

Texas Contract Law Practice Exam (Sample)

Study Guide



Everything you need from our exam experts!

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SAMPLE

Questions

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- 1. Which party typically pays for the title examination in a real estate transaction?**
 - A. The buyer only**
 - B. The seller only**
 - C. It is usually negotiated between parties**
 - D. The title company covers the cost**
- 2. What type of form is the Texas Real Estate Commission (TREC) Form OP-H?**
 - A. A mandatory form**
 - B. An optional form for voluntary use**
 - C. A form not recognized by the property code**
 - D. A form specifically for lawyers**
- 3. What action can be taken if the buyer does not receive a seller disclosure notice?**
 - A. Negotiate for a better deal**
 - B. File a complaint with the Texas Real Estate Commission**
 - C. Terminate the contract**
 - D. Move forward with the purchase**
- 4. What is the primary role of the Broker-Lawyer Committee?**
 - A. To enforce existing real estate contracts**
 - B. To draft contracts and recommend their adoption**
 - C. To represent real estate brokers in legal disputes**
 - D. To provide legal advice to property owners**
- 5. What does "legality of purpose" require for a contract to be enforceable?**
 - A. The contract must be written in legal terms**
 - B. The object of the contract must be legal and not against public policy**
 - C. The parties must be of legal age**
 - D. The agreement must involve monetary compensation**

- 6. Which qualification is necessary for a member of the Texas Real Estate Commission?**
- A. Must be a licensed attorney**
 - B. Must reside in Texas for at least 5 years**
 - C. Must be appointed by the governor**
 - D. Must have a degree in business**
- 7. What is necessary for a seller to complete a transfer of property without requiring a disclosure?**
- A. Transfer to family members**
 - B. A budget-friendly price**
 - C. Sale under court order**
 - D. Fiduciary administration**
- 8. What is an "adhesion contract"?**
- A. A contract where both parties negotiate terms equally**
 - B. A standardized contract presented on a "take it or leave it" basis**
 - C. A contract where one party has limited rights**
 - D. A contract that requires mutual consent to be valid**
- 9. What is meant by "anticipatory breach" in contract law?**
- A. When both parties agree to terminate a contract**
 - B. When one party indicates they will not fulfill their obligations**
 - C. When a contract is breached after the performance period**
 - D. The act of modifying a contract's terms mutually**
- 10. Can a contract be assigned to another party?**
- A. Yes, with no restrictions**
 - B. No, assignments are never allowed**
 - C. Yes, unless prohibited by the terms of the contract or law**
 - D. No, only verbal contracts can be assigned**

Answers

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1. C
2. B
3. C
4. B
5. B
6. C
7. C
8. B
9. B
10. C

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Explanations

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1. Which party typically pays for the title examination in a real estate transaction?

A. The buyer only

B. The seller only

C. It is usually negotiated between parties

D. The title company covers the cost

In a real estate transaction, the responsibility for paying for title examination is generally determined by negotiation between the buyer and the seller as part of the transaction's terms. This reflects the flexibility in real estate agreements, where parties can agree on who bears particular costs based on their negotiations and the specifics of the deal. The practice of negotiating this cost allows both parties to take into account various factors, such as local customs, the bargaining power of each party, and the overall arrangement of the sale. While some regions may have customary practices—where either the buyer or seller typically pays for the title examination—these customs can vary significantly, meaning that neither party is definitively responsible without mutual agreement. In contrast, attributing the cost to just the buyer or just the seller overlooks the flexibility inherent in real estate negotiations. Similarly, suggesting the title company covers the cost is inaccurate, as the title company typically charges fees for their services, which would need to be paid by one of the parties involved. Therefore, the correct understanding is that this cost is often negotiated between the parties involved in the real estate transaction.

2. What type of form is the Texas Real Estate Commission (TREC) Form OP-H?

A. A mandatory form

B. An optional form for voluntary use

C. A form not recognized by the property code

D. A form specifically for lawyers

The Texas Real Estate Commission (TREC) Form OP-H is classified as an optional form for voluntary use, which means that real estate professionals can choose to use it but are not required to do so. This flexibility allows agents and brokers to tailor their transactions according to the specific circumstances of a particular deal or client needs without being bound by mandatory requirements. Mandatory forms indicate that they must be used in certain situations, whereas an optional form allows for greater discretion in its application. Since Form OP-H is not a requirement under Texas law but rather a tool that can assist in real estate transactions if deemed useful, it falls squarely into the category of optional forms. Additionally, forms that are not recognized by the property code or are specifically targeted to lawyers do not apply to this form, as OP-H serves a broader purpose in the real estate context.

