

**APPLICATION FOR ASSISTANCE
FROM THE LEGAL FUND OF
TEXAS REALTORS®**

Instructions: Complete in ink or type. Applicant may reproduce this application and expand space under each item number as necessary or attach additional sheets. Complete all sections and attach required information listed under item 9. Refer to Section 5 of the Rules and Regulations of the Legal Fund for application procedures.

1. Applicant

Name:

Address:

Telephone:

2. Applicant's Attorney

Name:

Firm:

Address:

Telephone:

3. Case

Style:

Court:

Cause No.:

Anticipated Trial Date:

Status:

4. Summary of Facts

As alleged by Plaintiff:

As alleged by Defendant:

5. Summary of Legal Issues

Plaintiff's Legal Theory of Recovery:

Defendant's Legal Theory of Defense:

6. Evaluation of Applicant's Chances of Prevailing

Attorney for Applicant:

7. Summary of legal issues significant to the real estate industry or REALTORS® as a class

Attorney for Applicant:

8. Estimated Litigation Expenses including attorney fees

Through Discovery:

For Trial:

For Appeal:

Other:

9. Estimated Insurance Coverage

Does Applicant have an Errors and Omissions Insurance Policy?

If so, does Applicant believe this Matter is going to be covered by such Policy?

10. Summary of why this matter is significant to the real estate industry or REALTORS® as a class

Applicant, in Applicant's own words:

11. Required Information to Include with Application

This application will not be considered complete without copies of the following information attached:

- (a) Plaintiff's Original or Last Amended Petition;
- (b) Defendant's Answer;
- (c) any relevant information related to the facts of the case such as contracts, leases, listing agreements, briefs and the like;
- (d) all invoices from Applicant's Attorney itemizing fees incurred to date;
- (e) canceled checks paid to Applicant's Attorney showing attorney fees paid to date;
- (f) Applicant's Certification as addendum to this application (*form supplied with this Application*); and
- (g) Local Association Comments as addendum to this application (*form supplied with this Application*).

12. Certification

Incorporated herein by reference and made part of this application for all purpose is Applicant's Certification.

I certify that all statements in this application, to the best of my knowledge, are true and correct.

Applicant

Applicant's Attorney

Date Application Signed: _____

APPLICANT'S CERTIFICATION

Addendum to Application For Assistance from the Legal Fund of Texas REALTORS® concerning:

(Applicant's Name)

I, _____ (*applicant's name*) have received, read, and understand the Rules and Regulations of the Legal Fund of Texas REALTORS®. If I receive assistance from the Legal Fund for the case which is the subject of this application ("the action"), I certify that (*when the context requires, singular nouns and pronouns include the plural*):

- (a) I intend to pursue the matter to final judgment.
- (b) I will assert a common defense with other Texas REALTORS® members who are co-defendants or who are likely to be made co-defendants in the action.
- (c) I will not file a cross-action against any Texas REALTORS® member in the action.
- (d) If other Texas REALTORS® members are co-defendants or are likely to become co-defendants in the action, I understand that financial assistance I may receive from the Legal Fund may be shared equally among the co-defendants if the other co-defendants apply for assistance from the Legal Fund.
- (e) If other persons who are not Texas REALTORS® members are co-defendants or are likely to become co-defendants in the action, financial assistance I receive from the Legal Fund will not be shared with the co-defendants who are not Texas REALTORS® members; and if such co-defendants are represented by my attorney, legal expenses will be separately allocated and charged.
- (f) I will confer with Texas REALTORS® legal counsel prior to any settlement of the action and if I settle the action, I will reimburse the Legal Fund all financial assistance I receive.
- (g) If I recover any portion of my attorney's fees and/or other litigation expenses in this action from any source, I will reimburse the Legal Fund any financial assistance I receive by the amount recovered, not to exceed the total amount of financial assistance I receive from the Legal Fund.
- (h) I have paid and will pay a portion of the attorney's fees and litigation expenses in an amount equal to 10% of the financial assistance I receive from the Legal Fund, provided that the amount I pay is and will be at least \$1,000 and does not and will not exceed \$2,500.

