

# TEXAS REALTOR®

Succeed in Texas Real Estate

December 2018

A man in a dark suit and white shirt is seen from behind, looking up at a large, ornate, white dome with intricate architectural details. The dome is illuminated from above, creating a bright, airy atmosphere. The man's hands are on his hips, and he appears to be in a state of contemplation or admiration.

## LOOKING AHEAD

TO THE 86<sup>TH</sup> TEXAS LEGISLATURE p.18

How to handle  
requests for  
assistance  
animals p. 22

Are you like other REALTORS®? p. 16 ■ BUILD TRUST IN YOUR BROKERAGE p. 28



My  
Why?

I see my goals as inevitable triumphs. Because, like the diehard agents at RE/MAX, I don't let anything stand in my way. Not setbacks. Not surprises. Not even myself. This is my tribe.

Why RE/MAX? The culture is my why.



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## **OFFICE DEPOT/OFFICEMAX**

Save up to 60% on office supplies, printing, and more at Office Depot and Office Max. This discount is available in stores and online.

Get started with the program by ordering your discount card or setting up an online shopping account at [texasrealestate.com/officedepot](http://texasrealestate.com/officedepot).

Find out more at [texasrealestate.com/benefits](http://texasrealestate.com/benefits)

# 84%

of Americans\*  
see homeownership as  
**GOOD**  
investment



TREPAC.com

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TREPAC helps protect that investment.

Give thanks for your TREPAC family.

## TEXAS REALTOR

December 2018-Volume 71-Number 1

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\* <https://www.nar.realtor/newsroom/84-percent-of-americans-see-homeownership-as-good-investment-affordability-a-growing-concern>

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by Chalisa Warren

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by Jaime Lee

Here are a few issues we expect to be considered at the Texas Capitol in 2019.



COVER: STLJB, Seleckstock/Shutterstock.com

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# INSIGHTS



## Chairman

“ Some of you may know that one of my favorite activities is researching my family’s genealogy.

I’ve visited almost every cemetery I’ve ever driven past to search for clues that add another piece to my family’s puzzle. I’ve learned my 3<sup>rd</sup> great-grandfather came here with Stephen F. Austin in the late 1820s and owned property right next him. And I wasn’t surprised when I learned I wasn’t the first family member drawn to the real estate business.

My relatives faced different challenges in their real estate business in 1879 than I do now. But even 139 years later, one thing about the industry hasn’t changed: Success in the business is based on having strong relationships.

Relationships with clients are obviously important, but it extends to other parties in your transactions, professionals at ancillary service providers, and especially between REALTORS®. In fact, the relationships between REALTORS® is so strong that many of us say we are part of the REALTOR® family.

Unlike your genetic family, the REALTOR® family is one we are choosing to be a part of. But like all families, we reap the most joy when we are engaged with each other, open and understanding, and showing up when it matters. These are things I’ve watched members like you do throughout the past year. Your passion is inspiring to me, and helped keep me going as I served as your 2018 chairman.

As I reflect on my time as chairman, I am in awe of the incredible accomplishments among our membership. We’ve set new records for TREPAC investment and participation (see page 7). We’ve elected REALTOR®-friendly candidates to office (see page 6). We’ve launched an exciting new brand initiative (see page 6). Members have been

recognized at the local, state, and national levels for their work. And these examples are the tip of the iceberg.

Watching your successes makes me so grateful and honored to have had the chance to serve as your chairman. And as I pass the baton on to Tray Bates, I am excited to see the achievements in store for 2019.

I will continue to make that choice to be a part of the REALTOR® family. I am going to stay engaged and show up, and I hope you will make plans to join me; the association will be strong and effective only if you do.

Thank you for giving me the opportunity to be your chairman. As generations of future members of our REALTOR® family look back on this time, they may see the different challenges we faced, but I know they’ll relate to the constant in our business: The power of building strong relationships.

UNLIKE YOUR GENETIC FAMILY, THE REALTOR® FAMILY IS ONE WE ARE CHOOSING TO BE A PART OF. BUT LIKE ALL FAMILIES, WE REAP THE MOST JOY WHEN WE ARE ENGAGED WITH EACH OTHER, OPEN AND UNDERSTANDING, AND SHOWING UP WHEN IT MATTERS.

