

# Texas Contract Law Practice Exam (Sample)

## Study Guide



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## **Questions**

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- 1. What four elements are necessary for an enforceable contract under Texas law?**
  - A. Offer, acceptance, revenue, and capacity**
  - B. Offer, acceptance, consideration, and capacity**
  - C. Promise, delivery, consideration, and documentation**
  - D. Written terms, acceptance, notarization, and consideration**
- 2. What is meant by "regrettable reliance" in contract law?**
  - A. Dependence on a valid agreement**
  - B. Reliance on an unenforceable promise resulting in detriment**
  - C. Reliance on verbal agreements that are enforceable**
  - D. None of the above**
- 3. Which form is approved by TREC for a seller's disclosure notice?**
  - A. Form OP-H**
  - B. Form OP-A**
  - C. Form TREC-1**
  - D. Form TAR-100**
- 4. What is an exception to the TREC rules on contract use?**
  - A. When the buyer dictates terms**
  - B. When the buyer requires another form to be used**
  - C. When the seller is not licensed**
  - D. When both parties agree to waive the rules**
- 5. How does the Texas Uniform Commercial Code apply to contracts?**
  - A. It regulates contracts only for services.**
  - B. It governs all forms of contracts regardless of subject matter.**
  - C. It governs contracts relating to the sale of goods.**
  - D. It provides a framework exclusively for consumer protection.**

- 6. In contract law, how does "assignment" differ from "delegation"?**
- A. Assignment involves duties; delegation involves rights**
  - B. Assignment transfers rights; delegation transfers obligations**
  - C. Both processes are identical in purpose**
  - D. Delegation is more formal than assignment**
- 7. Can Texas courts award punitive damages for breach of contract?**
- A. Yes, in all breach of contract cases.**
  - B. No, unless there are accompanying tort claims.**
  - C. Yes, if the contract is deemed unfair.**
  - D. No, punitive damages are not recognized in Texas law.**
- 8. 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**
- 9. In Texas, what constitutes undue influence in contract formation?**
- A. When a contract is vague and unclear**
  - B. Using manipulation or pressure from a position of power**
  - C. When the terms of the contract are not clearly outlined**
  - D. Having legal representation during contract formation**
- 10. What is the primary purpose of a "non-compete agreement"?**
- A. To allow employees to share trade secrets freely**
  - B. To prevent employees from engaging in competing business activities**
  - C. To encourage employees to work more hours**
  - D. To provide employees with ownership stakes in the company**

## **Answers**

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

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## **Explanations**

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- 1. What four elements are necessary for an enforceable contract under Texas law?**
- A. Offer, acceptance, revenue, and capacity**
  - B. Offer, acceptance, consideration, and capacity**
  - C. Promise, delivery, consideration, and documentation**
  - D. Written terms, acceptance, notarization, and consideration**

For a contract to be enforceable under Texas law, it must include four essential elements: offer, acceptance, consideration, and capacity. An offer is a clear proposal made by one party to another indicating the intention to enter into a contract. Acceptance refers to the agreement of the other party to the terms of the offer, showing mutual assent. Consideration is a fundamental component that refers to something of value exchanged between the parties, which can be money, services, or other forms of value. This element is critical because without consideration, there is typically no enforceable contract. Finally, capacity involves the legal ability of the parties to enter into a contract, meaning that they must be of sound mind, of legal age, and not under duress or incapacitated. This option reflects the core requirements for a valid and enforceable contract in Texas and aligns with established contract law principles. Other options, while they may include relevant concepts, do not accurately encompass the essential elements required for enforceability as recognized in Texas contract law. For example, terms like "notarization" and "documentation" might be relevant in certain contexts but are not foundational requirements for contract validity, and "revenue" is not a recognized element in contract formation.

