is suspended or revoked, a real estate broker who is an individual, or an associate real estate broker who is the sole associate real estate broker for a real estate broker that is a business entity, shall immediately forward to the department his or her license and pocket card, the licenses and pocket cards of all real estate salespersons and nonprincipal associate real estate brokers issued under the real estate broker, and all of the real estate broker's branch office licenses.

(5) If the department receives a completed application under section 2507 or 2508 for transfer of a real estate salesperson's license or an associate real estate broker's license to a new real estate broker and the applicable fees, the department shall consider the pocket card as proper evidence of licensing for 45 days from the latest date written on the back of the card. If the real estate salesperson or associate real estate broker who is applying for the license transfer is notified that the application is incomplete, or the real estate broker to which he or she is transferring his or her license is not licensed, his or her pocket card is no longer valid and the applicant must wait until the new broker receives his or her wall license and pocket card before engaging in activities that are regulated under this article.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1988, Act 14, Imd. Eff. Feb. 18, 1988;—Am. 1988, Act 463, Eff. Sept. 1, 1989;—Am. 2011, Act 33, Imd. Eff. May 24, 2011;—Am. 2016, Act 502, Eff. Mar. 29, 2017.

Popular name: Act 299

339.2507 Discharge or termination of real estate salesperson; delivering or mailing salesperson's license to department; application for transfer of license; communication; performing regulated acts without license prohibited; limitation.

Sec. 2507. (1) If a real estate salesperson is discharged or terminates employment with a real estate broker by giving the employer a written notice of the termination, the real estate broker shall deliver or mail by certified mail to the department, within 5 days, the real estate salesperson's license. If a written notice of termination of employment is not served on the real estate broker by the real estate salesperson, the department shall notify the real estate broker in writing that it has received an application for a transfer of license by the real estate salesperson. As of the date of the notification, the notification shall operate as if a written notice were served by the real estate salesperson or the real estate broker.

(2) A real estate broker, at the time it delivers or mails a real estate salesperson's license to the department under subsection (1), shall notify the real estate salesperson in writing, delivered or mailed to the last known residence address of the real estate salesperson, that advises the real estate salesperson that the real estate broker has delivered or mailed the license to the department. A copy of the communication to the real estate salesperson shall accompany the license when the license is mailed or delivered to the department.

(3) Except as provided in section 2506(5), a real estate salesperson shall not perform an act regulated by this article either directly or indirectly under authority of the license after the date of his or her termination from a real estate broker under this section.

(4) The department shall not issue more than 1 license to a real estate salesperson for the same period of time.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1988, Act 463, Eff. Sept. 1, 1989;—Am. 2016, Act 502, Eff. Mar. 29, 2017.

Popular name: Act 299

339.2508 Real estate broker's license; entities to which issued; authorized acts; associate real estate broker's license; transferability; suspension; issuance of new license; death or disability of sole principal associate broker.

Sec. 2508. (1) The department may issue a real estate broker's license to an individual, sole proprietorship, partnership, association, corporation, limited liability company, common law trust, or a combination of those entities. A real estate broker's license that is issued to an individual or a sole proprietorship entitles the individual named on the license to perform acts regulated under this article. Subject to subsection (2), a real estate broker's license issued to a partnership, association, corporation, limited liability company, common law trust, or a combination of those entities entitles those individuals designated as principals under section 2505(1) to perform acts regulated under this article. A broker's license issued to a partnership, association, corporation, limited liability company, common law trust, or a combination of those entities is not transferable.

(2) Before performing acts regulated under this article, each principal shall apply for and obtain, and any other individual may apply for and obtain, an associate real estate broker's license. An applicant for an associate real estate broker's license is subject to the same requirements as an applicant for a real estate broker's license. The department shall only issue an associate real estate broker's license to an individual.

(3) The associate real estate broker's license of a principal who ceases to be connected with a partnership, association, corporation, limited liability company, common law trust, or a combination of those entities is suspended automatically.

