



## TEXAS APARTMENT ASSOCIATION

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**To:** TAA Local Associations

**From:** Sandy Hoy, TAA General Counsel

**Date:** August 23, 2018

**Subject:** Unlawful Use of TAA Lease Forms

Any rental housing owner using the TAA lease forms without being a member in good standing at the time the lease is signed of both TAA and the local association where the apartment is located, may have committed an unlawful act. The following legal recourses may be available to residents who have signed TAA lease forms when the owner misrepresented that s/he was a member of TAA and the appropriate local association, as warranted in Paragraph 35 of the current TAA Lease Contract. The word "member" below the TAA logo and the phrase "form valid for members only" in the middle of the form on all forms is also a representation of such owner's membership in TAA.

1. The resident can declare the lease voidable at the resident's option. This means that the resident can terminate the lease and move out at any time without advance notice, and the owner will be obligated to return the security deposit without any forfeiture for early move-out or failure of advance notice. Since the contract is voidable only at the option of the resident, the resident can still enforce the lease contract against the owner, but the owner may not be able to enforce the lease contract against the resident.
2. The resident can file a civil lawsuit against the owner and potentially assert triple damages plus attorneys' fees and expenses under the Deceptive Trade Practices Act.
3. The resident can report the owner's unlawful practice to the Texas Attorney General's Consumer Protection Division for potential prosecution by that office for consumer fraud.
4. The resident can seek criminal charges against the owner with the local county/district attorney for violation of Section 32.32 or Section 32.42 (b)(12) of the Texas Penal Code regarding false or misleading statements in connection with leasing real property. The owner and/or management company may be subject to criminal prosecution which can result in jail time and/or a significant monetary fine for violating either provision.
5. The Texas Apartment Association can file a lawsuit against the copyright violator. TAA has successfully prosecuted every copyright violation suit it has filed. The last federal copyright infringement suit brought by TAA resulted in a \$17,000 recovery against the violator.

Sincerely,

Sandy Hoy

General Counsel  
Texas Apartment Association

UNIFYING TEXAS RENTAL HOUSING PROFESSIONALS THROUGH EDUCATION, LEGISLATIVE ADVOCACY AND MEMBER SERVICES

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