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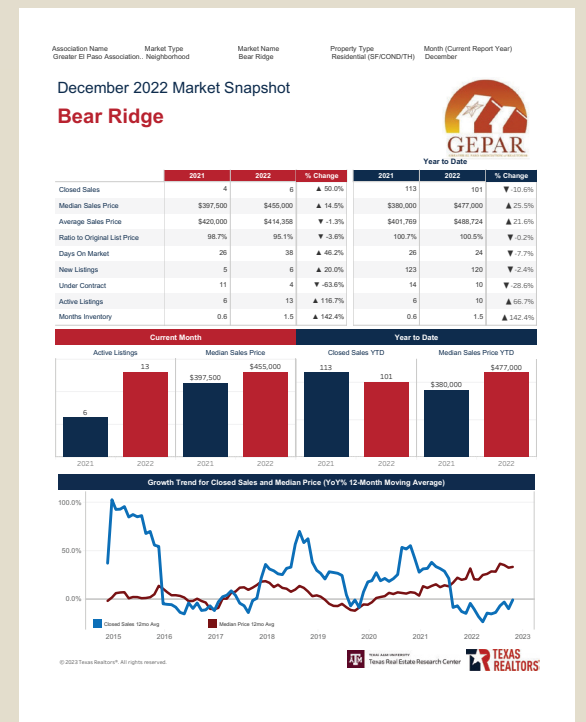
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CONTACT THE EDITORS
editor@texasrealtors.com
512-480-8200
P.O. Box 2246
Austin, TX 78768-2246

ADVERTISING SALES
Mohanna Sales Representatives
214-291-3648
texasrealtorsinfo@mohanna.com

Texas REALTOR® (ISSN 1068-1248) is published monthly except combined issues in January/February and September/October by Texas REALTORS®.

POSTMASTER
Send address changes to:
Texas REALTOR® magazine
Attention: Membership
P.O. Box 2246
Austin, TX 78768-2246

Periodicals Postage Paid at Austin, TX, and at additional mailing office. Annual dues of members of the association include \$5 for a one-year subscription to Texas REALTOR®. Annual subscription rate to others: \$25. Single copy rate to others: \$3.50. Office of publication: 1115 San Jacinto Blvd., #200, Austin, TX 78701-1906; mailing address: P.O. Box 2246, Austin, TX 78768-2246; phone: 512-480-8200; fax: 512-370-2390.

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by Joe Olivieri

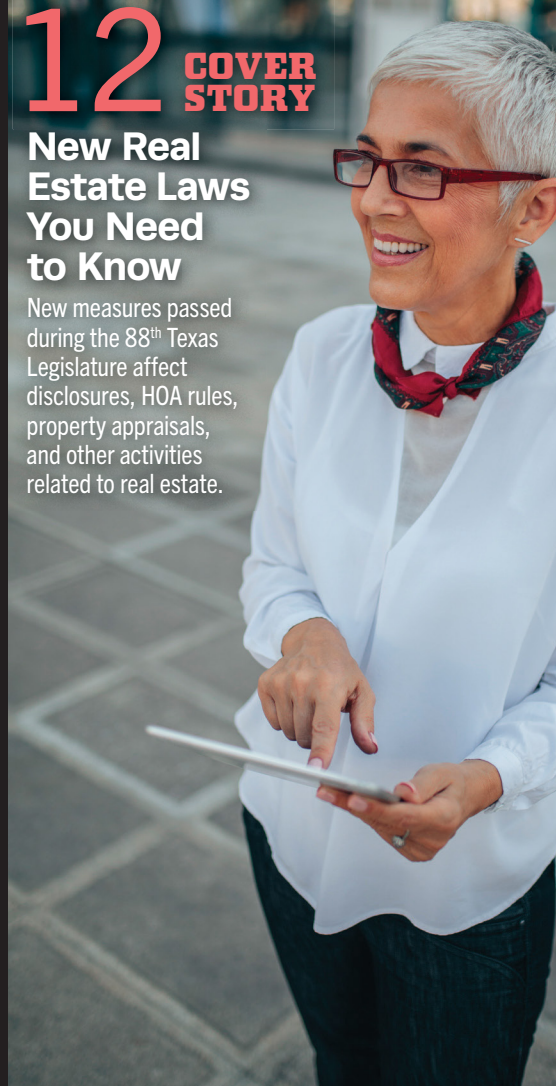
More homeowners are adding solar panels to their properties. While that can lower electricity costs, it often adds complexity to real estate transactions. Find out what buyers and sellers need to consider when solar is part of a residential real estate deal.



12 COVER STORY

New Real Estate Laws You Need to Know

New measures passed during the 88th Texas Legislature affect disclosures, HOA rules, property appraisals, and other activities related to real estate.



10 FEATURE

Property-Tax Relief

by Morgan O'Hanlon

What will the largest-ever legislative effort to rein in skyrocketing property taxes mean to property owners? Learn who will benefit, how the deal happened, and what steps remain before the savings can become a reality.





Chairman's message

WE'RE STILL AT THE TABLE!

As the old saying goes, "It ain't over 'til it's over." According to baseball lore, the great Yogi Berra said this about the 1973 National League pennant race. The same is true about the 88th Texas Legislature. With 140 days and two special sessions in the books, this iconic Legislature still has a long way to go. More on that in a moment. One thing you can be sure of is that Texas REALTORS® was there for the ceremonial first pitch, and we will be there for you until the final out of the final inning.

The governor, lieutenant governor, and speaker of the House (respectfully referred to as The Big Three) began the session with a top priority of passing historic property tax relief for Texans. They each had other priorities, too, but tax relief was the centerpiece of the entire session. Different approaches to the issue pitted the Senate against the House and put The Big Three at odds with each other all the way until July. Everyone wanted to provide tax relief for Texans; they just couldn't agree on how to do it. The Senate wanted to expand the homestead exemption, the House wanted to expand appraisal caps, and the governor expressed his desire to ultimately eliminate school maintenance and operations taxes entirely.