## NEW DATA AVAILABLE IN THIS MEMBERS-ONLY TOOL



MarketViewer, the powerful data tool exclusively for Texas REALTORS® at [texasrealestate.com/marketviewer](https://texasrealestate.com/marketviewer), now includes stats from the third quarter of 2018. Through MarketViewer, you have instant access to market data across thousands of geographies in Texas; it's brought to you through a partnership between your

state association and MLSs across Texas. New to MarketViewer? Here's a quick-start guide:

- Visit [texasrealestate.com/marketviewer](https://texasrealestate.com/marketviewer).
- Log in with your [texasrealestate.com](https://texasrealestate.com) password.
- Under Market Selector on the left side of the dashboard, choose your local association from the first dropdown menu.
- Choose the market type you want to view from the second dropdown menu.
- Choose the individual market from the options in the third dropdown menu.
- If you want to view data from previous months, use the Choose Month option. Uncover additional information by placing your cursor over each individual piece of data (on tablets, tap the data).

Find more MarketViewer features by clicking Menu in the top-left corner of the dashboard:

- Comprehensive market reports
- Apartment stats
- New construction data
- Mortgage rate history
- Infographic generator.



NORMAN SPENCER



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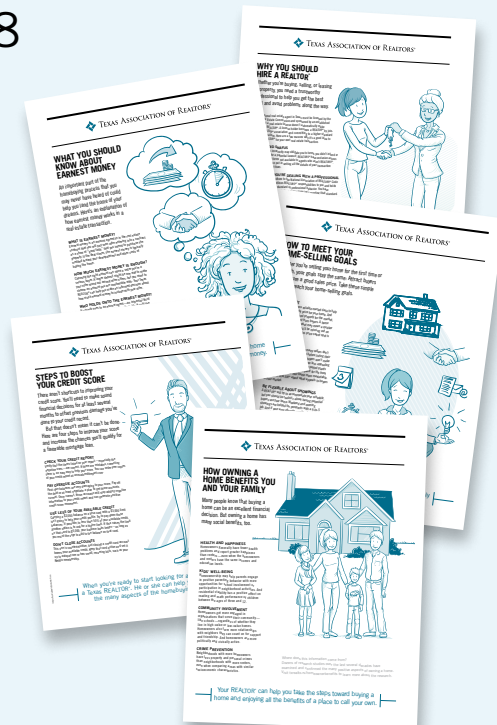
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## TURN TO PAGE 28

The monthly Share This column in each issue of the magazine is designed as a one-page flier you can share, reproduce, or distribute to clients and prospects to supplement your marketing efforts. Every month, the column features a different topic related to purchasing or owning property in Texas from the viewpoint of a consumer.

Not only can you copy the current month's flier on page 28, but there's an archive of Share This columns available for you. Download all the fliers and keep them on hand to answer consumer questions or share them through social media, newsletters, or on your website as part of your content marketing.

Visit [texasrealestate.com/sharethis](https://texasrealestate.com/sharethis) to view all the Share This columns that have been published so far.



## Write for us!

We welcome article queries from members and industry experts offering actionable advice for Texas REALTORS®.

## Ready to submit your pitch?

Email [editor@texasrealtors.com](mailto:editor@texasrealtors.com) with a brief explanation of your article idea and why it's a good fit for our readers.

## HAD AN IMPRESSIVE COMMERCIAL TRANSACTION THIS YEAR?



The association is now accepting applications for the 2018 William C. Jennings Award at [texasrealestate.com/awards](http://texasrealestate.com/awards).

The William C. Jennings Award is given annually by the Texas REALTORS® Commercial Committee to recognize an outstanding commercial transaction that represents excellence in both real estate practice and contribution to the community. The award seeks to honor real estate professionals whose work benefits clients and improves the quality of life and economic development of the market in which they work.

The contest is open to all Texas REALTORS® who are actively engaged in commercial brokerage. To be eligible for the award, transactions must have closed no earlier than December 1, 2017, and no later than November 30, 2018. All entries must be received at the Texas REALTORS® office no later than 5 p.m. on January 11, 2019.

The award winner's local association will receive a \$1,000 grant. The winning entry will also be featured in *Texas REALTOR*® magazine and nominated for a National Commercial Award from NAR.

Find more information about criteria and the application by clicking on the William C. Jennings Award link at [texasrealestate.com/awards](http://texasrealestate.com/awards).