- 2. What is meant by "regrettable reliance" in contract law?**
- A. Dependence on a valid agreement**
  - B. Reliance on an unenforceable promise resulting in detriment**
  - C. Reliance on verbal agreements that are enforceable**
  - D. None of the above**

Regrettable reliance refers to a situation where an individual has relied on a promise or assurance that turns out to be unenforceable, and this reliance has resulted in some form of detriment or harm. In contract law, this often arises in scenarios where one party takes action based on the belief that a valid contract or agreement exists, only to later discover that the agreement is not legally enforceable. In the context of option B, the focus is on the consequences of relying on a promise that lacks legal enforceability. This reliance can lead to a party incurring costs, making investments, or changing their position based on the expectation that the promise would be honored. When the promise is ultimately unenforceable—perhaps due to a lack of formal requirements for a contract or other legal standards—this leads to regret regarding the reliance placed on that promise, hence the term "regrettable reliance." In contrast, the other options do not encapsulate the concept accurately. Dependence on a valid agreement does not involve regret since that reliance is legitimate and enforceable. Reliance on verbal agreements that are enforceable would not fall under the category of regrettable reliance, as it suggests a sound basis for trust. Therefore, option B correctly captures the essence

**3. Which form is approved by TREC for a seller's disclosure notice?**

- A. Form OP-H**
- B. Form OP-A**
- C. Form TREC-1**
- D. Form TAR-100**

The correct answer is that the Texas Real Estate Commission (TREC) has approved Form OP-H as the appropriate seller's disclosure notice. This form is specifically designed to comply with Texas laws requiring sellers to disclose certain details about the condition of the property being sold. It provides potential buyers with essential information regarding the property's status, including any known defects, previous repairs, and other relevant disclosures that could impact the decision-making process of the buyer. In Texas, the seller's disclosure notice is a critical component of real estate transactions, ensuring transparency and protection for both parties involved. By using Form OP-H, sellers can fulfill their statutory obligations while helping buyers make informed decisions based on the presented information. This form aligns with TREC regulations, making it the approved choice for sellers looking to disclose property information accurately and adequately.

**4. What is an exception to the TREC rules on contract use?**

- A. When the buyer dictates terms**
- B. When the buyer requires another form to be used**
- C. When the seller is not licensed**
- D. When both parties agree to waive the rules**

In the context of Texas real estate transactions, the Texas Real Estate Commission (TREC) has established rules regarding the forms and contracts that must be used. An exception to these rules arises when the buyer requires another form to be used. This implies that, while TREC provides standard forms to streamline the process and ensure compliance with legal requirements, parties engaging in a transaction can opt for a different form if the buyer explicitly demands it. This flexibility allows for circumstances where unique situations or tailored agreements are necessary, acknowledging the necessity to accommodate the buyer's needs. The other options do not adequately reflect recognized exceptions under TREC rules. For instance, a buyer dictating terms does not inherently allow for an exception to using TREC forms, as the forms are designed to provide a baseline of acceptable terms to ensure legal viability. Similarly, the licensure status of the seller does not establish grounds for deviating from the specified contract use rules; the rules apply uniformly regardless of the parties' licensing. Finally, while parties agreeing to waive certain rules might seem reasonable, TREC's mandates on contract use are specifically designed to ensure legal protections and standardization, making blanket waivers unlikely to be permissible without risk.

5. How does the Texas Uniform Commercial Code apply to contracts?
- A. It regulates contracts only for services.
  - B. It governs all forms of contracts regardless of subject matter.
  - C. It governs contracts relating to the sale of goods.**
  - D. It provides a framework exclusively for consumer protection.

The Texas Uniform Commercial Code (UCC) specifically governs contracts that deal with the sale of goods. This means any agreement where there is a transfer of ownership of tangible personal property is under its purview. The UCC provides a standardized set of rules and guidelines that facilitates commerce and clarifies the rights and responsibilities of parties involved in such transactions. This framework helps in resolving disputes that might arise in the sale of goods, such as issues regarding warranties, the delivery of goods, and the obligations of both buyers and sellers. Therefore, since the UCC is tailored to address the complexities that come specifically with the sale of goods, the selection accurately reflects its purpose and function within Texas contract law. In contrast to other options, like the idea that it regulates contracts only for services or provides a framework exclusively for consumer protection, these interpretations do not capture the UCC's role. The UCC does not apply to service contracts or consumer protection issues in the same way; it is primarily concerned with the sale and transfer of goods. Thus, identifying the UCC's focus truly underscores the correct understanding of Texas commercial law.