(4) An associate real estate broker's license that is issued to a principal is not transferable. An associate real estate broker's license issued to a nonprincipal may be transferred in the same manner as provided in section 2507 for the transfer of a real estate salesperson's license.

(5) If a real estate broker's license is revoked, the licenses of all real estate salespersons who are employed by the real estate broker and all affiliated associate real estate brokers are automatically suspended, pending a change of employer and the issuance of a new license. The department shall issue a new license under this subsection without charge if the license is issued during the same term in which the original license was issued.

(6) In the event of the death or disability of a sole principal associate broker, the department shall allow all affiliated real estate licensees a reasonable time to either wind up the business of the real estate broker or designate a new principal associate broker.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1988, Act 16, Imd. Eff. Feb. 18, 1988;—Am. 2014, Act 106, Eff. Jan. 1, 2015.

Popular name: Act 299

339.2509 Associate real estate broker's license; issuance to principal and nonprincipal; limitation.

Sec. 2509. (1) The department may issue more than 1 associate real estate broker's license to principals of a real estate broker.

(2) An individual shall not hold more than 1 associate real estate broker's license as a nonprincipal, but an individual may hold 1 or more associate real estate broker's licenses as a principal.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1988, Act 16, Imd. Eff. Feb. 18, 1988;—Am. 2016, Act 502, Eff. Mar. 29, 2017.

Popular name: Act 299

339.2510 Real estate salesperson; commission or valuable consideration.

Sec. 2510. (1) A real estate salesperson shall not accept a commission or valuable consideration for the performance of an act specified in this article from any person other than the real estate broker that employs the salesperson.

(2) If an individual earned commissions or other income while employed by a real estate broker, it is not grounds for disciplinary action under section 2512 for that broker to pay those commissions or income to that individual, regardless of whether that individual is now employed by another real estate broker or is no longer licensed.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 2016, Act 502, Eff. Mar. 29, 2017.

Popular name: Act 299

339.2511 Plan or scheme for selling or promoting sale of real estate.

Sec. 2511. A plan or scheme involving a lottery, contest, game, prize, or drawing shall not be used by a real estate broker or real estate salesperson for the sale or promotion of a sale of real estate. However, a game promotion as defined in and in compliance with section 372a of the Michigan penal code, 1931 PA 328, MCL 750.372a, may be used by a real estate broker or real estate salesperson for any purpose other than the direct promotion of a specific piece of real estate.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1990, Act 164, Imd. Eff. July 2, 1990;—Am. 2010, Act 48, Imd. Eff. Apr. 22, 2010.

Popular name: Act 299

339.2512 Prohibited conduct; penalties; filing complaint under article 5.

Sec. 2512. (1) A licensee that commits 1 or more of the following is subject to the penalties set forth in article 6:

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

(b) Fails to provide a written agency disclosure to a prospective buyer or seller in a real estate transaction as defined in section 2517.

(c) If the licensee is an associate real estate broker or real estate salesperson, represents or attempts to represent a real estate broker other than his or her employer without the express knowledge and consent of the employer.

(d) Fails to account for or to remit money that comes into the licensee's possession that belongs to others.

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

(f) If the licensee is a real estate broker, fails to return a real estate salesperson's license within 5 days under section 2507.

(g) If the licensee engaged in property management, violates section 2512c(2), (5), or (6).

(h) Except as provided in section 2510(2), shares or pays a fee, commission, or other valuable consideration to a person that is not licensed under this article, including payment to any person that provides the name of, or any other information regarding, a potential seller or purchaser of real estate but excluding payment for the purchase of a commercially prepared list of names. However, a licensed real estate broker may pay a commission to a real estate broker that is licensed by another state if the nonresident real estate broker does not conduct in this state a negotiation for which a commission is paid.

(i) Conducts or develops a market analysis that does not comply with section 2601(a)(ii).