Thankfully, in early July the chambers agreed on an \$18 billion tax relief package and sent it to the governor's desk. Our members and staff were engaged with legislators of both chambers all the way through the process, providing expert witness testimony and valuable research and resources to help everyone work toward sustainable tax relief. It's because of the relationships we have nurtured over the years and our recognized status as advocates on all matters related to real estate that our voice was heard. Due in no small part to our involvement,

Texans will see significant relief in their property tax bills this October. (Read more about the details in the article on page 10.)

So why did I say this Legislature still has a long way to go? There are likely more special sessions to come this fall to take care of business that was pushed to the backburner while working on property taxes. The governor is expected to consider legislation about public improvement districts, property owners associations, and other matters related to real estate and real estate transactions. Many of these topics were in bills that passed during the regular session but were vetoed by the governor.

A huge thank you to all of you who participated in our public policy survey that helped shape our positions for the 88th Legislature. Look for this important survey in your inbox soon as we start the process again for the 89th Legislature in 2025. As with everything we do at Texas REALTORS®, it all starts with you, our members. And rest assured that we will stay involved on these and all issues important to you until the final gavel drops!

Marcus Phipps

“Due in no small part to our involvement, Texans will see significant relief in their property tax bills this October.”

INTERESTED IN VOLUNTEER LEADERSHIP BUT DON'T KNOW THE NEXT STEP?

by Leigh York



REALTORS® are generally helpers. Many of us want to serve our profession and have a lot to offer. Maybe that describes you but you just don't know how to start. Or maybe you're concerned about the "politics" of it all. I get that.

The Leadership Development Advisory Committee for Texas REALTORS® has a program that is just what you're looking for. The Texas REALTORS® Leadership Mentor Program gives volunteers at every level of the REALTOR® association the opportunity to get guidance from another REALTOR® who's had experience.

Mentors and mentees are matched for a three-month commitment with the expectation to meet for at least one hour each month. At the end of the commitment, most of our matches agree to continue the relationship. Mentees can expect mentors to help them establish a plan to meet or exceed their individual leadership goals.

It's important to note that mentors only advise on matters related to volunteer leadership within the REALTOR® associations and community. Mentors are not business coaches.

Mentees who have completed their initial three-month match say things like, "I feel more focused now," and "I realize that I do have what it takes! I can be of great value to my industry." My favorite mentee comment was from James Martin of the MetroTex Association of REALTORS®, who said, "I have a new best friend for life and a legitimate, obtainable path to meet my goals." James also said his mentor has been "exceptionally helpful by pointing out perspectives and details that I hadn't thought of previously."

James has gone on to serve as a mentor himself, and he isn't the only mentee who became a mentor. While you may need some guidance on getting involved with the National Association of REALTORS®, you may be able to help someone else understand the processes for being involved with Texas REALTORS®. You can do both!

This program brings out qualities central to being a REALTOR®. We like to help others. We share our knowledge. As our national ad campaign says, "That's Who We R."

LEIGH YORK is Chair of the Texas REALTORS® Leadership Development Advisory Committee.



If you're interested in matching with a mentor, please complete the online Guide to Association Involvement education modules and the information sheet offered after the last module. Learn more at texasrealestate.com/learntolead or scan the QR code with your phone.

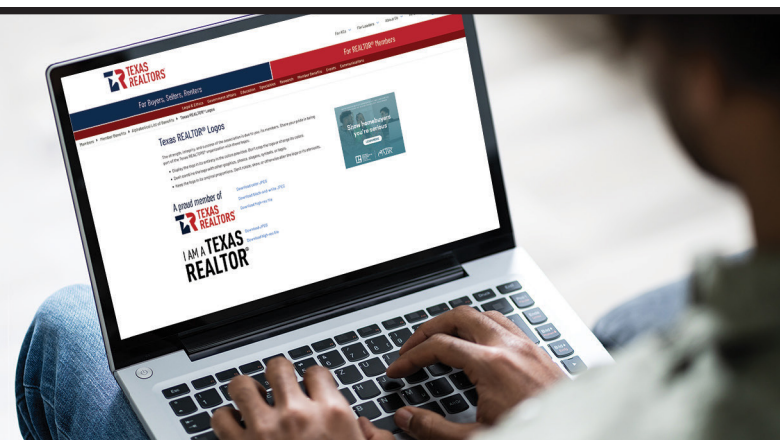


EASIER PROCESS FOR SOME MULTIFAMILY LOANS

In June, the Federal Housing Administration (FHA) increased the threshold for what is considered a large loan for multifamily real estate. The increase from \$75 million to \$120 million means more transactions will qualify to use standard, less-onerous underwriting processes when submitted for FHA multifamily insurance. This marks the first increase in the threshold since 2014. FHA now intends to review the threshold on an annual basis with increases in \$5 million increments when warranted. According to FHA, the changes are designed to simplify underwriting for multifamily housing development without presenting undue risk to FHA, and to provide for regular adjustments to the threshold so it does not lag behind the market.

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58 YEARS AND COUNTING

Longtime Dallas broker among Texas's first Black license holders.



Billie Scott is still repaying the favor. In 1964, Scott couldn't afford the closing costs on his first home; his agent helped pay the costs for him.

A few months after moving in, Scott learned his agent had cancer. "I went to see him and I told him, 'I will keep it going, Doug.' I wanted to help people get homes just like he helped me."

Scott got his real estate license in June 1965. In those days, there were very few Black licensed real estate agents in Texas. He remembers meeting only one or two other Black agents, and they had started after he did.

Scott faced challenges in his new profession. "I had a lot of problems trying to show properties because people didn't think I should be showing properties to Black clients," he says. "I told the sellers, 'Show it or take it off the market.'" Scott's pastor knew civil rights leader A. Maceo Smith, who worked at the Dallas HUD office, and at times Scott had to call Smith to advocate on his behalf.

Scott joined a new Century 21 franchise in Dallas in 1969 and began teaching new agents. Marketing to your sphere of influence, building a referral network, establishing rapport before asking for your clients' business—he was promoting these techniques decades ago. "I have always put my advertising out there. I told people at church and everywhere I went. I still do. I carry my cards and wear my buttons to let people know I'm a REALTOR®," he says.