## ELECTION DAY SUCCESS FOR TEXAS REALTORS®

In the midst of record-level voter turnout in Texas, TREPAC- and RPAC-supported candidates had great success on Election Day: 89% of REALTOR®-supported candidates—from both political parties—won their state or federal races.

- 35 Texas seats in the U.S. House of Representatives
- 13 Texas senators
- 134 members of the Texas House of Representatives

Texas REALTORS® looks forward to working with these new and returning lawmakers to pass legislation that protects private-property rights and the real estate industry.



## UPDATED BRANDING BRINGS NEW NAME, NEW LOGO

To better align the state association with those it represents, the Texas Association of REALTORS® is updating its brand. Part of that refreshed brand will be a name change from the Texas Association of REALTORS® to Texas REALTORS®. The last time the association made changes to branding was 1996.

The updated branding comes after extensive research and feedback, including input from an advisory group of 12 Texas REALTORS® from across the state. The research also included more than 6,600 responses to member surveys and lengthy one-on-one interviews with members and staff.

In addition to a new logo (shown at left), the refreshed brand relies on messaging that emphasizes the association's position as a leader in all aspects of real estate, and an association that is committed to its members' success.

Look for association materials to reflect the new brand in 2019 as printed and digital materials get updated.



## HIGH FIVE FOR TREPAC



TREPAC/The Texas Association of REALTORS® Political Action Committee had an incredible 2018 fundraising year, raising an unprecedented **\$5.4 million** with 50% of Texas REALTORS® participating.

This the largest amount TREPAC has ever raised in a single year, and it's all thanks to you.

TREPAC funds are distributed to candidates who are vetted by Texas REALTORS® and supported for their support of private-property rights and the real estate industry.

### REALTOR® safety

Nearly half of REALTORS® use a smartphone safety app to track their whereabouts and alert others in case of an emergency, according to the *2018 Member Safety Report* published by NAR. The most commonly used smartphone apps referenced by respondents were:

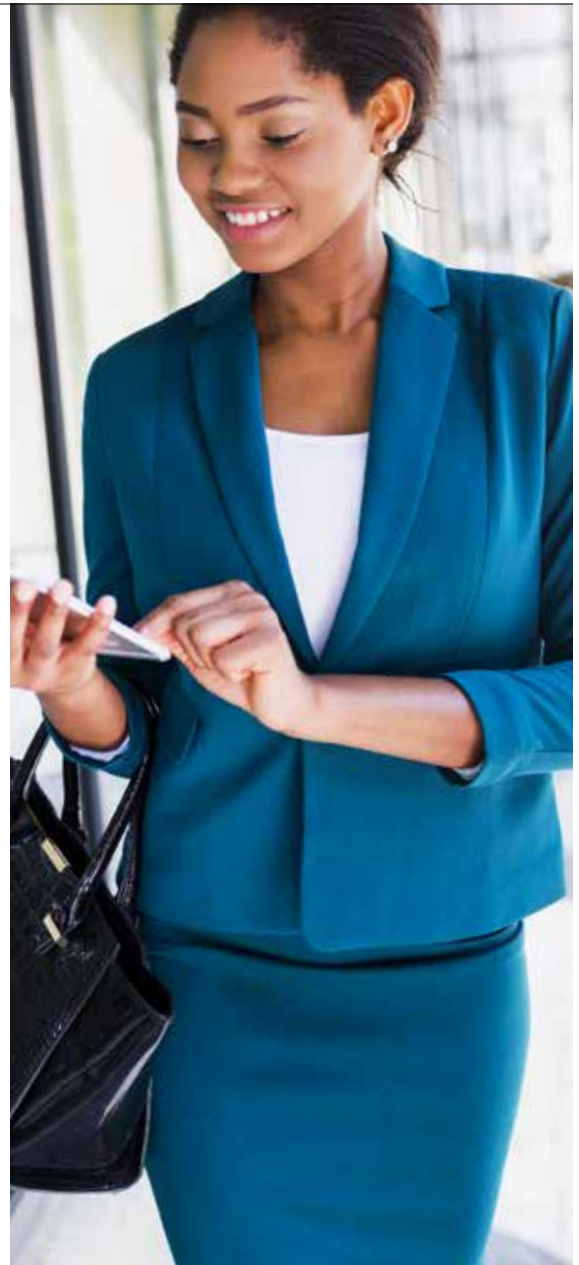
- Find My iPhone feature
- GPS Phone Track for Android
- HomeSnap Pro
- Life360
- SentiSmart

Apps and online tools can help increase your sense of safety on the job, but there are some low-tech solutions you should consider, too.