(j) Fails to provide the minimum services specified under section 2512d(3) when providing services under a service provision agreement unless expressly waived in writing by the client under section 2517(2).

(k) Except in connection with a property management account, fails to deposit money in its possession that belongs to another person in a custodial trust or escrow account that is maintained by the real estate broker, in a manner that complies with all of the following:

(i) A real estate broker shall retain a deposit or other money made payable to a person that holds a real estate broker's license under this article pending consummation or termination of the transaction involved and shall account for the full amount of the money at the time of the consummation or termination of the transaction.

(ii) A real estate salesperson shall pay or deliver to the real estate broker, on receipt, a deposit or other money paid in connection with a transaction in which the real estate salesperson is engaged on behalf of the real estate broker.

(iii) A real estate broker shall not deposit or permit the deposit of an advance payment of money that belongs to others in the real estate broker's business or personal account or commingle or permit the commingling of that money with funds on deposit that belong to the real estate broker.

(iv) A real estate broker may maintain more than 1 trust account. A real estate broker may deposit not more than \$2,000.00 of its own money in each trust account to cover bank service charges and bank minimum balance requirements or to avoid the closing of the account because there is no money in the account. The real estate broker shall account for any of its own money in a trust account in the records described in subparagraph (vi).

(v) A real estate broker shall deposit, within 2 banking days after the broker has received notice that an offer to purchase is accepted by all parties, money that belongs to others and is made payable to the real estate broker into a separate custodial trust or escrow account maintained by the real estate broker with a bank, savings and loan association, credit union, or recognized depository until the transaction involved is consummated or terminated, at which time the real estate broker shall account for the full amount received.

(vi) A real estate broker shall keep records of money deposited in its custodial trust or escrow account, and indicate clearly in those records the date and from whom the money was received, the date deposited, the date of withdrawal, and other pertinent information concerning the transaction and shall show clearly for whose account the money is deposited and to whom the money belongs. The records are subject to inspection by the department. A real estate broker's separate custodial trust or escrow account shall designate the real estate broker as trustee, and the custodial trust or escrow account shall provide for withdrawal of funds without previous notice. This article and the rules promulgated under this article do not prohibit the deposit of money accepted under this section in a noninterest bearing account of a state or federally chartered savings and loan association or a state or federally chartered credit union.

(vii) If a purchase agreement signed by a seller and purchaser provides that an escrowee other than a real estate broker shall hold a deposit, a licensee in possession of that deposit shall cause the deposit to be delivered to the named escrowee within 2 banking days after the licensee receives notice that an offer to purchase is accepted by all parties.

(2) A complaint that seeks a penalty under article 5 for a violation of this section must be filed within 18 months after 1 of the following dates, whichever occurs later:

(a) The date of the alleged violation.

(b) If the alleged violation occurs in connection with a real estate transaction, the date the transaction is completed.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1993, Act 93, Imd. Eff. July 13, 1993;—Am. 1993, Act 177, Imd. Eff. Sept. 29, 1993;—Am. 1994, Act 125, Imd. Eff. May 16, 1994;—Am. 1994, Act 333, Imd. Eff. Oct. 18, 1994;—Am. 1996, Act 430, Eff. Jan. 1, 1997;—Am. 2000, Act 436, Imd. Eff. Jan. 9, 2001;—Am. 2002, Act 42, Imd. Eff. Mar. 12, 2002;—Am. 2008, Act 90, Eff. July 1, 2008;—Am. 2016, Act 502, Eff. Mar. 29, 2017.

Popular name: Act 299

339.2512a Action for collection of compensation for performance of act or contract; allegation and proof.

Sec. 2512a. A person engaged in the business of, or acting in the capacity of, a person required to be licensed under this article, shall not maintain an action in a court of this state for the collection of compensation for the performance of an act or contract for which a license is required by this article without alleging and proving that the person was licensed under this article at the time of the performance of the act or contract.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

Popular name: Act 299

339.2512b Actions not constituting participation in real estate transaction or in payment of real estate commissions.