- (i) I understand: (i) that the Legal Fund is not a substitute for errors and omissions insurance or any other protection programs at the local, state or national level; (ii) that the Legal Fund will not indemnify me for losses, costs, expenses, or liabilities arising out of the action, including a final judgment; and (iii) that the purpose of the Legal Fund is to provide financial assistance exclusively in connection with attorney's fees and general litigation expenses.
- (j) I understand that financial assistance may be granted, denied, continued, or discontinued from the Legal Fund for any reason without notice (due to factors outside my control).
- (k) I understand that receipt of financial assistance from the Legal Fund imposes duties and responsibilities upon me which may materially influence my determinations, instructions, and recommendations to my attorney concerning the manner in which my attorney conducts the litigation in this action.
- (l) If I am unable to comply, for any reason, with any of the Rules and Regulations of the Legal Fund or any other certification I make, I shall reimburse the Legal Fund all financial assistance I receive.
- (m) I make all certifications voluntarily and with full knowledge of the duties, responsibilities, and potential liabilities.
- (n) I or my attorney shall supply status reports to the Legal Fund periodically or as requested by Texas REALTORS® legal counsel or the Legal Review Committee, and I will first review all invoices from my attorney for correctness before such invoices are forwarded to the Legal Fund at Texas REALTORS® offices.

The following certification (o) applies only if the Applicant is a local Association or Board.

- (o) If the applicant is a local Association or Board, it shall pay 50% of the cost of the legal proceeding until such time as the amount approved for assistance from the Legal Fund is exhausted, provided that the amount paid by the local Association or Board does not and will not include funds expended in the local Association's or Board's behalf by an insurance carrier.

The following certifications (p) through (r) apply only if multiple applicants are involved in the action.

- (p) If the action involves multiple applicants, we agree that the financial assistance approved shall be paid or distributed in the manner that most appropriately minimizes litigation expenses.
- (q) I understand that: (i) my attorney has been or may be designated by the Legal Fund as lead counsel for the applicant and for other applicants who are co-defendants receiving financial assistance; (ii) representation by legal counsel of one or more co-defendants carries inherent risk that my interest may at any time become actually or potentially different from other co-defendants who are represented by the same attorney; (iii) if a conflict of interest develops my

attorney's judgment might be impaired and my attorney's loyalty to all clients could be divided if he continues simultaneous representation; (iv) my attorney might be required to withdraw if a conflict arose and a new attorney, possibly at my own expense, might be necessary; and (v) if my attorney withdraws because of a conflict my attorney may continue to serve as lead counsel for the remaining applicants, if any.

- (r) If the action involves multiple applicants: (i) my attorney has explained the serious risks and implications of common legal representation in litigation; (ii) I have had an opportunity to retain other counsel; and (iii) being fully knowledgeable of the serious risks, I choose to be represented in the action by lead counsel designated by the Legal Fund.

Certified by Applicant this date of: _____.

Applicant

Applicant

**LEGAL FUND OF
TEXAS REALTORS®
RULES AND REGULATIONS**
As Amended December 9, 2019

Preamble

WHEREAS disputes arise requiring the judicial or administrative adjudication of significant legal rights and obligations, not only of the individual litigants, but of REALTORS® as a class;

WHEREAS the cost of litigation may be prohibitively expensive for an individual to be an effective advocate of the interests of the real estate industry as a whole and REALTORS® as a class;

WHEREAS decisions affecting REALTORS® as a class and the real estate industry as a whole are made by local, state and federal officials, boards and agencies;

WHEREAS it is advantageous and beneficial to the real estate industry, Texas REALTORS®, local Associations or Boards that are members of Texas REALTORS®, and other Texas REALTORS® members for Texas REALTORS® to participate in litigation or administrative proceedings either directly as a party or as a friend of the court or indirectly by insuring to local Associations or Boards that are members of Texas REALTORS® and other Texas REALTORS® members the availability of legal and financial assistance; and

WHEREAS it is beneficial and advantageous for Texas REALTORS® to monitor the decision-making processes of local, state and federal officials, boards and agencies and actively participate in those processes through the submission of briefs, testimony at hearings and in other appropriate methods;

NOW, THEREFORE, a special legal action program for Texas REALTORS® is established to be governed by these Rules and Regulations.

1. Name

The name of this special legal action program shall be THE LEGAL FUND of Texas REALTORS®, to be referred to as THE LEGAL FUND.