**Have a safety notification procedure.** Make it a routine to notify a colleague, spouse, friend, or family member of your location before showing a home.

**Meet prospective clients at a neutral location.** Your first meeting with someone should never be at a showing. Meet at your office or a public location where you have options in case the situation gets uncomfortable.

**Take advantage of free safety information.** NAR has developed materials for brokerages and members to use to learn how to stay safe at work. Go to [nar.realtor/safety](http://nar.realtor/safety) for webinars, articles, and planning resources.



Photos & Images: Shutterstock.com

### THE ASSOCIATION'S PREVIOUS LOGOS



1920



1963



1969



1996

# BUSINESS

## Commercial

### WHAT IS A RETAIL GAP ANALYSIS?



If you want success with retail clients, you need to understand supply and demand conditions for the markets those retailers are interested in. This type of research is typically referred to as a *retail gap analysis*, and it's easy to do with RPR Commercial.

#### What can a client learn from the RPR retail gap analysis report?

A report includes the Leakage/Surplus Factor, which presents a snapshot of the opportunity for each sector. This factor measures the relationship between supply and demand and ranges from +100 (total leakage) to -100 (total surplus). This factor is a result of Esri (geographic information system software) examining the dollar value of consumer expenditures made by local area residents to determine demand and then measuring the retail sales of the businesses in that same area to measure supply.

A positive value represents "leakage" of opportunity to retailers outside the area. A negative value represents a surplus of retail sales, indicating a market where customers are drawn in from outside the area.

Gaps are created when retailers are not meeting the demand of consumers based on attributes such as price or product service or quality. Another issue for a gap may be that there aren't enough retailers in the area to meet the overall demand from the community.

#### Closing the gaps

As a commercial practitioner, your job is to guide clients and attract retailers to fill those gaps across the communities you serve. Just knowing where the leakages are isn't enough.

Once you have identified areas and sectors with opportunities, you need to ascertain whether current retailers can meet the demands of potential consumers in the area.

For example, if there are discount stores currently serving clients in an area transitioning to a more affluent consumer base, are these stores sustainable? Or will the gap grow? If a retailer says it caters to young, educated adults with high disposable income, can a community maintain the longevity of this targeted client base?

The quickest way to do an assessment for these types of questions is to create the geographical boundary that holds the consumer base and run a custom Trade Area Report in RPR. This report combines economic, demographic, tapestry segments, and even the retail gap analysis providing the insights to support your clients' decisions to lease to a potential tenant, invest in a property, or operate out of a space.

Visit [narrpr.com/commercial](http://narrpr.com/commercial) to learn more about how RPR, a members-only benefit, can help your commercial real estate business thrive.

## TDHCA GETS \$12 MILLION SYNDICATED LOAN TO FUND LOW- AND MODERATE-INCOME HOMEOWNERSHIP

The Texas Department of Housing and Community Affairs recently entered into a \$12 million syndicated loan agreement with Woodforest National Bank, Tolleson Private Bank, and Hancock Whitney.

"Through this syndicated loan, the TDHCA will be able to make homeownership possible for over 2,000 new first-time homebuyers," says Woodforest National Bank Executive Vice President Doug Schaeffer.

"The lower rate on the \$12 million loan to the TDHCA will enable over \$350 million of lower-income first mortgages to be originated.

These more affordable mortgages alleviate a portion of homeownership cost burden and create substantial economic impact in communities," Schaeffer says.

These funds are in addition to the 2016 \$10 million loan agreement with Woodforest National Bank that helped create over 1,500 new homeowners throughout Texas. It was the first public-private partnership in single-family housing finance.

Learn more about TDHCA's programs at [myfirsttexas.com](http://myfirsttexas.com).

## WHAT'S YOUR DATA BREACH PLAN?

**\$3.86 million**  
AVERAGE COST  
OF A DATA  
BREACH

according to the *2018 Cost of a Data Breach Study: Global Overview* published by the Ponemon Institute.



**145,927,550**  
NUMBER OF  
RECORDS  
COMPROMISED  
IN 2017

due to employee negligence or error, according to the *2017 Annual Data Breach Year-End Review* from the Identity Theft Resource Center.