In the late 1970s, he joined the Dallas chapter of the Texas Association of Real Estate Brokers. The Dallas chapter has been working for equal opportunities and civil rights for Black consumers, communities, and real estate professionals since 1957, and the state and national associations since 1947. Scott became a lifetime member and served in leadership roles, including Dallas board chairman. He loves building up future leaders.

Scott founded his own brokerage, Good Morning Real Estate, in 1990. He's concentrated on residential and investment sales throughout his career, but he's added commercial real estate work during the last 15 years. One of his latest projects is securing funding for a subdivision near Waxahachie.

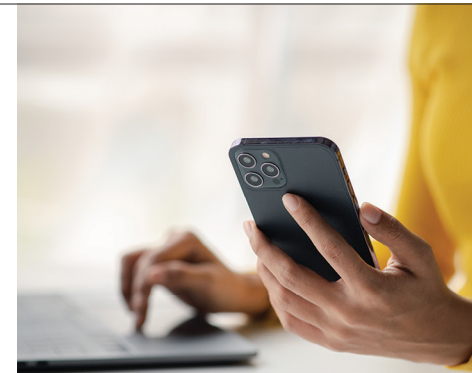
He co-wrote his memoirs, *The Billie Scott Story*, and hopes to write a sequel about what he's learned in real estate. "In my book, I write that you should never, never, never quit. And I hope to see you at the top."

People are at the center of his approach to real estate. He once told a friend he hasn't "sold" a property in 30 years. Rather, he coaches his clients to sell the property themselves. He's just there to help them through the process.

"I love real estate because I love people so much," he says. "I encourage people. You're building equity when you own your home. You can borrow against it to send your kids to college or if an emergency comes to you."

He says he's enjoyed every bit of his real estate career. He's still making deals and mentoring agents to this day. "Today, I only have three agents because I'm trying to cut down. I'm 88 years old. I tell them that REALTORS® don't retire. I'm going to do this until I die."

BUSINESS



WHICH TECH TOOLS BRING IN THE BEST LEADS?

Social media was the top tech tool to bring REALTORS® quality leads, according to last year's Technology Survey by the National Association of REALTORS®. Forty-six percent of respondents listed social media as a valuable tool, followed by local MLS at 30% and customer relationship management (CRM) systems at 26%. Listing-aggregator sites was at the bottom of the list, with 16% of REALTORS® citing it as a valuable way to get quality leads.

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ONE-QUARTER OF RECENT TEXAS HOMESSELLERS HAD LIVED IN THEIR HOMES FOR AT LEAST 16 YEARS.

With a median tenure of eight years in a home before selling, many people are staying put for a long period. That doesn't mean that marketing to recent seller clients is a waste of time. Satisfied clients are an excellent source of word-of-mouth advertising. If you don't stay top-of-mind with those people, though, they may forget to recommend you as the years go by. And homeowners with no immediate plans to buy a new primary residence may still want your services for second homes, investment properties, and other real estate needs.

Source: 2022 Profile of Texas Homebuyers and Sellers



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When it comes to legal costs, errors & omissions claims are comparatively small. Most are under \$50,000 and many are under \$25,000. Costs from auto liability claims, on the other hand, can reach several million dollars.

Agents and their brokers should have sufficient commercial auto coverage in case of accidents and related lawsuits, says John L. Mondics, president of Mondics Insurance Group, a Texas REALTORS® risk management partner. Here's why.

As an agent, you aren't automatically covered

While Texas requires drivers to carry auto liability insurance, that insurance may only cover your personal, off-the-clock driving (including commuting) and may not help with an on-the-job accident. Mondics recommends that agents tell their insurance providers that they use their personal vehicles for business. Business use can be added to some personal policies.

This matters because of a recent shift in what plaintiffs' attorneys are pursuing in Texas. Law firms have expanded their focus from semitrucks to equipment vehicles to any vehicle being used for business, Mondics says. If an agent is sued following an accident that happened while the agent was working, the plaintiff's attorney will likely try to bring the broker and others into the suit.

Brokers face exposure

Brokers may face liability when employees or independent contractors drive as part of their jobs. Brokers can purchase hired and non-owned auto insurance to cover some of this exposure. Typical policies cost roughly \$200 to

\$300 additional per year and offer additional coverage for defense costs and damages, Mondics says.

Brokers may also consider requiring agents to carry higher limits than the statutory minimum. "A half million or a million dollars of coverage does not cost that much more," he says.

Brokers can also manage risk by requiring annual proof of insurance from employees and independent contractors, according to the Insurance Information Institute. That way, brokers can know if an insurance policy is changed, cancelled, or not renewed.

One way to obtain proof of insurance is if agents name brokers as an additional interest on the policy. This informs the broker when changes in coverage are made to the policy. Brokers may also be able to be added to an agent's policy as an additional insured, which provides the broker additional coverage.

Brokers can also ask employees and agents to provide copies of their motor vehicle report or to sign authorization forms, which allows the brokerage to pull driving records from the Texas Department of Public Safety.

Brokers should determine what they consider an acceptable number of accidents and tickets for their employees and independent contractors. Knowing an agent's acceptable driving history reduces the risk of being surprised about that history by a plaintiff's attorney.

Defending yourself in a lawsuit is expensive, Mondics warns. Agents and brokers may have to pay out-of-pocket for any damages not covered by insurance. A properly structured auto liability program is only one component of a well-managed insurance program.



Your Forms

A landlord can use the *Notice of Abandonment* (TXR 2224) form when a tenant has not paid the rent on time and the landlord believes the tenant and all occupants have vacated the property. Paragraph 16.B.3 of the *Residential Lease* (TXR 2001) form and *Residential Lease for a Multi-Family Property Unit* (TXR 2011) form defines abandonment. A landlord may post the notice and give the tenant a deadline to confirm the tenant

has not abandoned the property. If the tenant does not respond in time, the notice details how the landlord may remove and dispose of any remaining personal property. The *Notice of Abandonment* form can be used with residential properties and is one of more than 150 forms exclusively available to members of Texas REALTORS®.

From the Hotline

FROM THE HOTLINE: DO AGENTS HAVE TO USE THEIR BROKERAGE FOR THEIR OWN PERSONAL TRANSACTIONS?