3. What action can be taken if the buyer does not receive a seller disclosure notice?

- A. Negotiate for a better deal**
- B. File a complaint with the Texas Real Estate Commission**
- C. Terminate the contract**
- D. Move forward with the purchase**

If the buyer does not receive a seller disclosure notice, the buyer has the right to terminate the contract. Under Texas law, particularly as outlined in the Texas Property Code, sellers are required to provide buyers with a disclosure notice that details the condition of the property. This notice is essential for the buyer to make an informed decision regarding the purchase. The failure of the seller to provide this disclosure notice not only places the buyer at a disadvantage but also can be interpreted as a breach of the seller's obligations in the contract. By terminating the contract, the buyer safeguards their interests, as moving forward without the necessary disclosures could lead to unforeseen problems after the purchase. Additionally, having the right to terminate the contract emphasizes the importance of transparency in real estate transactions in Texas and protects buyers from potential liabilities associated with undisclosed issues in the property. Other potential actions such as negotiating for a better deal, filing a complaint with the Texas Real Estate Commission, or moving forward with the purchase do not align with the buyer's rights under the circumstances where required disclosures are not provided. These options do not provide the buyer the legal remedy needed to protect their interests effectively.

4. What is the primary role of the Broker-Lawyer Committee?

- A. To enforce existing real estate contracts**
- B. To draft contracts and recommend their adoption**
- C. To represent real estate brokers in legal disputes**
- D. To provide legal advice to property owners**

The primary role of the Broker-Lawyer Committee is to draft contracts and recommend their adoption. This committee plays a crucial role in ensuring that the contracts used in real estate transactions in Texas are clear, concise, and legally sound. By developing standard forms and contracts, the committee helps to streamline the transaction process for both buyers and sellers, reducing ambiguity and potential disputes. The drafting and recommendation process includes collaborating with professionals from both the legal and real estate sectors, which contributes to the creation of forms that are not only practical but also compliant with Texas laws. This ensures that real estate practitioners have access to documents that enhance the efficiency and legality of transactions. While enforcement of existing contracts is important, that responsibility typically falls to the courts or other regulatory bodies rather than the Broker-Lawyer Committee. Additionally, the committee does not represent real estate brokers in legal disputes or provide legal advice to property owners, which are functions that belong to different organizations or professionals in the real estate and legal fields.

5. What does "legality of purpose" require for a contract to be enforceable?

- A. The contract must be written in legal terms**
- B. The object of the contract must be legal and not against public policy**
- C. The parties must be of legal age**
- D. The agreement must involve monetary compensation**

Legality of purpose is a fundamental requirement for the enforceability of a contract, ensuring that the contract's subject matter is lawful and not contrary to public policy. For a contract to be enforceable, its purpose must align with the law; if the contract involves illegal activities or aims to achieve unlawful ends, it becomes void and unenforceable. For example, if a contract is formed for an illegal drug transaction or includes terms that promote harm to the public, it would fail this requirement and thus not be recognized by the legal system. This principle protects societal interests and upholds the integrity of the legal framework, ensuring that contractual agreements are made for purposes that the law recognizes and supports. Understanding this requirement is crucial for individuals engaging in contractual agreements, as it protects against entering into arrangements that could lead to legal repercussions or invalidation of their agreements due to illegality.

6. Which qualification is necessary for a member of the Texas Real Estate Commission?

- A. Must be a licensed attorney**
- B. Must reside in Texas for at least 5 years**
- C. Must be appointed by the governor**
- D. Must have a degree in business**

A member of the Texas Real Estate Commission must be appointed by the governor, which is a critical qualification for serving on the Commission. This requirement ensures that the members are chosen by a designated authority, which helps maintain a level of oversight and accountability in how the Commission operates. The governor's appointments are generally based on the individual's qualifications, experience in real estate, and commitment to the state's interests in real estate regulation. In the context of the other options, being a licensed attorney is not a requirement, nor is there a stipulation that members must have lived in Texas for a minimum of five years. Additionally, while having a degree in business may be beneficial for understanding real estate transactions, it is not a necessary qualification for membership. Only the appointment by the governor fulfills the legal requirement for serving on the Texas Real Estate Commission, ensuring that the members are recognized and trusted individuals who can effectively perform their regulatory duties.

