

Municipal Utility District (MUD) Quick Reference Guide

August 21, 2023

General Requirements

- A person who sells real property located in a MUD must give the buyer a Notice to Purchasers form prior to execution of the contract (Water Code §49.452).
- The Notice contains certain information about the MUD such as the tax rate, bonded indebtedness, and standby fees.
- Each MUD is required to maintain a copy of the Notice to Purchasers and to provide a copy of the Notice completed with all required information to any person upon written request (Water Code §49.453).

New Requirements

- New laws have modified MUD Notice requirements in two ways:
 - The new Notice contains more detailed information about the tax rates, assessments, and bond indebtedness, and
 - Each MUD is now required to post a copy of the Notice on their website.
- There is confusion about the Effective Date. Two bills containing identical language regarding the new Notice were both signed into law.
 - HB 2815 was effective immediately upon the Governor's signature on June 18, 2023.
 - HB 2816 has an effective date of September 1, 2023.
- Our Governmental Affairs team reached out to the Governor's office for further clarification. The Governor's Office has stated that in their opinion, the June 18th effective date of HB 2815 would take precedence and the new requirements are currently in effect.
- We are getting reports from members that MUDs are not complying with the new requirements. MUDs have not posted the Notice to their website or have not created the new version of the Notice at all. Consequently, sellers are not able to fulfill their obligation under the law to provide the Notice to buyers.
- Texas REALTOR® has sent a letter to every MUD in Texas urging them to comply with the new requirements as soon as possible. We have also reached out to TCEQ, the state agency that has enforcement authority over MUDs.

Potential Liability for Noncompliance

- **MUD noncompliance** – A district that fails to comply with the filing provisions of the Water Code may be subject to a penalty of up to \$100 per day for each day the district willfully continues to violate the provisions after receipt of written notice of violation (Water Code §49.003).
- **Buyer's right to terminate** – if Seller fails to deliver the Notice before the execution of the contract, Buyer has the right to terminate the contract for any reason before closing (Water Code §49.452(f)).
 - If Seller later provides the notice at or before closing and Buyer chooses to close, the Buyer has waived all rights to terminate, to recover damages, or to seek other remedies.
- **Buyer's Damages** – If the sale closes without Seller providing the Notice at any time, Buyer may sue for damages up to \$5,000, plus reasonable attorney's fees (Water Code §49.452(p)).

Notarization

- The copy of the Notice to Purchasers that sellers are required to provide to buyers before the execution of a contract does not have to be notarized.
- There must also be a second copy of the Notice provided during the closing process. This second Notice is required to be notarized. The title company typically ensures compliance with this requirement.