We've recently received calls from members wondering if they have to submit their personal transactions through their brokerage. Neither TREC nor Texas REALTORS® has any rules stating that members have to use their brokerage for their personal transactions. However, the brokerage may have its own policy that all transactions, including the personal transactions of its independent contractors, must be submitted and handled through the brokerage.

Members should check with their brokerage first to see if there is such a policy. It may also be found in the member's independent contractor agreement with their broker.

—Traci Jackson, Staff Attorney

800-873-9155

Do you need a written listing agreement to list a property on the MLS?

Yes, MLS rules require a written listing agreement in order for a property to be listed on the MLS.

A listing agreement would be required even when you are listing your own property. Remember to also check your brokerage policies, which may have specific rules regarding listing your personal transactions.



CAN I LIST A PROPERTY THAT'S NOT LOCATED IN TEXAS?



Maybe, but you must consider the licensing law of the other state, Texas licensing law, and the REALTOR® Code of Ethics to determine if the listing is allowed and appropriate.

First, you should contact the state's real estate regulatory body to determine the restrictions on practice in that state. All states have licensing laws or regulations that restrict or prohibit the practice of real estate by people not licensed in their state. For example, TREC rules interpret The Real Estate License Act to require that out-of-state brokers be licensed in Texas if they are conducting brokerage business from another state and the property is located wholly or partly in Texas. However, you can cooperate and share commissions with brokers licensed in other states as long as all negotiations within Texas borders,

including email and phone conversations, are handled by Texas license holders.

While your Texas real estate license permits you to practice real estate while you are physically located within Texas, regardless of the location of the property or your client's residence, Article 11 of the REALTOR® Code of Ethics states that a broker should not perform a service or handle a transaction for which he lacks the requisite knowledge or expertise. Therefore, even if you are permitted to list the property, it might be better to have a broker who's licensed in that state help you with the sale or handle the entire transaction through a referral if you aren't familiar with that state's laws, contracts, or closing procedures.

Fact or fiction?

For an arbitration hearing regarding a commission dispute, a party may appeal the hearing panel's decision only if the party believes the procedures used to process the case were flawed.

FACT. A party may appeal the decision only on the basis of being denied a full and fair hearing. A party cannot appeal based on the belief that the hearing panel came to the wrong decision.

Keep in mind that arbitration hearings often result in one side being awarded 100% of the money in dispute. Through informal dispute resolution—such as the Texas REALTORS® Ombudsman Program or mediation—the parties have an opportunity to share or split a disputed commission in a manner that is agreeable to both sides.





REINING IN TEXAS PROPERTY TAXES

The largest-ever legislative effort to rein in skyrocketing property taxes helps keep homeownership attainable and sustainable for Texans, with average savings projected at \$1,300 per year.

by Morgan O'Hanlon



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The Texas Legislature approved more than \$18 billion to rein in Texas property taxes. According to Sen. Paul Bettencourt, the lead author of the legislation, the average Texas homeowner under age 65 can expect about \$1,300 in tax savings per year because of this property tax reform. Those over 65 may see an average of about \$1,450 per year in savings.

“Texas REALTORS® appreciates that the compromise includes an increase in residence homestead exemptions to \$100,000 as prioritized by the lieutenant governor and Senate during the 88th regular session. We are also pleased to see thoughtful consideration given to the House’s concerns about the property tax burden on non-homestead properties, such as rental properties and small businesses,” said Texas REALTORS® 2023 Chair Marcus Phipps.

Texans’ property taxes are among the highest in the country. This summer’s landmark deal comes amid persistent affordability challenges around the state over the past several years.

The property tax reform will keep the American Dream of homeownership within reach and provide welcome savings to all property owners. Additionally, by increasing the minimum threshold

for franchise tax filers from \$1.25 million to \$2.5 million, this compromise plan will save money for 67,000 small businesses around the state.

As the leading advocate for private property rights and homeowners, Texas REALTORS® was proud to be part of the conversation on reining in property taxes. The association is also thankful to the many lawmakers who worked throughout the regular and special sessions to find a solution to this issue.

HOW WE GOT HERE

The tax deal came in early July, but this monumental reform has been brewing for almost a year. After many state lawmakers made promises to provide property tax relief during the 2022 elections, work began during the regular session of the Legislature in 2023 and continued through two special sessions. During this time, lawmakers debated the most equitable and effective methods of achieving tax relief for all Texas property owners.

During the regular session, lawmakers proposed numerous methods of achieving property tax reform. “Compression” had a consistent presence among the changing versions of various property tax bills. This is the process through which the state buys down taxes levied by local school districts—lessening the burden they place on property owners in their jurisdictions.

The final version of property tax reform that passed the Legislature a little over a week into the second-called special session of the 88th Texas Legislature balances the interests of homeowners (through the homestead exemption) and owners of other property types through the inclusion of compression (which benefits all property types) and the “circuit breaker program” (which benefits non-homestead properties).

NOT A DONE DEAL YET

With the legislation passed and signed by the governor, lawmakers have done their part to secure historic savings on property taxes. Now, Texans must do theirs. The tax proposals in the package require constitutional amendments, meaning that voters must approve property tax reform on their November ballots—yet another reason to turn out and cast your vote! ✪

MORGAN O'HANLON is Advocacy Communications Manager for Texas REALTORS®.

The Details of the Deal

Here's what's included in the \$18 billion plan to rein in property taxes:

\$100,000 homestead exemption (up from \$40,000).

\$2.5 million threshold for franchise-tax filers (up from \$1.25 million). This is the amount below which business do not have to pay franchise taxes. The bill also eliminates the requirement to file if no taxes are due.

\$12 billion to buy down local school tax rates

“Circuit breaker”—a pilot program to cap year-over-year appraisal-value increases at 20% for non-homestead properties valued under \$5 million.

You Still Have to Vote! These measures to rein in property taxes require amendments to the state constitution to raise the homestead exemption and create a new appraisal cap. Be sure to vote in the November election!



NEW REAL ESTATE LAWS YOU NEED TO KNOW

The Texas Legislature passed several bills that directly affect the way you do business.