Sec. 2512b. The following actions do not constitute participation in a real estate transaction or in the payment of real estate commissions:

(a) As an owner or an authorized agent of the owner, offering an existing tenant of the owner's property a consideration of a value of 1 month's rent or less for referring a prospective tenant to the owner or the authorized agent of the owner for the purpose of entering into a lease agreement.

(b) As an existing tenant of rental property, accepting a consideration of 1 month's rent or less for the referral of prospective tenants.

History: Add. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 2022, Act 21, Imd. Eff. Mar. 10, 2022.

Popular name: Act 299

339.2512c Property management performed by real estate broker.

Sec. 2512c. (1) Except as otherwise provided in this section, all property management duties, responsibilities, and activities performed by a real estate broker and his or her agent engaged in property management shall be governed by and performed in accordance with a property management employment contract.

(2) A real estate broker who engages in property management shall maintain property management accounts separate from all other accounts. Except as provided in this section, a property management account shall be managed in accordance with the property management employment contract.

(3) A property management account may be an interest-bearing account or instrument, unless the property management employment contract provides to the contrary. The interest earned on a property management account shall be handled in accordance with the property management employment contract.

(4) A real estate broker or any designated employee of the real estate broker engaged in property management may be signatory on drafts or checks drawn on property management accounts.

(5) A person who engages in property management shall maintain records of funds deposited and withdrawn from property management accounts. Property management account records shall indicate the date of the transaction, from whom the money was received or to whom it was given, and other pertinent information concerning the transaction the property management employment contract may require.

(6) A real estate broker engaged in property management shall render an accounting to his or her property management client and remit all money strictly in accordance with the property management employment contract.

(7) All records required to be kept pursuant to this section or pursuant to the property management employment contract shall be subject to inspection by the department.

History: Add. 1994, Act 333, Imd. Eff. Oct. 18, 1994.

Popular name: Act 299

339.2512d Service provision agreement; duties; services; misleading public prohibited; waiver of services in limited service agreement.

Sec. 2512d. (1) A licensee that is acting under the terms of a service provision agreement shall perform the

duties described in subsection (2). A real estate broker may authorize a designated agent to represent the client, if that authorization is in writing.

(2) A licensee that is acting under the terms of a service provision agreement owes, at a minimum, the following duties to a client:

(a) The exercise of reasonable care and skill in representing the client and carrying out the responsibilities of the agency relationship.

(b) The performance of the terms of the service provision agreement.

(c) Loyalty to the interest of the client.

(d) Compliance with the laws, rules, and regulations of this state and any applicable federal statutes or regulations.

(e) Referral of the client to other licensed professionals for expert advice related to material matters that are not within the expertise of the broker.

(f) An accounting in a timely manner of all money and property received by the broker in which the client has or may have an interest.

(g) Confidentiality of all information obtained in the course of the agency relationship, unless disclosed with the client's permission or as provided by law, including the duty not to disclose confidential information to any licensee who is not an agent of the client.

(3) A licensee that is acting under the terms of a service provision agreement shall provide the following services to a client:

(a) If the real estate broker or real estate salesperson is representing a seller or lessor, the marketing of the client's property in the manner agreed on in the service provision agreement.

(b) Acceptance of delivery and presentation of offers and counteroffers to buy, sell, or lease the client's property or the property the client seeks to purchase or lease. At the time of execution of an offer to purchase, a licensee shall recommend to the purchaser that the purchaser require that the seller provide a fee title policy in the amount of the purchase price to the purchaser, issued or certified to the approximate date of closing of the real estate transaction.

(c) Assistance in developing, communicating, 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.

(d) After execution of a purchase agreement by all parties, assistance as necessary to complete the transaction under the terms specified in the purchase agreement. Without written approval of the buyer and seller, a licensee shall not close a transaction on any terms or conditions that are contrary to the terms or conditions of an executed purchase agreement.

