

Date: September 1, 2021 - Updated
From: Texas REALTORS® Legal Department
To: Texas REALTORS® Leaders
Re: 2021 Public Improvement District Notice Requirements (HB 1543)

Beginning Sept. 1, 2021, sellers will be 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. TREC and Texas REALTORS® sales contracts have been updated and TREC has promulgated a new PID notice to meet the statutory requirements. **These new PID notice requirements are similar to current municipal utility district (MUD) notice requirements.**

New PID 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 9-1-2021.
- 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. Texas REALTORS® is working closely with the title industry regarding this new requirement.
- Penalties for failing to provide the PID notice:
 - Buyers may terminate the contract at any time prior to closing.
 - Buyers can file a lawsuit for damages after closing. Buyers may file a suit 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.**

Updated Sales Contracts

- TREC has updated its residential sales contracts, including the *One to Four Family Residential Contract (Resale)* and *Unimproved Property Contract*, to reflect the new statutory requirement for sellers to provide a separate notice.
- Texas REALTORS® has updated several TXR sales contracts, including the *New Residential Condominium Contracts* and *Commercial Contracts*, with the identical language found in the updated TREC contracts to reflect the new statutory requirement.
- When to use the updated contracts – The newly revised sales contracts must be used for contracts executed on or after 9-1-2021. When using the updated contracts, sellers will be required to attach the new PID notice as an addendum if the property is located in a PID. ***If an offer was made using an older version of a sales contract but was not executed prior to 9-1-2021, the parties must rewrite the offer using the updated version. Take caution to use the appropriate version.**

Where to find the PID Notice form

- Filed by the PID – Each PID is required to maintain and file a service plan with the county clerk which includes information about the PID. When a PID next updates their service plan on or after 9-1-2021, they must include a copy of the PID notice completed with the required information. The service plan and completed PID notice will typically be publicly available on the PID website.
- Promulgated by TREC – TREC has promulgated a new PID notice form, *Addendum Containing Notice of Obligation to Pay Improvement District Assessment* (TXR-1955). The TREC PID notice requires certain information about the PID to be filled in to complete the form. Use of the TREC form is voluntary, meaning license holders can use this form, or use another notice that meets the requirements of the statute, such as the notice filed by the PID with the service plan. The updated sales contracts and TREC PID notice are available on the Texas REALTORS® forms webpage as well as through authorized forms vendors.

Completing the PID Notice form

- **Note** – Because sellers are required to provide the notice beginning 9-1-2021, but PIDs are not required to file a copy of the completed notice until they next update their service plans, there may be a period where it will be necessary to search online for the information required to complete the TREC PID notice. Agents may have sellers sign the *Notice of Information From other Sources* (TXR-2502) when assisting sellers to complete the PID notice form.
- The TREC PID notice requires the following information to be completed:
 - Property Address
 - Name of the Public Improvement District
 - Name of the municipality (and city council) or county (and commissioners court) that approves and levies assessments; and
 - The statute the PID was created under, which will be either Subchapter A, Chapter 372 of the Local Government Code or Chapter 382 of that same code.
 - **Chapter 372** – Most PIDs are created under Chapter 372 of the Local Government Code. Only the Counties of Bexar and Comal can create PIDs using Chapter 382. Cities within Bexar and Comal Counties must use Chapter 372. For properties located in PIDs outside of Bexar or Comal Counties or PIDs created by cities within Bexar and Comal Counties, “Subchapter A, Chapter 372, Local Government Code” should be inserted on the PID notice.
 - **Chapter 382** – The Bexar County improvement district website currently shows 11 improvement districts which were created using Chapter 382. Visit bexarcospecialimprovementdistricts.com for details. Currently, the Comal County website does not show any PIDS created under Chapter 382. Visit www.co.comal.tx.us/ for details. Therefore, “Chapter 382, Local Government Code” should be inserted on the PID notice for properties located in the 11 Bexar County improvement districts. Please contact Bexar and Comal Counties directly for updated improvement district information.
- Step 1 – Determining if a property is located in a PID
 - Here are a few tips for determining if a property is located in a PID. (1) The MLS is a good place to start because it is searchable by property address. In the MLS, look under the “Taxing Jurisdiction” tab for a specific property. Tax information on the MLS is imported from County Appraisal District (CAD) records. Many CADs, although not all, will show the name of the PID when a property is located in a PID. (2) Determining if a new home is

located in a PID may require a bit more digging. There may be significant delays from the time a PID is created before it appears in CAD records. For new homes, the builder may be a good source to determine if the property is in a PID. (3) If no information about a PID is listed in the MLS or CAD records, you can also search the websites of the city and the county where the property is located. Most city and county websites include information about the PIDs created under their jurisdiction including maps showing the boundaries of the PIDs. (4) Finally, the seller's property tax bill may show whether the property is subject to a PID assessment.

- Step 2 – Determining the name of the municipality (city council) or the county (commissioners court) levying an assessment
 - Once the name of the PID has been determined, the website for the PID will provide either the city or county that authorized and approves and levies assessments for the PID. An MLS or CAD website may have a direct link to the PID website. If not, an internet search of the name of the PID will locate the PID website. The PID website may be a standalone website or part of the website of the city or county that created the PID.
 - PID Service Plans – You may also search online for the PID service plan. The service plan will contain the name of the city or county that created the PID and will typically be available on the PID website.

Exemptions and Limits of Liability

- Exemptions – The requirement to provide the PID Notice does not apply to a transfer:
 - Under court order or foreclosure
 - By a trustee in bankruptcy
 - By an owner to the lender or by a trustor to a beneficiary under a deed of trust
 - By a lender or a deed of trust beneficiary that acquired the property under a deed of trust sale, court ordered foreclosure, or deed in lieu of foreclosure
 - By a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust
 - From one co-owner to another of an undivided interest in the property
 - To a spouse or blood relative of the seller
 - To or from a governmental entity, or
 - Of only mineral interest, leasehold interest, or security interest
- Limits of Liability
 - **Sellers**, title companies, real estate brokers, and examining attorneys are not liable for damages for failing to provide the notice to buyers (1) if the city or county failed to file the PID service plan with the county clerk in accordance with the statute, or (2) for unintentionally providing a notice that is not the correct notice under the circumstances.
 - **Sellers**, title companies, real estate brokers, and examining attorneys are entitled to rely on the accuracy of the service plan last filed by the city or county.
- Information taken from the service plan is conclusively presumed to be correct as a matter of law.

For questions regarding the Public Improvement District notice requirements, please contact the Texas REALTORS® Legal Hotline at 800-873-9155.