Every Texas legislative session produces new laws related to real estate. Those measures may require you to use new or modified forms, change the way you operate, or affect the rights and obligations of parties to a transaction. Here are several bills passed during the 88th Texas Legislature that affect you and your clients.

Seller's Disclosure Notice to require info on gas piping

For contracts with effective dates on or after September 1, 2023, sellers must use an updated *Seller's Disclosure Notice* with a spot to note if the seller is aware whether the property has fuel gas piping and whether the seller is aware if the piping is made of black iron pipe, copper, or corrugated stainless steel tubing. Texas REALTORS® has updated its form, which is available for use through zipForm and other forms vendors who have licensed the Texas REALTORS® forms library.

Municipal Utility District (MUD) notice updates

Sellers were already required to provide potential buyers a notice when selling a property located in a MUD. A new law modifies the content that must be in the notice. Since this bill passed by at least two-thirds of the vote, it became effective immediately upon the governor's signature in June.

The revised notice separately lists the property tax and property assessments levied against the property for greater clarity.

The revision also lists the amounts of bonds that have been issued by the MUD categorized by the type of facility the bonds will be used for: water, sewer, and drainage facilities; road facilities; parks and recreational facilities; and other facilities. MUDs are required to start using the new format when providing the notice and were required to post the notice on their website as of the effective date, June 18, 2023.

TREC is considering creating a form that can be filled out with the information from the MUD. For now, sellers and agents will continue getting the form from the MUDs directly.

Note: There are no changes to the requirements for sellers to provide MUD notices to potential buyers.

Texas Real Estate Commission

The Texas Sunset Advisory Commission extended the sunset date for TREC to 2033. That is the periodic review every state agency goes through to eliminate duplication, waste, and inefficiency. Additionally, the Sunset Advisory Commission will conduct a special-purpose review of TREC for the 89th Legislature in 2025. The review is limited

A new law revises provisions relating to the improper use of assistance animals in order to deter future offenders from fraudulently exploiting this accommodation.

to required seller's disclosures and TREC's disclosure forms.

Other changes include the following:

- Beginning January 1, 2024, a business will be exempt from the business entity licensing requirement if the business entity:
 1. receives compensation on behalf of a broker or sales agent
 2. performs no other acts of a broker
 3. is an LLC or S Corp
 4. is registered with TREC
 5. is at least 51 % owned by the license holder on whose behalf the entity receives compensation.

This change takes effect January 1, 2024, and TREC is in the process of adopting rules and forms to allow for business entity registration.

- Currently, a person selling or offering to sell an option or assigning an interest in a contract to purchase real property—also known as wholesaling—must disclose to potential buyers the nature of the interest offered. If a person offers a property for sale when the person does not own the property, that person is engaged in brokerage and must be licensed to do so. A new law changes the disclosure requirement to include disclosure to sellers. These disclosures will now need to be made in writing. These changes take effect January 1, 2024.
- The existing exceptions for military spouses to obtain an occupational license, including a real estate license, is being extended to include military service members. This change takes effect September 1, 2023.
- TREC license-holder information will now be confidential. This includes home addresses, telephone numbers, email addresses, and other personal information. Previously, this information was available to the public through an open records request or on TREC's website. This change takes effect September 1, 2023.
- The fees brokers and sales agents pay with initial and renewal license applications for the Texas Real Estate Research Center have been clarified. Fees are for each year of the two-year term of the license.



PROPERTY MANAGEMENT



Justice court amounts

Justice courts currently allow citizens to sue for amounts up to \$20,000 and allow landlords and tenants to resolve disputes such as evictions and repairs. However, under current law, these residential rental disputes can only be settled for up to \$10,000. A new law raises the amount a justice court can award as judgment under Section 92.0563 (Tenant's Judicial Remedies), including an order of repair, to \$20,000, rather than \$10,000, excluding interest and costs of court. This effectively raises the maximum amount a justice court may award for residential rental disputes to \$20,000—on par with the existing amount people can sue one another for in justice court. Specifically, the \$20,000 judgment limit would apply to any judgment that provides remedy to a tenant, including orders that require a landlord to make repairs, orders that reduce the tenant's rent while repairs are ongoing, judgments against the landlord for damages, and court costs and attorney's fees incurred by the tenant. This law takes effect September 1, 2023.

Source of Funds

Recently, an HOA in Texas passed a rule prohibiting tenants who participate in the Housing Choice Voucher Program, also known as Section 8, from renting homes in that homeowners association. This rule disproportionately affected residents who were Black and female. Further, that rule directly went against the work the Legislature has done in creating processes for neighborhoods to remove discriminatory deed restrictions. A new law that goes into effect September 1, 2023, prohibits an HOA from prohibiting or restricting a property owner from renting to a person based on their

method of payment, including payment made in whole or in part by a housing choice voucher under Section 8 or any other federal, state, or local housing assistance, including rental vouchers, rental assistance, or rental subsidies from a nongovernmental organization.

Evictions

Evictions are covered under a new "pre-emption" law passed this session. Unless expressly authorized by another state statute, a municipality or county may not adopt, enforce, or maintain an ordinance, order, or rule regulating evictions or otherwise prohibiting, restricting, or delaying delivery of notice to vacate or filing a suit to recover possession of the premises under Chapter 24, Property Code. This law goes into effect September 1, 2023, and prohibits municipalities and counties from enacting their own regulations regarding these issues. At least one lawsuit has been filed to stop this law from taking effect. Texas REALTORS® staff is currently monitoring this legal action, as it may impact implementation of the law.

Service animals

There has been an increase in reports of people who are not disabled misrepresenting their dogs as service animals to obtain the benefits provided to individuals with disabilities. For example, some people have attempted to pass off their pets as service dogs to circumvent breed restrictions and avoid paying a pet deposit at their apartments. As a result, some businesses have become increasingly distrustful that an animal represented as a service dog is, in fact, a legitimate service animal.

A new law revises provisions

relating to the improper use of assistance animals in order to deter future offenders from fraudulently exploiting this accommodation.

Under the new law, a person commits an offense if intentionally or knowingly representing that an animal is an assistance animal or service animal when the animal is not specially trained or equipped to help a person with a disability. An offense is a misdemeanor punishable by a fine of not more than \$1,000 (previously \$300) and 30 hours of community service.