(e) For a real estate broker or associate real estate broker that is involved at the closing of a real estate or business opportunity transaction, furnishing, or causing to be furnished, to the buyer and seller, a complete and detailed closing statement signed by the broker or associate real estate broker showing each party all receipts and disbursements affecting that party. However, this subdivision does not apply if the closing is conducted by a title insurance company, or a person designated to act as the agent of a title insurance company, that is licensed or authorized to do business in this state.

(4) A real estate broker or real estate salesperson that is representing a seller under a service provision agreement shall not advertise the property to the public as "for sale by owner" or otherwise mislead the public to believe that the seller is not represented by a real estate broker.

(5) The services described in subsection (3)(b), (c), and (d) may be waived in a limited service agreement.

History: Add. 2008, Act 90, Eff. July 1, 2008;—Am. 2016, Act 502, Eff. Mar. 29, 2017.

Popular name: Act 299

339.2512e Advertisement.

Sec. 2512e. (1) Except as provided in subsection (2), any advertisement to buy, sell, exchange, rent, lease, or mortgage real property or a business opportunity by a real estate broker shall include the broker's name or the name under which the broker is conducting business; shall include the broker's telephone number or street address; and shall state that the person doing the advertising is a real estate broker.

(2) An individual who is licensed as a real estate broker or associate real estate broker may advertise real property that he or she personally owns for sale or for lease in his or her own name, and is not required to include the name of the real estate broker, or the name of the real estate broker that employs the associate real estate broker, as the sales or leasing agent for the property in the advertisement. However, the advertising shall indicate affirmatively that the individual who is selling or leasing the real property is a licensed real estate broker or associate real estate broker.

(3) Except as provided in subsection (2) or (4), a real estate salesperson or an associate broker shall only

advertise to buy, sell, exchange, rent, lease, or mortgage real property or a business opportunity under the supervision of, and in the business name of, his or her employing broker. Any advertising displayed or published on or after January 1, 2018, that includes the name of an associate broker, a salesperson, or a cooperating group of associate brokers or salespersons employed by the same real estate broker, shall include all of the following:

- (a) The telephone number or street address of the employing broker.
- (b) The business name of the employing broker, in equal or greater type size than the name of the associate broker, salesperson, or cooperating group.
- (4) A real estate salesperson shall not advertise to sell real property under his or her own name unless the property is the principal residence of the salesperson. A real estate salesperson shall not advertise real property for rent or lease under his or her own name unless the salesperson is the owner of the property.
- (5) A real estate broker shall not conduct business or advertise under a name other than that in which the broker's license is issued or under an assumed name that is authorized by law. A real estate broker shall notify the department of its adoption of an assumed name with its license application, or within 30 days after it adopts an assumed name, whichever is earlier.

History: Add. 2016, Act 502, Eff. Mar. 29, 2017.

Popular name: Act 299

339.2512f Supervision of real estate salesperson.

Sec. 2512f. (1) A real estate broker or associate real estate broker shall supervise the work of a real estate salesperson. For purposes of this subsection, supervision of a real estate salesperson includes at least all of the following:

(a) Direct communication in person or by radio, telephone, or electronic communication, on a regular basis.

(b) Review of the practice of the salesperson.

(c) Review of the salesperson's reports.

(d) Analyses and guidance of the salesperson's performance in regulated activities.

(e) Providing written operating policies and procedures to the salesperson.

(2) A real estate broker shall not contract with an individual real estate salesperson or nonprincipal associate real estate broker who is employed by the real estate broker in a manner that limits the broker's authority to supervise the salesperson under subsection (1).

History: Add. 2016, Act 502, Eff. Mar. 29, 2017.

Popular name: Act 299

339.2513 Filing bond or posting cash deposit as condition precedent to issuance of license or removal of suspension; action by injured person.