When it comes to the fallout from a data breach, the stakes are high. Knowing what to do as soon as a breach occurs can help you prevent bigger losses. Experian recently released its *Data Breach Response Guide*, which covers how to create a data breach response plan and who should be part of a response team. Your plan should be created and tested well before a breach occurs.

Some of the report's suggestions include having procedures for communicating with regulatory entities, auditing and testing your plan, and a checklist of what to do in the first 24 hours after a breach. Download the 28-page free guide at [experian.com/data-breach/2018-2019-data-breach-response-guide.html](http://experian.com/data-breach/2018-2019-data-breach-response-guide.html).



## REALTORS® AND HEALTH INSURANCE



The National Association of REALTORS® in July surveyed a random sample of its membership about their current health insurance, resulting in 16,950 completed surveys. Below are survey highlights.

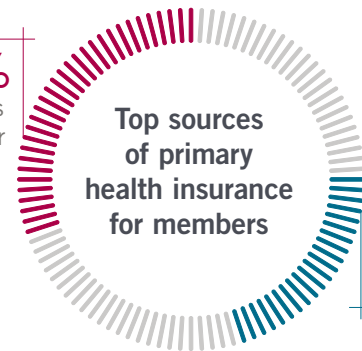
**86%** of REALTORS® have health insurance

**62%** of those who do not have health insurance cite high cost as the reason

**45%** indicate that their plan covers to a degree everything they want

**53%** pay the entire premium of their coverage

**28%**  
Spouse's employer



**22%**  
Medicare

Your Texas REALTORS® membership includes a prescription discount card. Download yours at [texasrealestate.com/rx](http://texasrealestate.com/rx).

Source: 2018 NAR Health Insurance Survey

## RENTERS: WHAT'S HOLDING YOU BACK?

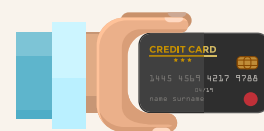
Three myths may be preventing some renters from buying homes. Here are the percentages of renters who believe the following statements:



**I have to make a 20% downpayment:**  
**49%**



**I must get private mortgage insurance if I don't put 20% down:**  
**43%**



**I need perfect credit:**  
**24%**

Source: Bank of America's 2018 Homebuyer Insights Report



## WANT A SHORTER WORK COMMUTE? MOVE TO LUBBOCK, CORPUS CHRISTI, OR TYLER

These three cities have the shortest average travel times in Texas, according to the website HomeArea.com, which creates housing data reports using census data.



Lubbock's average commute is about 16 minutes long, while Corpus Christi's is 19 minutes, and Tyler's is about 20 minutes.

Using data from the U.S. Census Bureau's American Community Survey, the website analyzed information for all the cities in Texas with a population of 60,000 or more to estimate the travel time to work.

The worst average commute is in Grand Prairie, at 30 minutes. But Garland, Dallas, Houston, Plano, Arlington, and Fort Worth all take 27 minutes or more.

It takes between 20 and 25 minutes for commutes in Laredo, Brownsville, El Paso, Irving, and San Antonio. (Austin's commute comes in at 24.9 minutes.)

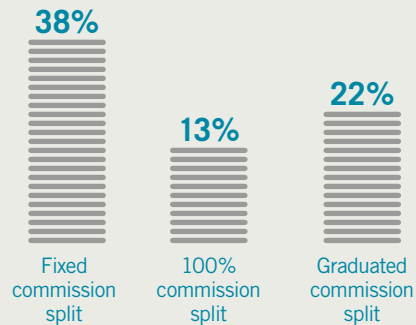
## MOST REALTORS® AREN'T ON A TEAM

Twenty-six percent of respondents to NAR's 2018 Teams Survey are members of a team. Fifty-eight percent of respondents have not considered joining or starting a real estate team. Here are a few other stats about teams from the report.

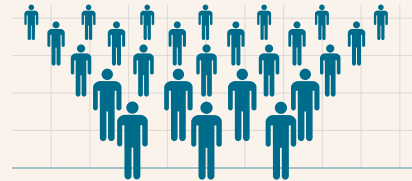
Median number of people on a real estate team  4

88% reported their primary function within the team is acting as an agent

Most common compensation arrangements for a real estate team



## TEXAS EMPLOYMENT GROWING



The Federal Reserve Bank of Dallas Texas Employment Forecast suggests jobs will grow 2.7% this year. Based on the October 19 forecast, 336,300 jobs will be added in the state this year, and employment in December 2018 will be 12.7 million.