The bill also includes a provision that subjects a person who habitually abuses or neglects to feed or otherwise neglects to properly care for the person's service animal to seizure of the animal under the Health and Safety Code. This law takes effect September 1, 2023.

Commercial Property Management

Current law already permits a commercial landlord to terminate a lease—regardless of the lease term—if the commercial tenant used the premises for prostitution or trafficking.

A law that takes effect September 1, 2023, adds provisions related to massage businesses. The law specifies that a commercial tenant's right to possession terminates and the landlord has the right to recover possession—regardless of the terms of the lease—if the tenant is using the premises for operating, maintaining, or advertising a massage establishment without the required license or if the massage establishment was issued a citation, administrative penalty, civil penalty, or other civil or criminal sanction for violating a local ordinance that relates to operating a sexually oriented business.

A law that goes into effect January 1, 2024, requires homeowners associations to adopt an enforcement policy regarding levying fines.

- Currently, the education hours required to become a broker are specified in statute, which means any edits to the hours to address changes in the market or to modernize the education needs must be made by the Legislature. TREC will now have rule-making authority to make such changes.
- Real Estate Recovery Trust Account: TREC will now have rulemaking authority to set and collect fees to cover maintenance of the Real Estate Recovery Trust Account. The trust account was established to reimburse consumers who suffer damages caused by TREC license holders. This law also increases the statutory amounts for the trust account related to claims to account for inflation and increased claim costs. Those amounts had not been updated since 2003. They have been raised from \$50,000 to \$125,000 per claim; the cap per license holder has been raised from \$100,000 to \$250,000.

Fair housing/Discrimination

A bill known as the CROWN Act (Creating a Respectful and Open World for Natural Hair) establishes that the Texas Fair Housing Act prohibits discrimination on the basis of a person's hair texture or protective hairstyle commonly or historically associated with race. Protective hairstyle includes braids, locks, and twists. This law, which goes into effect September 1, 2023, also applies to employment practices.

Employment (brokerages and REALTOR® associations)

A new law requires all employers with one or more employees to post a notice to employees containing the contact information for reporting instances of workplace violence or suspicious activity to the Department of Public Safety. The notice must be posted in a conspicuous place in the workplace and in sufficient locations for all employees. Notices must be in English (and Spanish if an employer has Spanish-speaking employees), and include information on making anonymous complaints. While the new law is effective September 1, 2023, the notice is not required to be issued by the Texas Workforce Commission until March 1, 2024.

Additionally, the CROWN Act applies to all employers and prohibits discrimination on the basis of a person's hair texture or protective hairstyle commonly or historically associated with race. Protective hairstyle includes braids, locks, and twists. This law goes into effect September 1, 2023.

Homeowners Associations

A law that goes into effect January 1, 2024, requires homeowners associations to adopt an enforcement policy regarding levying fines. The policy must include:

- A list of each category of restrictive covenants for which fines may be assessed
- A schedule of fines for each category of violations
- Information about hearings before the board.

The policy must be posted on the HOA's website, or once per year the policy must be sent to owners by mail, email, or hand-delivery.

Another law related to HOAs provides the following requirements to file a homeowners association lien:

- The HOA must provide two monthly delinquency notices, the first by first-class mail, and the second by certified mail, return-receipt-requested, to the owner's last known address
- The HOA is prohibited from filing a lien before the 90th day after the date the second notice was sent. The new requirements do not apply to an owner protected by the Servicemembers Civil Relief Act, which has higher protections. That law helps servicemembers in the event that legal or financial transactions adversely affect their rights during military or uniformed service.

This law is effective September 1, 2023.

Real property records

To cut down on deed fraud, a new law expands the number of counties that may require a person to present a photo ID when filing a record. Now, a clerk in any county that allows electronic filing of documents in the real property records may ask for a photo ID and retain a copy of the ID.

Another law provides for the use of a remote ink notarization, which allows a person to remotely use a "wet ink" signature rather than an electronic signature.

Property tax appraisal process

Several new laws have the following provisions:

- Requires each central appraisal district (CAD) to maintain a publicly available and searchable internet database that provides information regarding protest hearings.
- Allows a property owner to choose to communicate via electronic means with a CAD.
- Expands the tax-liaison-officer role to assist property owners who have grievances with their appraisal district.
- Ownership of property that qualified for a designation as open-space land was considered to have changed when transferred to a deceased's owner's surviving family. The law required the surviving family to reapply for the exemption, and if they did not do so by the May 1 deadline, subjected them to a larger tax bill on the otherwise qualifying land for the year. Under one new law, the surviving spouse will no longer need to reapply for open-space valuation and, if the land otherwise qualifies for appraisal as open-space land,

the surviving spouse will be able to maintain the special appraisal on the property after the passing of the owner. Another new law provides for late application (past the May 1 deadline) for appraisal of land as qualified open-space land following death of the owner if filed by the surviving spouse or surviving child, the executor or administrator of the estate, or a fiduciary acting on behalf of the surviving spouse or surviving child of the deceased owner.

- A new law clarifies that in an appeal of an order of an appraisal review board (ARB) determining a property tax protest, or a motion involving an increase in the appraised value of property, the appraisal district has the burden of establishing the appraised value of the property by clear and convincing evidence if the appraised value of the property in the preceding year was determined at a trial on the merits.
- Allows a property owner to file a request for limited binding arbitration to compel the appraisal review board (ARB) or chief appraiser to comply with the hearing procedures adopted by the ARB.
- Entitles the surviving spouse of a person receiving a residence homestead property tax exemption for an individual 65 years of age or older who dies in a tax year to receive that exemption in the next tax year on the same property without applying for the exemption if certain conditions are met.
- Allows requests for binding arbitration in an appeal of an appraisal review board order to be filed directly with the comptroller as opposed to the CAD. This will help to alleviate the backlog in requests that are filed annually with each CAD.

