



## TEXAS REAL ESTATE COMMISSION

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### PRESS RELEASE

#### TREC AND REAL ESTATE CENTER AT TEXAS A&M JOIN IN PRODUCTION OF INFO-VIDEO

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#### FOR IMMEDIATE RELEASE:

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The Texas Real Estate Commission (TREC) has undertaken a joint effort with the Real Estate Center at Texas A&M University to produce an informational video titled, "The Option Fee Clause." The purpose of this 17 minute video is to inform sales agents, brokers, as well as sellers and buyers of real estate on new standard real estate contract form provisions known as the "option clause" that have recently been approved and promulgated by the Commission.

TREC Chairman Jay Brummett said, "This production was the result of close teamwork between TREC and the Real Estate Center who share an interest in serving buyers and sellers of real estate property; and a mutual concern for assuring that providers of real estate services are professional and honest. The successful combination of informational expertise along with capabilities in educational communication, has produced an interesting and realistic video that demonstrates a typical transaction involving consumers, sellers, and brokers.

"We at the Commission are especially appreciative of the excellent creative effort and production resources put forth by the Real Estate Center on this project. Without their dedicated assistance and professional talent, those in the real estate industry, as well as the general public, would not receive the benefit of this information in such a clear and engaging way," Brummett concluded.

The "option clause" is referred to technically as "Paragraph 7D(1)" in the new standard real estate contract form. It allows buyers and sellers to negotiate a specified length of time during which a house is placed under binding contract to be sold, but allows buyers to rescind the contract for any reason during the option period. In exchange for agreeing not to sell the house to others during

that period, the seller is entitled to receive a fee from the prospective buyer in the amount agreed to per their negotiation of the option.

In this way, buyers will have a clearly defined time in which to fully evaluate the condition of the property, and perhaps renegotiate their initial offer based on inspections or needed repairs. As an alternative to renegotiation, buyers may either terminate the contract along with a forfeiture of their option fee to the seller, or they may proceed to purchase the house under the existing contractual offer. Sellers, on the other hand, would not only receive the benefit of an incentive payment, but also avoid jeopardizing an ongoing transaction during the option period that could ultimately result in a final sale.

If the sale goes through, the fee may be credited toward the sale price if such terms were agreed to by both parties at the time the "option clause" was signed. As the video points out, this is a "win, win, win..." option for buyer, seller, and agent alike.

The Commission notes, however, that in the State of Texas consumers have a legally guaranteed and unrestricted right to have a property inspected before making any final decision to purchase. Buyer's may exercise their prerogative for an inspection regardless of the "option clause;" and nothing in the "option clause" will interfere with provisions allowing prospective buyers to have an inspection completed on property that is being sold. A negotiated "option clause" agreement simply allows the buyer and seller to establish a definite time period during which an inspection could be completed, further consideration may be given to making an amended offer, the original contracted offer may be accepted, or a decision can be made to terminate the transaction.

Copies of the video are available from the Real Estate Center for a nominal charge to help defray duplication and handling costs. The Real Estate Center may be contacted by mail in care of Texas A&M University, College Station, TX 77843; or by Fax at 409-845-0460. The Center may also be reached by calling 409-845-2031, or 800-244-2144.