2. Purposes

The purposes of THE LEGAL FUND are:

- (a) to promote among local Associations or Boards and Texas REALTORS® members an understanding of their rights and duties under local, state and federal law, and to defray the expense of legal advice to that end;

- (b) to provide assistance by Texas REALTORS® legal counsel to the legal counsel of local Associations or Boards on matters relating to anticipated or pending litigation in state or federal court or before a local, state or federal agency;
- (c) under appropriate circumstances to provide legal assistance to local Associations or Boards when litigation is anticipated or pending in federal or state court or before a local, federal or state agency because of actions undertaken pursuant to the direction of the governing body of the local Association or Board in accordance with procedures and policies adopted or recommended by Texas REALTORS® or the National Association of REALTORS® (NAR);
- (d) under appropriate circumstances to defray all or a portion of the cost of legal fees of litigation in a state or federal court or before a local, state or federal agency in which a local Association or Board or a Texas REALTORS® member is a party;
- (e) to defray costs and legal fees in cases in which Texas REALTORS® elects to intervene as a friend of the court;
- (f) to defray costs and legal fees in cases in which Texas REALTORS® is a party as a plaintiff, defendant or intervenor;
- (g) under appropriate circumstances to provide legal assistance to Texas REALTORS® officers and directors in litigation, anticipated or pending, in federal or state court before a federal, state or local agency arising out of the performance of the official duties of the officers and directors;
- (h) to provide for and finance monitoring of the decision-making processes of local, state or federal officers, boards, and agencies and participation in those decision-making processes; and
- (i) to reimburse reasonable travel expenses to Texas REALTORS® members who participate in authorized standardized form development committees and to reimburse Texas REALTORS® its reasonable expenses incurred for standardized form development.

3. Finances

THE LEGAL FUND shall be financed through assessments on local Associations or Boards or on Texas REALTORS® members with the amount of the assessments determined by the Texas REALTORS® Board of Directors, as provided in the Texas REALTORS® Bylaws, at a level which insures the availability of sufficient funds to fulfill the purposes of THE LEGAL FUND. The Texas

REALTORS® Board of Directors may accept donations to THE LEGAL FUND from persons, associations, firms or corporations interested in the real estate industry and the legal rights of REALTORS®.

4. Administration

THE LEGAL FUND shall be administered by the Texas REALTORS® Legal Review Committee. The Legal Review Committee shall adopt reasonable procedures and forms necessary to fulfill the purposes of THE LEGAL FUND. The Legal Review Committee, by majority vote, may grant assistance to one or more applicants in such amounts as it sees fit, not to exceed an aggregate total of \$50,000 per case. For assistance beyond an aggregate total of \$50,000 per case, the Legal Review Committee, by majority vote, may recommend to the Texas REALTORS® Executive Board that the Texas REALTORS® Executive Board take action to grant such assistance. Action by the Texas REALTORS® Executive Board or by the Texas REALTORS® Board of Directors is required for any grants of assistance beyond an aggregate total of \$50,000 per case.

Assistance from the Legal Fund may include: the payment of legal expenses incurred by an applicant; the filing of an amicus brief on behalf of an applicant; and other types of legal assistance.

5. Application Procedures

The procedures for a request for assistance under the provisions of THE LEGAL FUND are as follows.

- (a) Any Texas REALTORS® member involved in litigation or an administrative proceeding, anticipated, pending or resolved, which is likely to involve questions of significance to the real estate industry as a whole may file an application for financial assistance from THE LEGAL FUND with the local Association or Board of REALTORS® of which he is a member, or if he is not a member of any local Association or Board, with the Legal Review Committee. The application must be submitted on a form approved for use by the Legal Review Committee and accompanied by information designated in the application form.
- (b) The Board of Directors of the local Association or Board and its attorney, if any, shall review the application.
- (c) If it appears to the Board of Directors of the local Association or Board that the litigation or proceeding is one involving issues which affect REALTORS® as a class or the real estate industry as a whole, and if it appears that the applicant is deserving of assistance, the Board of Directors of the local Association or Board shall approve and forward the application, with all supporting information, to Texas REALTORS® with a letter of transmittal stating that the Board of Directors of the local Association or Board has

reviewed the application, approved it, and that the local Association or Board requests that assistance from THE LEGAL FUND be granted.