Geothermal rights

A new law creates a new property right in geothermal energy and associated resources below the surface of land. TREC is considering potential contract changes to reflect this right. This law went into effect on June 18, 2023. ★



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A BRIGHT IDEA

While solar panels may bring savings to homeowners, they also can complicate real estate transactions.

by Joe Olivieri



Candy Cooke

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SOURCE: Department of Energy

Solar power is nothing new here in Texas. The state first offered a Renewable Energy Systems Property Tax Exemption back in 1981.

During the last 10 years, significant solar generation has been added through public and private installations. More than 18,000 megawatts (MW) of solar panels have come online—enough to power roughly 2.1 million homes, according to the Solar Energy Industries Association. A projected 40,000 additional MW may be installed in the next five years.

The more solar panels around the state, the more likely you'll encounter them in your real estate business. Your buyer and seller clients may have questions, and previous clients may contact you about real estate implications when considering installing an array. A transaction may include them. You will have to know what you're talking about or refer people to someone who does.

Candy Cooke is a certified general appraiser with Real Property Counselors in Round Rock. The two-time Texas REALTORS® Educator of the Year teaches the course Solar Panels and the Real Estate Transaction.

Cooke notes that solar panels can lower energy bills, sometimes by large amounts. Solar arrays with storage capacity can allow homeowners to keep some of the power they generate and not be fully dependent on energy providers. Solar-capable homes can present a unique marketing opportunity, since some consumers consider the fixtures desirable, Cooke says.

But solar power is not as simple as attaching a few panels to a roof and waiting for the savings to roll in. Your buyer clients should understand the full picture of the system they're considering. Your seller clients should know about potential hurdles when selling their property.

Helping buyer clients with solar

The first way you can help buyers who want a home with solar panels is to check your MLS. Some MLSs allow agents to search available properties with solar panels, Cooke says.

Cooke recommends that buyers get all of the information they can on a system before purchasing. "They need to know what it's going to cost. Are there any downsides the seller

knows about? Is there anything they need to be concerned about?"

Suggest that your buyer clients ask who owns the array. Panels can be bought and installed outright but are often leased or financed. Buyer clients should ask the seller about the terms of their solar array loan or lease and whether it is possible to take over a lease, Cooke adds. It might not be.

Buyers should also ask to see the contract that allows the homeowner to sell power to the energy grid. Each utility provider does things a little differently, and contracts are periodically renegotiated. If a buyer is counting on selling solar energy to the grid, it's important to make sure the utility company is willing and able to buy the energy. "Make sure those promises are locked in, and know what's being promised," Cooke advises.

Buyers who own their solar panels outright should also be aware of potential maintenance costs. Solar panels have long warranties and are often touted for their durability. "Solar panels are incredibly durable and require little to no maintenance over their productive lifetime, which can span 25 years or more," says clean-energy marketplace EnergySage. However, large hail can damage solar panels. Leased solar panels will be repaired and maintained by the leasing company.

Buyers should know that they'll need to remove and reattach the panels to complete any roof repairs, Cooke says.

Helping seller clients with solar

The first task for homeowners selling houses with solar panels is to gather all relevant documentation, such as the number of

Buyers should ask to see the contract that allows the homeowner to sell power to the energy grid. Each utility provider does things a little differently.

FUTURE EXPANSION?

Utility-scale solar panel installations are large solar arrays, often on the ground, that typically generate 1 to 5 megawatts. More than 72,000 MW of utility-scale solar capacity was under study in the Electric Reliability Council of Texas (ERCOT) region in 2020. "While it is unlikely all of these projects will get built, the recent uptick in solar interconnection requests may be due to declining technology costs and significant solar opportunities in West Texas," ERCOT says.

Here's the scope of installations being considered around the state:

26,011 MW - West Texas
17,888 MW - North Texas
17,086 MW - South Texas
5,567 MW - Coastal Texas
3,654 MW - the Panhandle
1,985 MW - Houston

For comparison, residential installations are much smaller. The average solar panel can produce about 250-400 watts of power. It would take about 27 panels to generate 1,000 kilowatt hours a month.

SOURCES: EnergySage, ERCOT

QUESTIONS FOR HOMEOWNERS CONSIDERING ADDING SOLAR

Does your house face the right direction?

“Everyone thinks we’re getting hours and hours of sunshine a day, but it doesn’t work like that when it comes to solar panels,” Cooke says. “Panels generate energy based on full sun exposure. You may only average six hours a day of that.”

Is anything blocking the panels? Are there any trees in the way? Weather and seasons matter when it comes to generating electricity using solar panels.

Is the roof a good fit for solar panels?

Is there enough flat space for the panels?

Battery or no battery? Storage capacity can increase an array’s cost by tens of thousands of dollars but allows homeowners the opportunity to keep some of the electricity they generate for use during less productive times. When Winter Storm Uri knocked out power in mid-February 2021, the only solar systems that provided emergency power were the ones with storage capacity, Cooke says.

Is this a good price? Advise your clients to shop around before choosing a solar provider. One salesman could offer an array for \$20,000, and another could offer the same array for \$50,000 to the same homeowner.

How large of an array is appropriate?

Bigger is not always better, Cooke explains. Solar panel systems should be purchased based on the home’s electrical usage. Experts can help your clients determine what is the most appropriate size of array for their home and situation.

WHAT IS OFF-GRID?

Off-grid commonly means the home is not attached to a public utility or power grid in any way. Any electricity the home needs is generated by solar power collected by the solar panels and often stored in batteries. This is sometimes paired with other off-grid strategies such as rain catchment or wind power. Most homes with solar panels are not fully off-grid; homeowners use solar to lower their energy bills by selling energy to utilities.

Sellers shouldn’t assume panels will increase property values. Panels that are leased are considered personal property and can’t be factored into appraisals.

panels, installation date, technology specifications, energy output, and contracts with energy providers. Appraisers can use an Appraisal Institute form, *Residential Green and Energy Efficient Addendum*, to document a solar array’s features.

Seller clients shouldn’t assume the panels will increase their property values, Cooke warns. If the panels are leased, they are considered personal property and can’t be factored into appraisals.

Appraisers have a tough time with solar panels, according to Cooke. Lenders want to know that if a borrower defaults, the lender can

sell the home to someone else and get their money back. That’s why lenders want to know the value of properties. Lenders may not be willing to loan money to cover costs associated with solar panels.