The Texas Employment Forecast estimates job growth for the calendar year and is calculated as the 12-month change in payroll employment from December to December.

"Monthly job growth has been volatile over the past few months with a weakening in July, a sharp bounceback in August, and then a slowing in September," says Keith R. Phillips, Dallas Fed assistant vice president and senior economist. "Looking at the past three months, job growth was 2.4%—moderately slower than the 3.1% in the first half of the year. Job growth has been broad-based across metro areas with particular strength in Houston, which has grown at an annual rate of 3.9% over the past three months and 3.6% so far this year."

## TRY THIS NEW TOOL TO TRACK PRICE APPRECIATION

You and your clients have a new way to track home price appreciation across the state's four major metros and some smaller areas thanks to a research agreement between Texas REALTORS® and the Real Estate Center at Texas A&M University.

The Texas Home Price Index (THPI) analyzes repeat sales—the change in sales price from multiple sales of the same house—using an improved and expanded sales database that's updated quarterly.

When examining the price growth of existing housing stock, this type of analysis has a number of advantages over other statistics, such as median price, which can be influenced

by changes in the mix of property types being sold. And thanks to the partnership with Texas REALTORS®, the THPI is not limited by mortgage data or public housing records.

The THPI includes Amarillo, Austin-Round Rock, Dallas-Fort Worth-Arlington, El Paso, Houston-The Woodlands-Sugar Land, and San Antonio-New Braunfels. Dallas-Plano-Irving and Fort Worth-Arlington are also available as variations.

Additional indexes for lower, middle, and higher price ranges are available for Austin, Dallas-Fort Worth, and Houston.

You can access the THPI at [recenter.tamu.edu/data/home-price-index](http://recenter.tamu.edu/data/home-price-index).

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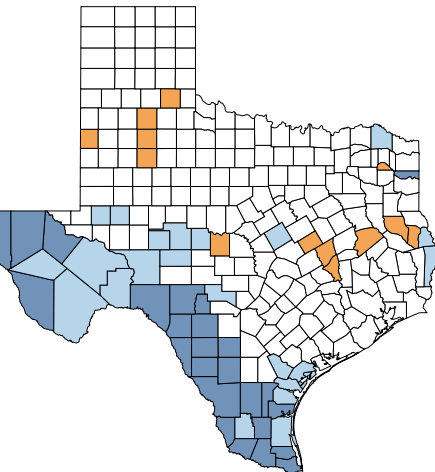
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Photo & Images: Mascha Tase, Artur Hirsman, flicker/Shutterstock.com

V  
high-  
more

## FANNIE MAE OFFERING APPRAISAL WAIVERS IN RURAL MARKETS



Counties having colonia(s)  
Counties having colonia(s) and Persistent Poverty Counties  
Persistent Poverty Counties  
at a High-Needs County

certain home purchases in rural high-needs areas, Fannie Mae will waive the appraisal change for a mandatory home property inspection. These waivers are intended to reduce costs for low- to moderate-income borrowers by helping them avoid unanticipated post-purchase repairs.

The Duty to Serve Underserved Markets rule defines which properties lie in high-needs areas—about 50 Texas counties are currently identified as such.

To be eligible for an appraisal waiver, the following requirements must be met:

- It's only for purchase transactions.
- The loan casefile must be deemed approved/eligible through Fannie Mae's Desktop Underwriter system.
- The property must be a one-unit principal residence property (excluding manufactured homes).
- Borrowers must have income equal to or less than 100% of the area median income.
- The loan to value ratio is no greater than 97%. The combined loan to value ratio for a Community Seconds mortgage is no greater than 105%.

Visit [fanniemae.com/content/fact\\_sheet/rural-high-needs-appraisal-waiver-fact-sheet.pdf](https://www.fanniemae.com/content/fact_sheet/rural-high-needs-appraisal-waiver-fact-sheet.pdf) for more information.

# 72% of millennials consider owning a home a top priority.

When first-time homebuyers plan to purchase

38% within next 2 years

36% in 3 to 5 years

Millennials are those born between 1981 and 1996, according to the Pew Research Center.

More millennials consider homeownership a priority than other major life goals such as getting married (50%), having children (44%), or traveling the world (61%), according to a recent survey by Bank of America. About half of survey respondents said that the idea of buying a home made them feel like an adult. The only priority on the survey to receive a higher percentage of responses was the ability to retire (80%).

