

2023 TREC FORMS

Your guide to changes this year

By February, some Texas real estate forms will look slightly different after nearly 50 changes were adopted by the Texas Real Estate Commission (TREC) at its November 2022 meeting.

These changes take effect on February 1, 2023, and agents can find the new forms on the [TREC website](#).

It's essential for all agents — real estate and escrow — to understand the highlights of these changes that they'll see on contracts and forms moving forward.

CHANGES TO ALL CONTRACT FORMS

"Escrow Agent" is capitalized throughout the contract as the TREC recognizes it as a defined term.

Paragraph 7F: When repairs are requested in the contract, the seller must provide the buyer with copied documentation defining the scope of work and that payment for work is completed. Also, the seller must transfer warranties at closing. Similarly, Paragraph 9B(3) was amended to add the transfer of any warranties to correspond with these changes in Paragraph 7F.

Paragraph 7H: Replaces the term "residential service company" with the more common terminology used by the Texas Department of Licensing and Regulation, which regulates residential service companies.

Based on public comments, the committee added this last sentence to Paragraph 9B(5): "Transfer assessed by a Property Owners Association is governed by the Addendum for Property Subject to Mandatory Membership in a Property Owners Association."

The committee added a similar sentence to Paragraph 9B(5) in the Condominium contract form: "This paragraph does not apply to fees assessed by the Association."

Paragraph 11: Amended to replace the terms "factual statements" and "business details" with "informational items." The committee also defines "informational items" within the contract and stipulates that real estate brokers cannot practice law. This is important because brokers are also prohibited from adding to, deleting, or modifying the contract unless drafted by a party to the contract or a party's attorney.

Checkboxes have been added in the Unimproved Property Contract, the Farm and Ranch Contract, the New Home Contract (Incomplete Construction), and the New Home Contract (Complete Construction). These appear in the Seller's Disclosures

paragraph to indicate whether or not the seller is aware of each disclosure item. Additionally, disclosures have been added for sellers to note whether the property is in a floodplain or if any tree on the property has oak wilt.

FARM AND RANCH CONTRACT FORM

Paragraph 2: Adds the term "County" to reflect that many rural properties could be located across multiple counties. Also, brokers will notice the removal of the phrase "including but not limited to: water right, claims, permits, strips and gores, easements, cooperative or association memberships" from the paragraph.

Paragraph 3D: The calculator of the sales price adjustment has been altered should the survey reveal a difference in acreage.

A new paragraph, 4D, was added for surface leases. There are now options that outline if the seller has delivered written copies of leases to the buyer or provided oral notice of surface leases. This paragraph is similar to the existing natural resource lease paragraph, and the committee also amended the corresponding language in Paragraph 6F.

RESIDENTIAL CONDOMINIUM CONTRACT (RESALE) FORM

Paragraphs 2B(2) and 2C(2) clarify the timing related to termination and add a reference to the applicable Property Code provision. Also, the costs and fees structure is changed in Paragraph 12A (3), as it has been amended to except regular periodic maintenance fees, assessments, or dues (including prepaid items) that are prorated under Paragraph 13 from the parties' obligation to pay.

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AMENDMENT TO CONTRACT FORM

A notice is added to consult an attorney, and a reference to Paragraph 7 of the contracts in Paragraph 2 of the Amendment deals with repairs. Other changes include reiterating that real estate brokers and sales agents are prohibited from practicing law.

SELLER FINANCING ADDENDUM FORM

At the top of the form, buyers and sellers will find a notice encouraging consultation with an attorney and a financial professional.

Paragraph D2 has been amended in multiple ways. Parts (a) and (b) now clarify the casualty insurance requirements, and a new Paragraph D2 has been added to address casualty insurance.

D2(b) also requires that the seller provides the buyer with a yearly calculation of the escrow account, uses escrow deposits to pay taxes and insurance premiums, and holds the escrow deposit in a separate account. Finally, language was added specifying whether the escrow account will or will not be serviced by a third party at either the buyer's or seller's expense.

ADDENDUM FOR PROPERTY SUBJECT TO MANDATORY MEMBERSHIP IN THE PROPERTY OWNER'S ASSOCIATION MEMBERSHIP

Amended to except regular periodic maintenance fees, assessments, or dues (including prepaid items) that are prorated under Paragraph 13 from the parties' obligation to pay, as well as costs and fees provided by Paragraphs A and D.

LOAN ASSUMPTION ADDENDUM FORM

Paragraph A: Adds that the loan's noteholder is assumed and authorized to receive a copy of the buyer's credit reports.

Paragraph B: Modifies the time for seller termination.

Paragraph C: Clarifies that the buyer will assume in writing the following notes at closing, removes the reference to \$500 and instead inserts a blank, and adds this sentence: "Within 7 days after the Effective Date, Seller will deliver to Buyer copies of the note(s) to be assumed, the deed(s) of trust, and the most recent loan statement(s) from the lender."

ADDENDUM REGARDING RESIDENTIAL LEASES AND ADDENDUM REGARDING FIXTURE LEASES FORMS

Checkboxes are added related to notice of oral leases in Paragraph B1 and Paragraph A1 within the Addendum for Disclosure of Fixture Leases.

NOTICE TO PROSPECTIVE BUYER FORM

The Notice to Prospective Buyer form is a voluntary use form and was amended to add a reference to the notice requirements regarding public improvement districts.

ADDENDUM FOR RESERVATION OF OIL, GAS, AND OTHER MINERALS FORM

Replaces the phrase "reserve and retain implied" with "waive" in Paragraph C, and the term "current" is added to "contact information" in Paragraph D.

