

# Texas Seller's Disclosure Requirements



by Traci Jackson, Staff Attorney, and David Jones, Deputy General Counsel

Several Texas laws require sellers to disclose information about their property prior to or at the time a sales contract is executed. Not only are seller's disclosures required by law, but they also give buyers important information, reduce risks for sellers, and lower your chances of facing a complaint or lawsuit. You and your clients can use the chart on these pages to determine which disclosures are required, where the disclosures can be found, and potential penalties if proper disclosures aren't made.

The TREC *Seller's Disclosure Notice* (TREC OP-H) only contains the minimum information required by statute. The Texas REALTORS® notice (TXR 1406) has added provisions that provide more information for buyers and is designed to serve as a risk-reduction tool for sellers.

\*In addition to the listed consequences, if sellers fail to disclose or misrepresent material information about a property, sellers and their agents may face liability for fraud and deceptive practices. License holders may also be found in violation of TREC rules. REALTORS® may also be found in violation of the Code of Ethics.

DISCLOSURE REQUIREMENT	WHAT TYPE OF PROPERTY IS AFFECTED?	WHERE CAN SELLERS FIND A FORM TO MAKE THE REQUIRED DISCLOSURE?	WHAT HAPPENS IF SELLERS DON'T PROVIDE THE NOTICE?*
<b>A SEPARATE FORM IS REQUIRED WHEN USING TREC AND TEXAS REALTORS® CONTRACTS</b>			
Disclosure of the Property Condition (Texas Property Code §5.008)	Residential properties with not more than one dwelling unit.	Both TREC and Texas REALTORS® have forms that meet the requirement. See <i>Seller's Disclosure Notice</i> (TXR 1406 or TREC OP-H).	Buyers may terminate the contract for any reason.
Disclosure of Property Subject to Mandatory Membership in Property Owners Association (Texas Property Code §5.012)	Residential properties with not more than one dwelling unit (not applicable to condo associations).	TREC residential contracts already contain the necessary disclosure. However, additional statutory requirements are found in the <i>Addendum for Property Subject to Mandatory Membership in a Property Owner Association</i> (TXR 1922, TREC 36-9).	Buyers may terminate the contract.
Disclosure of Public Improvement District (PID) (Texas Property Code §5.014)	All property types located in a PID.	The required notice can be obtained from the PID. If the notice is not available from the PID, TREC has promulgated a blank version of the notice: <i>Addendum Containing Notice of Obligation to Pay Improvement District Assessment</i> (TXR 1955, TREC 53-0).	Buyers may terminate the contract. Buyers may also file suit for damages.
Disclosure of Property Located in a Statutory Tax District (i.e., Water Districts such as MUDs, WCIDs, and River Authorities) (Texas Water Code §49.452)	All property types located in a statutory tax district.	The appropriate notice can be obtained from the statutory tax district where the property is located.	Buyers may terminate the contract. Buyers may also file suit for damages.
Disclosure of Property Located in Propane Gas Service Area (Texas Utilities Code §141.010)	All property types located in a propane gas service area.	TREC has promulgated a form that satisfies the notice requirement: <i>Addendum for a Property in a Propane Gas Service Area</i> (TXR 2514, TREC 47-0).	Nothing stated in statute.
Disclosure of Property Abutting Tide Waters (Texas Natural Resources Code §33.135)	All property types abutting or adjoining tidally influenced waters.	TREC has promulgated a form that satisfies the notice requirement: <i>Addendum for Coastal Area Property</i> (TXR 1915, TREC 33-2).	Buyers may terminate the contract. Additionally, failure to provide the notice may be considered a deceptive act.
Disclosure of Property Located Seaward of the Gulf Intracoastal Waterway (Texas Natural Resources Code §61.025)	All property types located seaward of the Gulf Intracoastal Waterway.	TREC has promulgated a form that satisfies the notice requirement: <i>Addendum for Property Located Seaward of the Gulf Intracoastal Waterway</i> (TXR 1916, TREC 34-4).	Buyers may terminate the contract. Additionally, failure to provide the notice may be considered a deceptive act.
Disclosure of Lead-Based Paint and Lead-Based Paint Hazards (Federal Law 42 U.S.C. 4852d)	All residential properties built prior to 1978.	TREC has promulgated a form that satisfies the disclosure requirements: <i>Addendum for Seller's Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards as Required by Federal Law</i> (TXR 1906, TREC OP-L). Federal law also requires buyers be given the lead hazard information pamphlet (TXR 2511).	Potential civil and criminal sanctions, including monetary penalties.
<b>NO ADDITIONAL FORM IS REQUIRED WHEN USING TREC AND TEXAS REALTORS® CONTRACTS</b>			
Disclosure of Property Located in a Certified Service Area of a Utility Service Provider (Texas Water Code §13.257)	All property types located in a certified service area of a utility service provider (not applicable to MUDs, WCID, etc.).	TREC and Texas REALTORS® contracts already contain the necessary disclosure.	Buyers may terminate the contract. Buyers may also file suit for damages.
Disclosure of Potential Annexation (Texas Property Code §5.011)	All property types located wholly or partially outside the limits of a municipality.	TREC and Texas REALTORS® contracts already contain the necessary disclosure.	Buyers may terminate the contract.
Disclosure of Water Level Fluctuations (Texas Property Code §5.019)	All residential and commercial properties adjoining an impoundment of water, including a reservoir or lake.	TREC and Texas REALTORS® contracts already contain the necessary disclosure.	Buyers may terminate the contract.
Disclosure of Private Transfer Fee Obligation (Texas Property Code §5.205)	All property types subject to a private transfer fee obligation.	TREC contracts and Texas REALTORS® residential contracts already contain the necessary disclosure.	Nothing stated in statute.

**DISCLAIMER:** This chart is meant as a quick-reference guide to seller's disclosure requirements in Texas. Texas REALTORS® does not represent or warrant that this list contains every disclosure requirement that may apply in a specific transaction. Please refer to the applicable statute for additional requirements and exceptions that may apply. For general questions about disclosures, members may call the Texas REALTORS® Legal Hotline at 800-873-9155. For specific questions about disclosures required in a transaction, members and their clients should consult their own legal counsel.