

**LEGAL FUND OF  
TEXAS REALTORS®  
RULES AND REGULATIONS**  
As Amended February 12, 2024

**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®, other Texas REALTORS® members, and associated entities (*e.g.* a multiple listing service or a REALTOR®-affiliated 501(c)(3) non-profit), 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, a Texas REALTORS® member, a multiple listing service, or a REALTOR®-affiliated 501(c)(3) non-profit 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 ensures the availability of sufficient funds to fulfill the purposes of THE LEGAL FUND. The Texas REALTORS® Officers (as defined by the Texas REALTORS® bylaws) 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 that the Texas REALTORS® Officers take action to grant such assistance. Approval by the Texas REALTORS® Officers 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 applicant's primary local Association or Board of REALTORS® of which the applicant is a member, or if the applicant 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, are 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. Any recommendations by the Legal Review Committee to the Texas REALTORS® Officers shall be considered by the Texas REALTORS® Officers when they next meet.
- (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 by the Legal Review Committee, an applicant that is approved for and accepts financial assistance from THE LEGAL FUND must comply with the following:

- (a) if the applicant is a defendant in a legal proceeding, the applicant 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;
- (b) if the applicant is a defendant in a legal proceeding, the applicant will not file a cross-action against any Texas REALTORS® member;
- (c) 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, all financial assistance received from THE LEGAL FUND will be shared among the applicant and said co-defendants if the co-defendants apply for assistance from THE LEGAL FUND;
- (d) 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, any 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, legal expenses will be separately allocated and charged;
- (e) if the applicant settles the case, the applicant will reimburse THE LEGAL FUND all financial assistance provided up to the point of settlement;
- (f) if the applicant recovers any portion of the applicant's 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;
- (g) the applicant will pay 10% of the cost of their legal fees and expenses not to exceed a total contribution of \$5,000;
- (h) if the applicant is a local Association or Board, a multiple listing service, or a REALTOR®-affiliated 501(c)(3) non-profit entity, the Association or Board, multiple listing service, or REALTOR®-affiliated 501(c)(3) non-profit entity will pay 50% of the

cost of their legal fees and expenses 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;

- (i) if the legal proceeding for which assistance is requested is complex and involves multiple applicants, the applicants agree that the financial assistance approved will be paid or distributed in the manner that most appropriately minimizes litigation expenses;
- (j) THE LEGAL FUND: (i) is not a substitute for errors and omissions insurance or for any other protection programs at the local, state or national level; (ii) will not indemnify the applicant for losses, costs, expenses, or liabilities arising out of the litigation, including a final judgment; and (iii) will exclusively provide financial assistance in connection with attorney's fees and general litigation expenses;
- (k) assistance may be granted, denied, continued, or discontinued by THE LEGAL FUND for any reason without notice (which may be due to factors outside the control of the applicant);
- (l) acceptance 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 the applicant's attorney concerning the manner in which the attorney conducts the litigation;
- (m) the applicant understands that: (i) 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; (ii) if a conflict of interest develops 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; (iii) the applicant's 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 (iv) if the applicant's attorney withdraws because of a conflict, the applicant's attorney may continue to serve as lead counsel for the remaining applicants, if any;
- (n) if the applicant is unable to comply, for any reason, with any of the Rules and Regulations of THE LEGAL FUND or any other certification the applicant makes, the applicant will reimburse THE LEGAL FUND for all financial assistance received;
- (o) the applicant or the applicant's attorney will supply status reports to Texas REALTORS® 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 Texas REALTORS®; and

- (p) if the legal proceeding for which assistance is requested involves complex litigation, the Legal Review Committee may suspend any application procedure, requirement, or condition of THE LEGAL FUND that may conflict with a party's interests to ensure the purposes of THE LEGAL FUND are accomplished. Any suspension under this paragraph (p) must be approved by the Texas REALTORS® Officers.

#### **7. The Legal Action Program 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 Action Program 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. Amendments must be approved by a majority vote of the Texas REALTORS® Executive Board.

**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: \_\_\_\_\_  
Local Association Chief Elected Officer      Date Signed



**APPLICANT'S CERTIFICATION**

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

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**(Applicant's Name)**

I, \_\_\_\_\_ (*applicant's name*) certify that I have received, read, and understand the Rules and Regulations of the Legal Fund of Texas REALTORS® and if I am approved for and accept assistance from the Legal Fund for the case which is the subject of this application I agree to comply with those Rules and Regulations.

Certified by Applicant this date of: \_\_\_\_\_.

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Applicant or Authorized Representative

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Applicant or Authorized Representative