



Updates to Texas Realtors Commercial Contract – Improved Property

When purchasing or selling commercial real estate that is improved, meaning it is more than just “raw land,” parties to the transaction often use a Texas Realtors (formerly known as the Texas Association of Realtors) Commercial Contract – Improved Property. Updates to this form were presented in the Advanced Real Estate Law Course, including [a redlined version of the contract](#) depicting the changes that were made and a Texas Realtors Memo from September discussing Public Improvement District Notice Requirements.

The majority of these changes simply modernize outdated language or clarified the responsible parties. The most notable change to the Commercial Contract – Improved Property is the addition of Paragraph 25(J) which requires the seller to give the buyer written notice when the property is in Public Improvement District.

Changes to the Texas Realtors Commercial Contract – Improved Property:

- **Paragraphs 1.** This section now provides the parties a place for their mobile number and the option to provide a fax or other means of communication. Additionally, grammatical changes have been made to clarify the order the information is to be filled in by the parties to the contract.
- **Paragraph 4(c).** Changes the wording from “the delivery of” to “Buyer will deliver.”
- **Paragraph 7(B)(1)(b).** The independent consideration for the option to terminate now authorizes the buyer to pay to the title company and the title company is authorized to release the independent consideration to the seller.
- **Paragraph 7(B)(2).** This section now provides two options for the handling of the additional earnest money for the extension of the feasibility period.
- **Paragraph 7(D).** This section now states that the property information to be provided by the seller is limited to those items in the seller’s possession.
- **Paragraph 20.** This section now allows for notices to be “sent by a national or regional overnight delivery service that provides a delivery receipt” and changes the wording from “facsimile transmission” to “confirmed facsimile transmission.”
- **Paragraph 22.** Now contains a representation that the individuals signing the contract have the authority to bind the party for whom they are signing.
- **Paragraph 23.** Replaces the term “legal holiday” with “Federal Reserve Bank holiday”
- **Paragraph 25(J).** This is a whole new paragraph added to reference public improvement districts and requires that the seller give the buyer written notice concerning action to pay testaments to an improvement district.

- **Paragraph 25(K).** This is a relocated paragraph that obligates the parties to disclose if they have an interest or if a spouse, parent, child, or business entity in which the license holder owns more than 10% interest in the property.
- **Agreement Between Brokers.** Located on the last page of the Contract is an agreement between the brokers for payment of commissions purposely placed below the signatures of the parties to make it clear that they are not a party to the Agreement Between Brokers.

Public Improvement District Notice Requirements:

Sellers are now required to provide a new notice to buyers when selling property located in a Public Improvement District (PID). If a seller fails to provide the required notice, a buyer will have the right to terminate the contract, in addition to other penalties. These new PID notice requirements are similar to current Municipal Utility District (MUD) notice requirements.

- Sellers of real property located in a PID must provide a notice to buyers prior to the execution of the sales contract. The notice may be given separately or as an addendum to the contract.
- Applies to sales contracts executed on or after September 1, 2021.
- Applies to all real estate sales transactions, including residential, new construction, condominiums, commercial, and unimproved property.
- The new notice must contain specific information about the PID where the property is located, such as the name of the PID and the name of the city or county that authorized the PID.
- Buyers are required to sign the notice as evidence of receipt.
- A separate copy of the notice must also be executed by both sellers and buyers at closing.
- Penalties for failing to provide the PID notice:
 - Buyers may terminate the contract.
 - Buyers can file a lawsuit for damages after closing. Buyers may file a lawsuit requiring sellers to return all costs related to the purchase of the property back to the buyers with the buyers reconveying the property back to the sellers. Alternatively, buyers may file a suit against the sellers for an amount not to exceed \$5,000.
 - If a copy of the notice is executed at closing, buyers may not sue for damages.
 - These penalties are similar to current penalties applicable to the failure to provide a MUD notice.

When dealing with PID and MUD notices, the list of required documentation to present to a buyer can be long. We always recommend consulting with an attorney to confirm that you have complied with all disclosure requirements in the sale of real estate.

For more information, please contact [Josh Cunningham](#).