- (d) If the Board of Directors of the local Association or Board determines that assistance from THE LEGAL FUND is not appropriate it shall return the application and all information to the applicant. The applicant may appeal the decision of the local Association or Board by submitting the application to the Chair of the Legal Review Committee and Texas REALTORS® legal counsel. The Chair and legal counsel shall review the application and determine if the application should be submitted to the Legal Review Committee for consideration or if the decision of the local Association or Board denying the application was appropriate.
- (e) If a local Association or Board, or its officers or directors acting within the scope of their office, as involved in litigation or an administrative proceeding, anticipated or pending, the Board of Directors of the local Association or Board may, by majority vote of its directors, file an application directly with the Legal Review Committee.
- (f) When an application, approved by the Board of Directors of a local Association or Board, has been received by Texas REALTORS®, legal counsel for Texas REALTORS® shall promptly review the application for proper form and completeness. After a review of the application, the Legal Review Committee shall, at its next meeting, consider whether to take action allowed under Section 4 of these Rules and Regulations. Any recommendations by the Legal Review Committee to the Texas REALTORS® Executive Board shall be considered by the Texas REALTORS® Executive Board at its next meeting.
- (g) In the absence of an application for assistance from a local Association or Board or a Texas REALTORS® member, the Texas REALTORS® President with the concurrence of the Texas REALTORS® Executive Vice President may request the Legal Review Committee to initiate action it is authorized to do under these Rules and Regulations without the necessity of filing a formal application.

6. Requirements and Conditions of THE LEGAL FUND

Unless other requirements or conditions are imposed or approved by the Legal Review Committee and the Texas REALTORS® Board of Directors an applicant that receives financial assistance from THE LEGAL FUND must comply with the following:

- (a) if the applicant is involved in litigation, he shall certify his intent to pursue the matter to final judgment;

- (b) if the applicant is a defendant in a legal proceeding, he shall certify that he will assert a common defense with other Texas REALTORS® members who are co-defendants or who are likely to be made co-defendants in the action;
- (c) if the applicant is a defendant in a legal proceeding, he shall certify that he will not file a cross-action against any Texas REALTORS® member;
- (d) if the applicant is a defendant in a legal proceeding, and other Texas REALTORS® members are co-defendants or are likely to become co-defendants, the applicant shall certify that financial assistance received from THE LEGAL FUND will be shared equally among the applicant and said co-defendants if the co-defendants apply for assistance from THE LEGAL FUND;
- (e) if the applicant is a defendant in a legal proceeding, and other persons who are not Texas REALTORS® members, are co-defendants or are likely to become co-defendants, the applicant shall certify that financial assistance received from THE LEGAL FUND will not be shared with the co-defendants who are not Texas REALTORS® members; and if such co-defendants are represented by the same attorney as the applicant, the applicant shall certify that legal expenses will be separately allocated and charged;
- (f) the applicant shall certify that he will confer with Texas REALTORS® legal counsel prior to any settlement of the case and if the applicant settles the case, the applicant will reimburse THE LEGAL FUND all financial assistance received by him;
- (g) the applicant shall certify that if he recovers any portion of his attorney's fees and/or other litigation expenses from any source, the applicant will reimburse THE LEGAL FUND any financial assistance received by the amount recovered, not to exceed the total amount of financial assistance received from THE LEGAL FUND;
- (h) the applicant shall certify that he has paid and will pay a portion of the attorney's fees and litigation expenses in an amount equal to 10% of the financial assistance received and to be received from THE LEGAL FUND, provided that the amount paid and to be paid by the applicant is and will be at least \$1,000 and does not and will not exceed \$2,500;
- (i) if the applicant is a local Association or Board, the Association or Board shall certify that it shall pay 50% of the cost of the legal proceeding until such time as the amount approved for assistance by THE LEGAL FUND is exhausted, provided that the amount paid by the local Association or Board does not and will not include funds expended in the local Association's or Board's behalf by an insurance carrier;