6. In contract law, how does "assignment" differ from "delegation"?
- A. Assignment involves duties; delegation involves rights
  - B. Assignment transfers rights; delegation transfers obligations**
  - C. Both processes are identical in purpose
  - D. Delegation is more formal than assignment

The correct answer highlights the fundamental distinction between assignment and delegation in contract law. Assignment refers to the transfer of rights from one party to another, meaning that the assignor relinquishes their legal claim to a right under the contract. For example, if a creditor assigns their right to receive payment to a third party, that third party now holds the right to collect that payment. On the other hand, delegation involves the transfer of obligations or duties. When a party delegates their duties to another, they are assigning the responsibility to perform a specific task under the contract to someone else. However, it's important to note that the original party who made the delegation often remains liable for the performance of those obligations, unless the contract states otherwise or both parties agree to the delegation. This distinction is crucial because it highlights how rights and obligations are treated differently in contract law. Understanding this difference helps clarify the nature of various contractual relationships and the impact of transferring rights versus transferring duties.

**7. Can Texas courts award punitive damages for breach of contract?**

- A. Yes, in all breach of contract cases.**
- B. No, unless there are accompanying tort claims.**
- C. Yes, if the contract is deemed unfair.**
- D. No, punitive damages are not recognized in Texas law.**

In Texas, punitive damages are generally not awarded for breach of contract claims unless there are accompanying tort claims that warrant such damages. This is because punitive damages serve as a means of punishment for wrongful conduct and deterrence, which is more applicable in tort cases where a party has acted maliciously or with gross negligence. Breach of contract itself is typically viewed as a failure to meet contractual obligations rather than a tortious act. In cases where a breach of contract is coupled with a tort claim, such as fraud, intentional infliction of emotional distress, or another actionable tort, the court may allow punitive damages to address the wrongfulness of the conduct in question. This aligns with Texas law, which aims to restrict punitive damages to situations where a party's actions have gone beyond mere breach of contract and into the realm of tortious behavior. The other options do not accurately reflect Texas law. For instance, punitive damages are not available in all breach of contract cases, nor are they awarded based solely on the perceived fairness of a contract. Additionally, punitive damages are indeed recognized in Texas law, but their application is limited to cases involving tort claims.

**8. 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.

**9. In Texas, what constitutes undue influence in contract formation?**

- A. When a contract is vague and unclear**
- B. Using manipulation or pressure from a position of power**
- C. When the terms of the contract are not clearly outlined**
- D. Having legal representation during contract formation**

In Texas, undue influence in contract formation occurs when an individual uses manipulation or pressure to exert control over another party, especially when there is a pre-existing relationship of trust or power. This psychological coercion undermines the free will of the influenced party, effectively invalidating their consent to the contract. The existence of undue influence means that a party did not genuinely agree to the terms due to the overpowering conduct of someone in a stronger position, such as a caregiver, family member, or professional adviser. This scenario typically arises when one party takes advantage of their relationship to impose unfair terms on the other party, thus calling into question the validity of the agreement made. In contrast, the other options relate to different legal concepts. Vagueness in a contract does not directly relate to undue influence, as it is more about the clarity of terms rather than consent being compromised. Similarly, contracts with unclear terms highlight potential issues with enforceability rather than the presence of coercion. Lastly, having legal representation during contract formation generally serves to protect parties against undue influence, as it ensures that they are making informed decisions, contrary to the notion of manipulation or pressure.

**10. What is the primary purpose of a "non-compete agreement"?**

- A. To allow employees to share trade secrets freely**
- B. To prevent employees from engaging in competing business activities**
- C. To encourage employees to work more hours**
- D. To provide employees with ownership stakes in the company**

The primary purpose of a non-compete agreement is to prevent employees from engaging in competing business activities after leaving their employment. This type of agreement is designed to protect an employer's legitimate business interests, including proprietary information, trade secrets, and customer relationships. By limiting the ability of employees to work for competitors or start competing businesses within a specified geographical area and time frame, the agreement aims to reduce the potential for damage to the employer's business that could arise from an employee taking their skills and insider knowledge to a rival company. Non-compete agreements are often used in industries where sensitive information or client relationships are key assets. They help maintain a competitive edge and encourage companies to invest in training and developing their employees, knowing those employees will have restrictions on taking valuable knowledge to competitors. The other options suggest alternative purposes that are not aligned with the fundamental objective of non-compete agreements. For example, allowing the free sharing of trade secrets would undermine the very reason these agreements are in place. Encouraging longer working hours focuses on labor hours rather than competition, and providing employees with ownership stakes relates to employee benefits rather than competition dynamics, which is not the focus of a non-compete agreement.