Sec. 2513. If an application for a license is made by a person whose license has been denied, suspended, or revoked as a result of disciplinary action for violation of this article or of the rules promulgated under this article, the department may require as a condition precedent to the issuance of a license to the applicant or the removal of suspension, that the applicant file or have on file with the department a bond for a period not to exceed 5 years, issued by an admitted surety insurer or cash in a sum to be fixed by the department, based upon the magnitude of the operations of the applicant, not to exceed the sum of \$5,000.00 in which this state shall appear as the insured. If the department orders the filing of a bond or the posting of a cash deposit, a person injured by an unlawful act or omission of the applicant may bring an action in a proper court on the bond or a claim against the cash deposit for the amount of the damage suffered as a result to the extent covered by the bond or cash deposit.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

Popular name: Act 299

339.2514 Real estate broker or real estate salesperson; nonresident applicant; consent to service of process; application; disposition of process or pleading.

Sec. 2514. A nonresident of this state may become a real estate broker or a real estate salesperson by conforming to the requirements of this article. A nonresident applicant shall file an irrevocable consent that an action may be commenced against the applicant in the proper court of a county of this state in which a cause of action may arise in which the plaintiff may reside, by the service of process or pleading authorized by the laws of this state on the department, the consent stipulating and agreeing that service of process or pleadings on the department shall be taken and held in court to be as valid and binding as if due service had been made upon the applicant in this state. An instrument containing a consent shall be authenticated by a seal, if a

corporation, or by the acknowledged signature of a member or officer of the corporation, if otherwise. An application, except from an individual, shall be accompanied by the certified copy of the resolution of the proper officer or managing board authorizing the proper officer to execute the application. If a process or pleading mentioned in this article is served upon the department it shall be by duplicate copies, 1 of which shall be filed in the department and the other immediately forwarded by registered mail to the main office of the applicant against which the process or pleading is directed.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

Popular name: Act 299

339.2515 Listing agreement; discrimination prohibited; burden of proof; legal and equitable remedies.

Sec. 2515. (1) A listing agreement entered into between the broker and seller or lessor of property shall contain language that discrimination because of religion, race, color, national origin, age, sex, disability, familial status, or marital status on the part of the real estate broker, real estate salesperson, seller, or lessor is prohibited.

(2) This article shall not authorize the department to assume any facts not in evidence or compel a party to prove innocence of charges before the charges have been proven by the department. The department shall at all times bear the burden of proof to all charges made against a party.

(3) This article shall not diminish the right of a party to pursue and utilize direct and immediate legal or equitable remedies in a court of competent jurisdiction.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 1993, Act 93, Imd. Eff. July 13, 1993;—Am. 1998, Act 90, Imd. Eff. May 13, 1998.

Popular name: Act 299

339.2516 Interest in real property; acquisition by licensee; proof of disclosures and consents.

Sec. 2516. (1) If a licensee buys or otherwise acquires, directly or indirectly, an interest in real property, the licensee shall disclose to the owner of the property that the licensee is licensed under this part before the owner is asked to sign the purchase agreement.

(2) If a licensee acquires, directly or indirectly, an option to purchase real property from an owner that requested the licensee's services as a real estate licensee in connection with that property, the licensee shall disclose to the owner of the property that the licensee is licensed under this part before the owner is asked to sign the option agreement.

(3) A licensee that buys or otherwise acquires an interest in real property, directly or indirectly, and that is owed a commission, fee, or other valuable consideration as a result of the sale, shall disclose that the licensee is licensed under this part to the seller or owner to receive the specified consideration.

(4) On request of the department, a licensee shall provide written proof of any disclosures and consents required under this section to the department.

History: Add. 2016, Act 502, Eff. Mar. 29, 2017.

Compiler's note: Former MCL 339.2516, which pertained to renewal fee for license, was repealed by Act 83 of 1981, Imd. Eff. July 1, 1981.

Popular name: Act 299

339.2516a Inspection of document or record by representative of department.

