

What is a SURVEY EXCEPTION AMENDMENT

(And The Reasons You Should Want It!)

The Survey Amendment provides greater policy coverage for the owner by reducing the terms of the standard survey exception found on Schedule B.

Pay close attention to your purchase contract. An important question is asked in the TITLE POLICY AND SURVEY section of the TREC 1-4 family residential contract. Paragraph 6 (A) (8) outlines the following options:

- (8) The standard printed exception as to discrepancies, conflicts, shortages in area or boundary lines, encroachments or protrusions, or overlapping improvements:
- (i) will not be amended or deleted from the title policy; or
 - (ii) will be amended to read, "shortages in area" at the expense of Buyer Seller.

What do those options mean?

In simple terms, it means that the buyer of the property has the choice to:

- i) Accept the title commitment as written. Including the Schedule B exception "Any discrepancies, conflicts or shortages in area or boundary lines, and any encroachments, protrusions, or overlapping of improvements." This means if any of the listed items exist on the property at the time of closing the buyer does not have coverage for them in their title policy. If a buyer needed to hire counsel to help them litigate in reference to one of these matters, the cost of the litigation and attorney's fees would rest entirely on the buyer.
- ii) Amend the Schedule B exception to read "shortages in area". This selection adds coverage to the title insurance policy by greatly reducing the terms of the exception. The contract question is further clarified by asking which party will pay the additional expenses for this coverage.

What is required to issue this coverage?

The party selected on 6 (A) (8) of the TREC contract is responsible for paying the premium for the additional coverage. On a residential policy the cost of Survey Deletion Coverage is 5% of the Owner's Title Policy.

Example:

Sales Price \$600,000
Owner's Title Policy \$3,467
Survey Deletion Endorsement \$173.35

Parties will also need to supply a survey, prior to closing, for Key Title Group to approve before the amendment can be issued.

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What options are available for getting a survey approved?

Section 6 (C) of the TREC contract outlines acceptable options for obtaining a survey. If parties choose to use an existing survey, they must provide Key Title Group with a Residential Real Property Survey Affidavit (T-47) that describes any improvements made to the property since the survey was created.

C. SURVEY: The survey must be made by a registered professional land surveyor acceptable to the Title Company and Buyer's lender(s). (Check one box only)

- (1) Within _____ days after the Effective Date of this contract, Seller shall furnish to Buyer and Title Company Seller's existing survey of the Property and a Residential Real Property Affidavit promulgated by the Texas Department of Insurance (T-47 Affidavit). **If Seller fails to furnish the existing survey or affidavit within the time prescribed, Buyer shall obtain a new survey at Seller's expense no later than 3 days prior to Closing Date.** If the existing survey or affidavit is not acceptable to Title Company or Buyer's lender(s), Buyer shall obtain a new survey at Seller's Buyer's expense no later than 3 days prior to Closing Date.
- (2) Within _____ days after the Effective Date of this contract, Buyer shall obtain a new survey at Buyer's expense. Buyer is deemed to receive the survey on the date of actual receipt or the date specified in this paragraph, whichever is earlier.
- (3) Within _____ days after the Effective Date of this contract, Seller, at Seller's expense shall furnish a new survey to Buyer.

Why is this coverage important?

For a minimal fee, the buyer is protected from discrepancies, conflicts in boundary lines, and any encroachments, protrusions, or overlapping of improvements of their property.

Examples include:

- Encroachment of an improvement onto an adjoining property or easement
- Surveyor errors in locating improvements or the boundary lines of a property
- Building, driveway or fence over a building line, or into a platted easement

Even with extended coverage, there may still be survey exceptions that are deemed too much risk. In such cases, those particular items will be listed on Schedule B, removing them from coverage.

If you have additional questions about Survey Exception Amendments,
please reach out to your Key Title Group Escrow Officer.

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