- (j) if the legal proceeding for which assistance is requested is complex and involves multiple applicants, the applicants shall certify that they agree that the financial assistance approved shall be paid or distributed in the manner that most appropriately minimizes litigation expenses;
- (k) the applicant shall certify that he understands: (i) that THE LEGAL FUND is not a substitute for errors and omissions insurance or for any other protection programs at the local, state or national level; (ii) that THE LEGAL FUND will not indemnify the applicant for losses, costs, expenses, or liabilities arising out of the litigation, including a final judgment; and (iii) that the purpose of THE LEGAL FUND is to provide financial assistance exclusively in connection with attorney's fees and general litigation expenses;
- (l) the applicant shall certify that he has received a copy of, read, and understands the Rules and Regulations of THE LEGAL FUND;
- (m) the applicant shall certify that financial assistance may be granted, denied, continued, or discontinued by THE LEGAL FUND for any reason without notice (due to factors outside the control of the applicant);
- (n) the applicant shall certify that receipt of financial assistance from THE LEGAL FUND imposes duties and responsibilities upon the applicant which may materially influence the applicant's determinations, instructions, and recommendations to his attorney concerning the manner in which the attorney conducts the litigation;
- (o) the applicant shall certify, if appropriate, that: (i) he understands that his attorney has been or may be designated by THE LEGAL FUND as lead counsel for the applicant and for other applicants who are co-defendants receiving financial assistance; (ii) he understands that representation by legal counsel of one or more co-defendants carries inherent risk that the applicant's interest may at any time become actually or potentially different from other co-defendants who are represented by the same attorney; (iii) if a conflict of interest develops the applicant understands the attorney's judgment might be impaired and that the attorney's loyalty to all clients could be divided if the attorney continues simultaneous representation; (iv) the applicant understands his attorney might be required to withdraw if a conflict arose and a new attorney, possibly at the applicant's own expense, might be necessary; and (v) if the applicant's attorney withdraws because of a conflict his attorney may continue to serve as lead counsel for the remaining applicants, if any;
- (p) the applicant shall certify, if appropriate, that: (i) his attorney has explained the serious risks and implications of common legal representation in litigation; (ii) the applicant has had an opportunity to retain other counsel; and (iii) being fully knowledgeable of the

serious risks, the applicant chooses to be represented in the lawsuit by lead counsel designated by THE LEGAL FUND;

- (q) the applicant shall certify that if he is unable to comply, for any reason, with any of the Rules and Regulations of THE LEGAL FUND or any other certification he makes, he shall reimburse THE LEGAL FUND for all financial assistance received;
- (r) the applicant shall certify that he makes all certifications voluntarily and with full knowledge of the duties, responsibilities, and potential liabilities; and
- (s) the applicant shall certify that he or his attorney shall supply status reports to THE LEGAL FUND periodically or as requested by Texas REALTORS® legal counsel or the Legal Review Committee, and that all invoices from the applicant's attorney will first be reviewed by applicant for correctness before such invoices are forwarded to THE LEGAL FUND at Texas REALTORS® offices.

7. The Legal Fund of the NATIONAL ASSOCIATION OF REALTORS®

The applicant shall inform the Legal Review Committee if the applicant submits a request for assistance from the Legal Fund of the NATIONAL ASSOCIATION OF REALTORS® (NAR) and shall keep the Legal Review Committee updated regarding any action taken by NAR on that request.

8. Contributions

Any contribution to THE LEGAL FUND, whether by assessment or otherwise, shall not create any vested rights in THE LEGAL FUND, nor shall any right of reimbursement be created by contribution.

9. Amendments

These rules and regulations of THE LEGAL FUND may be amended only by a motion from the Texas REALTORS® Legal Review Committee or the Texas REALTORS® Executive Board and a majority vote of the Texas REALTORS® Board of Directors.

LOCAL ASSOCIATION'S COMMENTS

**Addendum to Application
For Assistance from the Legal Fund of
Texas REALTORS®
concerning:**

(Applicant's Name)

- A. The _____ Association or Board of REALTORS® (the Local Association) does does not recommend that the Application for Assistance to the Legal Fund be approved.
- B. The Legal Fund was created so that Texas REALTORS® could participate in proceedings when it is beneficial to REALTORS® as a class and the real estate industry as a whole. Does the Local Association find that granting this request would serve that goal? If so, please explain.
- C. Does the Local Association have an Attorney? Yes No
If so, please provide the following:

Attorney's Name:
Attorney's opinion about the applicant's chances of prevailing:
- D. Additional Comments.

By: _____
President of the Local Association Date Signed