Sec. 2516a. During normal business hours, a licensee shall allow any authorized representative of the department to enter any of its places of business in this state and inspect any document or record that the department determines is reasonably necessary for an investigation of the licensee or a review of the business activities of the licensee, the administration of this act, or the administrative rules promulgated under this article.

History: Add. 2016, Act 502, Eff. Mar. 29, 2017.

Popular name: Act 299

339.2516b Rescission of rules.

Sec. 2516b. R 339.22205 to R 339.22301, R 339.22309 to R 339.22311, R 339.22317 to R 339.22319, R 339.22323 to R 339.22329, and R 339.22339 to R 339.22405 of the Michigan Administrative Code are rescinded.

History: Add. 2016, Act 502, Eff. Mar. 29, 2017.

Popular name: Act 299

339.2517 Disclosure of agency relationship.

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

(2) Unless knowingly waived by execution of a limited service agreement, a real estate broker or real estate salesperson providing services under any service provision agreement shall, at a minimum, provide to the client the duties described in section 2512d(2) and the services described in section 2512d(3).

(3) The disclosure of the type of agency relationship shall be in writing, shall be provided to the client, and shall substantially conform to the following:

DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIPS

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

(1) An agent providing services under any service provision agreement owes, at a minimum, the following duties to the client:

(a) The exercise of reasonable care and skill in representing the client and carrying out the responsibilities of the agency relationship.

(b) The performance of the terms of the service provision agreement.

(c) Loyalty to the interest of the client.

(d) Compliance with the laws, rules, and regulations of this state and any applicable federal statutes or regulations.

(e) Referral of the client to other licensed professionals for expert advice related to material matters that are not within the expertise of the licensed agent.

(f) An accounting in a timely manner of all money and property received by the agent in which the client has or may have an interest.

(g) Confidentiality of all information obtained within the course of the agency relationship, unless disclosed with the client's permission or as provided by law, including the duty not to disclose confidential information to any licensee who is not an agent of the client.

(2) A real estate broker or real estate salesperson acting pursuant to a service provision agreement shall provide the following services to his or her client:

(a) When the real estate broker or real estate salesperson is representing a seller or lessor, the marketing of the client's property in the manner agreed upon in the service provision agreement.

(b) Acceptance of delivery and presentation of offers and counteroffers to buy, sell, or lease the client's property or the property the client seeks to purchase or lease.

(c) Assistance in developing, communicating, 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.

(d) After execution of a purchase agreement by all parties, assistance as necessary to complete the transaction under the terms specified in the purchase agreement.

(e) For a broker or associate broker who is involved at the closing of a real estate or business opportunity transaction furnishing, or causing to be furnished, to the buyer and seller, a complete and detailed closing statement signed by the broker or associated broker showing each party all receipts and disbursements affecting that party.

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

Seller's Agents

A seller's agent, under a listing agreement with the seller, acts solely on behalf of the seller. A seller can authorize a seller's agent to work with subagents, buyer's agents and/or transaction coordinators. A subagent is one who has agreed to work with the listing agent, and who, like the listing agent, acts solely on behalf of the seller. Seller's agents and subagents will disclose to the seller known information about the buyer which may be used to the benefit of the seller. Individual services may be waived by the seller through execution of a limited service agreement. Only those services set forth in paragraph (2)(b), (c), and (d) above may be waived by the execution of a limited service agreement.

Buyer's Agents

A buyer's agent, under a buyer's agency agreement with the buyer, acts solely on behalf of the buyer. Buyer's agents and subagents will disclose to the buyer known information about the seller which may be used to benefit the buyer. Individual services may be waived by the buyer through execution of a limited service agreement. Only those services set forth in paragraph (2)(b), (c), or (d) above may be waived by execution of a limited service agreement.

