

**Texas Real Estate Commission**  
**Chapter 537, Professional Agreements and Standard Contracts**  
**Rules Proposed at the February 27, 2012 Commission Meeting**

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**§537.43**

The Texas Real Estate Commission (TREC) proposes amendments to §537.43, concerning Standard Contract Form TREC No. 36-6 Addendum for Property Subject to Mandatory Membership in a Property Owners' Association. The amendments to §537.43 adopt by reference Standard Contract Form TREC No. 36-7.

Paragraph A.1 is revised, new paragraph A.2 acknowledges recent statutory revisions which permit a buyer to obtain a resale certificate directly from a property owner's association, and paragraph A.3 (currently A.2) is unchanged. Paragraph C is revised to replace "resulting from" to "associated with" to track recent statutory changes to Chapter 207, Property Code. New paragraph E provides that the seller authorizes the association to release information such as the status of dues, special assessments, violations of covenants and restrictions, and a waiver of any right of first refusal if requested by the buyer, the title company, or any broker to the sale.

Amendments to the form change the main telephone number and website address for TREC located in the box at the bottom of the forms.

A previous draft of the form was published for notice and comment on December 30, 2011. After reviewing numerous comments from the public, licensees, and representatives from the title industry, the Broker Lawyer Committee recommended additional revisions to the form to make it clear that a title company is authorized to obtain subdivision information from a property owners association only upon receipt of payment for the information from the party obligated to pay for the information under the contract. This additional change clarifies concerns about compensation to a title company in situations where the title company pays for the subdivision information on behalf of a party to the contract, is not reimbursed if the sale does not close, and is not authorized to obtain reimbursement from the

earnest money before it is disbursed to a requesting party.

Texas real estate licensees are generally required to use forms promulgated by TREC when negotiating contacts for the sale of real property. These forms are drafted by the Texas Real Estate Broker-Lawyer Committee, an advisory body consisting of six attorneys appointed by the President of the State Bar of Texas, six brokers appointed by TREC, and a public member appointed by the governor.

Loretta R. DeHay, General Counsel, has determined that for the first five-year period the section is in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the section. There is no anticipated impact on small businesses, micro-businesses or local or state employment as a result of implementing the section. There is no anticipated economic cost to persons who are required to comply with the proposed section, other than the costs of obtaining copies of the forms, which would be available at no charge through the TREC website.

Ms. DeHay also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the section will be the availability of current standard contract forms that, among other things, conform to new or recently revised statutory requirements.

Comments on the proposal may be submitted to Loretta R. DeHay, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188.

The amendments are proposed under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its licensees to fulfill the

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purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

The statute affected by this proposal is Texas Occupations Code, Chapter 1101. No other statute, code or article is affected by the proposed amendments..

**§537.43. Standard Contract Form TREC No. 36-~~7~~[6].** The Texas Real Estate Commission adopts by reference standard contract form TREC No. 36-~~7~~[6] approved by the Texas Real Estate Commission in **2012** [~~2010~~] for use as an addendum to be added to promulgated forms in the sale of property subject to mandatory membership in an owners' association. This document is published by and available from the Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, [www.trec.texas.gov](http://www.trec.texas.gov) [[www.trec.state.tx.us](http://www.trec.state.tx.us)].

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 1, 2012

**TRD# 201201265**

Loretta R. DeHay  
General Counsel  
Texas Real Estate Commission  
Earliest possible date of adoption: May 7, 2012