Cooke has seen situations such as a buyer being approved for a \$300,000 home but not for the \$40,000 solar array attached to it. Typically, the deal falls through unless the seller can pay off the solar lien at closing or, in some cases, dismantle the solar array.

Homebuyer opinions of solar panels run the gamut. “Some people are totally into solar energy, and others could care less,” Cooke says. Most consumers consider solar panels a perk but are unwilling to pay more for a house that includes them, she adds. Highlighting an array in your marketing will draw the most enthusiastic solar supporters.

Current owners considering adding future panels

Solar arrays are a good fit when the homes are well positioned to generate electricity and the buyers plan to stay in the home for a long time, Cooke explains. Solar energy is a long-term investment for homeowners.

Installing a 5 kW solar panel system in Texas averages \$13,600 but ranges from \$11,560 to \$15,640, according to EnergySage. The federal government offers a 30% investment tax credit that drops the average price to around \$9,520. It typically takes about a decade for a homeowner to pay back the initial investment of installing solar. A solar array can produce thousands of dollars in savings over a 20-year period.

EnergySage notes that many factors can influence the cost of an array: size, panel brand and quality, roof dimensions, and the installation company, among others.

Cooke encourages homeowners who are curious about solar panels to check the math to ensure the array is a good investment. “You calculate how long it takes to pay off by taking your total cost (purchase price, lien, or lease minus tax credits) and divide that by your projected annual savings.

tax credits) and divide that by your projected annual savings. That’s an estimate of how many years it will take to break even.

I had a client who did the math and discovered it would take 26 years to pay off. He wasn’t generating enough electricity and wasn’t saving enough money.”

Homeowners should not assume their solar panels will eliminate their electrical bills, Cooke says. In months with lots of full-sun exposure, homeowners can see significant savings. In months with less sunshine, they may see different results. “In the good months, sure. You’ll hear people say my bill was only \$5,” she says. It’s even possible to get credits if you generate more electricity than you use, says EnergySage.

Cooke advises agents to learn more. “Build up some networking and reach out to people you can talk to. Ask questions. Understand how it really works.” ★

JOE OLIVIERI is a business writer who has written for several publications, including Texas REALTOR®.

Homeowners should not assume their solar panels will eliminate their electrical bills.

SOLAR IN TEXAS

- 17,713 MW of utility-scale installed solar, as of July 2023
- 13,086 MW record for solar generation (June 25, 2023)
- Expected to generate 11% of Texas’s capacity in 2023
- Solar has generated 7.02% YTD (Jan-June 2023) or 14,326 MWh
- 1 megawatt of electricity can power about 200 homes during peak demand
- Peak electrical demand for the state: 80,828 MW on June 27

SOURCE: Electric Reliability Council of Texas (ERCOT)

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THE VALUE OF HOME INSPECTIONS

Good news: A seller has accepted your offer, and you're one step closer to owning your dream home. You've now entered the option period, your time to scrutinize the property—and cancel the transaction if you choose.

This is the time to consider hiring an inspector to take a closer look at what you're buying. Here's why:



INSPECTORS ARE THOROUGH

Inspectors must take extensive training to be licensed in Texas. They follow strict rules and are required to use the *Property Inspection Report Form* promulgated by the Texas Real Estate Commission. Though there are some limitations to what inspectors can evaluate, they will assess the home's structure, electrical systems, AC and heating, plumbing, appliances, and many other aspects.



INSPECTORS FIND THINGS YOU MIGHT OVERLOOK

Inspectors will always find issues, even in brand-new construction. But at least you know about the problems and can choose how you want to deal with them.

For certain deficiencies an inspector discovers, you may want to hire a specialist such as a structural engineer, plumber, or electrician to further evaluate the condition.



INSPECTIONS HELP YOU MAKE DECISIONS

If the inspection uncovers big surprises, you may want to ask the seller to make repairs or lower the sales price. The seller may agree or refuse—or continue to negotiate. If things aren't going the way you want, you could decide to walk away—if the option period hasn't expired.



THERE'S SOMETHING WORSE THAN FINDING PROBLEMS

No one likes it when an inspector finds deficiencies in a home. As a buyer, you want a home in the best condition possible. Sellers also don't like news of problems with the home. But everyone benefits from this knowledge. An inspection reduces the likelihood of surprises down the road. A happy and informed buyer is less likely to complain or sue the seller after the sale.



Ask your REALTOR® if you have questions about home inspections, the termination option, or other parts of your real estate transaction. Your REALTOR® can help you sort through your options so you can achieve your real estate dreams.

TAKE 5

AGENTS AND APPRAISERS—A WINNING COMBINATION

Appraisals don't have to be stressful or even mysterious. You can talk with appraisers—that's allowed!—to make the process easier.

Here's what you can do to ensure an appraiser reaches an accurate property value.



SHARE RELEVANT INFORMATION...

There's plenty of data and insight you can give an appraiser. Documents such as executed contracts, property surveys, lists of home improvements, and blueprints are very useful. Appraisers could also benefit from what you know about the transaction (multiple offers, previously viewed properties) and the local market (neighborhood information, off-market sales).

...BUT DON'T TRY TO INFLUENCE THE APPRAISAL

Appraisers are impartial third parties hired by lenders to determine market value. Do not suggest or ask them to land on a certain number. Don't try to steer them in any way; give them space to do their job. Appraisers will likely ignore any attempts to influence them to arrive at a particular value, but such actions could also cause them to walk off the job.

BE PATIENT

Appraisers are trying to produce high-quality work despite busy schedules. They appreciate your patience and understanding.

ASK QUESTIONS

Appraisers can discuss relevant information about the property with you, too. What they tell you can help you better plan for the closing and set client expectations. You can ask about estimated timelines and potential delays. You can also ask questions if you aren't clear on some aspect of the appraisal process. Most appraisers would be happy to help agents better understand their work. Be aware that after the appraisal has been turned in, you can only speak with the lender.

TAKE CLASSES

Texas REALTORS® offers courses for agents and brokers that explain the appraisal process. Visit texasrealestate.com/findacourse to see upcoming sessions.

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