Dual Agents

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

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

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

Licensee Disclosure (check one)

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

- Seller's Agent
- Seller's Agent – limited service agreement
- Buyer's Agent
- Buyer's Agent – limited service agreement
- Dual Agent
- None of the above

Affiliated Licensee Disclosure (check one)

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

All affiliated licensees have the same agency relationship as the licensee named below.

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

Licensee

Date

Licensee

Date

Acknowledgment

By signing below, the parties acknowledge that they have received and read the information in this agency disclosure statement and acknowledge that this form was provided to them before the disclosure of any confidential information.

Potential Buyer/Seller (circle one)

Date

Potential Buyer/Seller (circle one)

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:

LIMITED SERVICE AGREEMENT

Pursuant to Michigan law certain services provided by a real estate licensee 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, communicating, 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) 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) A broker and a client may enter into a designated agency agreement. In the absence of a written designated agency agreement, a client is considered to have an agency relationship with the broker and all affiliated licensees.

(7) A designated agency agreement shall contain the name of all associate brokers who are authorized to act as supervisory brokers. If designated agents who are affiliated licensees represent different parties in the same real estate transaction, the broker and all supervisory brokers are considered disclosed consensual dual agents for that real estate transaction. Designated agents who are affiliated licensees representing different parties in the same transaction shall notify their clients that their broker represents both buyer and seller before an offer to purchase is made or presented.

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

(9) A designated agent shall not disclose confidential information of a client to any licensee, whether or not an affiliated licensee, except that a designated agent may disclose to any supervisory broker confidential information of a client for purposes of seeking advice or assistance for the benefit of the client. A licensee who represents a client in an agency capacity does not breach any duty or obligation owed to that client by failing to disclose to that client information obtained through a present or prior agency relationship.

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

(11) As used in this section:

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

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

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

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

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

(f) "Dual agent" means a licensee who is acting as the agent of both the buyer and the seller and provides services to complete a real estate transaction without the full range of fiduciary duties owed by a buyer's agent and a seller's agent.

(g) "Real estate transaction" means the sale or lease of any legal or equitable interest in real estate where the interest in real estate consists of not less than 1 or not more than 4 residential dwelling units or consists of a building site for a residential unit on either a lot as defined in section 102 of the land division act, 1967 PA

288, MCL 560.102, or a condominium unit as defined in section 4 of the condominium act, 1978 PA 59, MCL 559.104.

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

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

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

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

History: Add. 1993, Act 93, Eff. Jan. 1, 1994;—Am. 2000, Act 236, Imd. Eff. June 27, 2000;—Am. 2000, Act 436, Imd. Eff. Jan. 9, 2001;—Am. 2008, Act 91, Eff. July 1, 2008.

Compiler's note: In (2)(e) of the "DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIPS" form, the phrase "associated broker" evidently should read "associate broker".

Popular name: Act 299

339.2518 Prohibited actions.

Sec. 2518. An action shall not be brought against a real estate broker, an associate broker, or a real estate salesperson under the following circumstances:

(a) For failure to disclose to a purchaser or lessee of real property that a former occupant has or is suspected of having a disability. As used in this section, "disability" means handicap as that term is defined and interpreted under, and disclosure of which would constitute unlawful discrimination under, sections 804, 805, 806, or 817 of the fair housing act, title VIII of the civil rights act of 1968, Public Law 90-284, 42 U.S.C. 3604, 3605, 3606, and 3617.

(b) For failure to disclose to a purchaser or lessee of real property that the real property was or was suspected to have been the site of a homicide, suicide, or other occurrence prohibited by law which had no material effect on the condition of the real property or improvements located on the real property.

(c) For failure to disclose any information from the compilation that is provided or made available under section 8(2) of the sex offenders registration act, 1994 PA 295, MCL 28.728.

History: Add. 1993, Act 93, Imd. Eff. July 13, 1993;—Am. 1998, Act 90, Imd. Eff. May 13, 1998;—Am. 1998, Act 437, Imd. Eff. Dec. 30, 1998.

Popular name: Act 299