7. What is necessary for a seller to complete a transfer of property without requiring a disclosure?

- A. Transfer to family members**
- B. A budget-friendly price**
- C. Sale under court order**
- D. Fiduciary administration**

The correct answer reflects a fundamental aspect of property transactions in Texas law. When property is sold under a court order, it typically means that the sale is being conducted as part of a legal process, such as a foreclosure or estate settlement. In such instances, the court may determine that disclosure requirements can be waived to facilitate the transaction and expedite the administration of justice. This allows the transfer of property to proceed without the usual legal obligations that sellers have regarding disclosing defects or other issues with a property. In contrast, transferring property to family members or selling at a particular price does not inherently exempt a seller from disclosure obligations. Additionally, fiduciary matters often have their own specific rules, but do not generally preclude the requirement for disclosure unless stated otherwise by law. Thus, only transactions executed under a court order are typically free from the standard disclosure requirements, making it the appropriate choice.

8. What is an "adhesion contract"?

- A. A contract where both parties negotiate terms equally**
- B. A standardized contract presented on a "take it or leave it" basis**
- C. A contract where one party has limited rights**
- D. A contract that requires mutual consent to be valid**

An adhesion contract is indeed characterized as a standardized contract that is presented on a "take it or leave it" basis. This means that one party, typically the stronger or more knowledgeable party, drafts the contract terms, and the other party has little to no ability to negotiate those terms. This type of contract is common in situations where there is a significant disparity in bargaining power, such as in consumer contracts for goods or services where one party is at a distinct advantage—for example, when a large company provides a contract for a product or service. The defining characteristic of adhesion contracts is the lack of negotiation in the acceptance of terms, which can lead to concerns about fairness and can invoke consumer protection considerations. Courts may sometimes scrutinize these contracts, especially if they contain unconscionable terms that heavily favor the drafting party. The other options provide different scenarios that do not accurately reflect the nature of adhesion contracts. For example, contracts where both parties negotiate terms equally describe mutual agreements, not adhesion contracts, while limited rights pertain to the legal standing of a party rather than the nature of the contract itself. Lastly, mutual consent is a fundamental principle of all contracts, not specific to adhesion contracts. Thus, recognizing adhesion contracts as ones with non-negotiable terms

9. What is meant by "anticipatory breach" in contract law?

- A. When both parties agree to terminate a contract**
- B. When one party indicates they will not fulfill their obligations**
- C. When a contract is breached after the performance period**
- D. The act of modifying a contract's terms mutually**

Anticipatory breach occurs when one party to a contract clearly indicates, either through words or conduct, that they will not perform their contractual obligations when the time for performance arrives. This proactive indication provides the other party the opportunity to take action before the actual breach occurs, such as seeking damages or terminating the contract. In Texas contract law, this principle allows the non-breaching party to treat the contract as breached, which enables them to pursue remedies for the anticipated harm. It is essential for protecting the interests of parties in a contractual relationship, as it prevents the necessity of waiting for a non-performance to take action. The other options discuss scenarios that do not align with the concept of anticipatory breach, such as mutual termination, breaches that occur after the performance period, or modifications to contract terms. These options reflect different legal concepts and do not address the proactive indication of non-performance that characterizes anticipatory breach.

10. Can a contract be assigned to another party?

- A. Yes, with no restrictions**
- B. No, assignments are never allowed**
- C. Yes, unless prohibited by the terms of the contract or law**
- D. No, only verbal contracts can be assigned**

A contract can indeed be assigned to another party, which underscores the principle of assignability within contract law. The correct response acknowledges that assignments are generally permissible unless there is a specific restriction outlined in the contract itself or if prohibited by law. This means that parties involved in a contract have the flexibility to transfer their contractual rights and obligations to another individual or entity. However, if the original contract specifies that assignments are not allowed, then the assignor cannot legally delegate their rights or obligations. Additionally, certain types of contracts may inherently limit assignability due to their nature, such as contracts requiring personal qualifications or skills (like employment agreements). Understanding that not all contracts are freely assignable highlights the importance of carefully reviewing the terms set forth in the contract and understanding the legal environment surrounding the agreement. This ensures that both the assignor and assignee are aware of their rights and potential limitations involved with the assignment process.