What do first-time buyers want in a home? According to the same survey, they are equally split over buying a starter home vs. a forever home. Likewise, equal shares of first-timers prefer more square footage or a larger yard. Given a choice between a home with a garage and one with an extra bedroom, about two-thirds would go for the garage. And two-thirds also think a home with a modern layout is more desirable than a home with “good bones.” Nine of 10 respondents said they would like to buy a home in their preferred neighborhood rather than pay less for a home in a less-desirable spot.



# LEGAL & ETHICS



## WHEN A OF ETHIC COMPLA BE ANON

When someone has a dispute with a REALTOR® and believes there's been a violation of the Code of Ethics, Texas REALTORS® provides a few options to address the problem. One option allows members of the public and other REALTORS® to file an anonymous ethics complaint for the following types of Code of Ethics violations:

### Article 3

- Failure to disclose existence of dual or variable rate commission.
- Failure to disclose existence of accepted offers to any broker seeking cooperation.

### Article 4

- Failure to disclose REALTOR® interest in property being bought or sold.

### Article 5

- Providing professional service without disclosing interest in property

- Failure to disclose professional status in advertising and other representations.
- Failure to disclose compensation from third party for services provided free to a client.
- Advertisement offering to sell or lease property without authority of owner or listing broker.
- Failure to disclose name of firm in advertisement of real estate services or listed property in any medium.
- Failure to disclose status as both owner/landlord and REALTOR® or license holder when advertising property in which REALTOR® has ownership interest.
- Falsely claiming to have sold property.
- Registration or use of deceptive URL or domain name.

### Article 14

- Failure to cooperate in any

### To file an anonymous take these steps:

1. Make sure the subject of the complaint is a REALTOR® available at [www.texasrealtors.com/complaint](http://www.texasrealtors.com/complaint)
2. Make sure the complaint cites a violation of the articles listed on this list of ethics complaints. Other articles are listed under Violations of the Code of Ethics on this list of ethics complaints.
3. Include the name of the REALTOR® who is the subject of the complaint.
4. Provide evidence of the violation, such as photographs, contracts, etc.
5. Note the date of the violation.

Once filed, the REALTOR® has given 15 days to respond. The ethics tribunal will determine if there is sufficient evidence of the alleged violation.

If there is insufficient evidence, the complaint will be dismissed.

**Your forms**

Reduce your risk on every transaction by providing the members-only form *Representation Disclosure* (TAR 1417) to disclose who you represent to another party or license holder.

Texas law requires a real estate license holder to disclose orally or in writing his or her representation of a party in a proposed real estate transaction. This disclosure must be made at the license holder's first contact with another party to the transaction or another license holder who represents another party to the transaction. The *Representation Disclosure* form helps you comply with the law by giving written notice of who you represent. The other party can sign and date the form and you can keep it in your files to show you have provided the appropriate notice.

This form was created and introduced in February 2018 and is available only to members of Texas REALTORS®. Find all the members-only forms available to you at [texasrealestate.com/realtorforms](http://texasrealestate.com/realtorforms).

**Contract close-up**

**WHO PAYS THE ELECTRIC BILL?**

Paragraph 11 in the *Residential Lease* (TAR 2001) covers the landlord's and tenant's obligations regarding a property's utilities. It stipulates that the tenant will pay all connection, service, and usage fees associated with a property's utilities. If there are exceptions to the tenant's responsibilities—for example, the landlord will pay for internet service—those exceptions can be noted in the blanks of Section A.



**Legal Q&A**

*If I'm a broker who's exempt from continuing education requirements, do I still have to take the Broker Responsibility course?*

**NO.** Texas brokers who are exempt from TREC's continuing education requirements do not have to take the Broker Responsibility course.

Brokers who are exempt from continuing education requirements are those who were informed in writing of their eligibility by TREC, gave notice between October 1 and 30, 1991, of their wish to opt out, and paid the applicable fee.

**Legal Hotline 800-873-9155**

We often get questions about the different requirements for delivery of the option fee and delivery of the earnest money in the TREC residential contracts approved for mandatory use. The earnest money should be delivered to the title company, while the option fee should be delivered directly to the seller. Both should be delivered within three days after the effective date of the contract.

However, if the last day to deliver the earnest money lands on a Saturday, Sunday, or legal holiday, this deadline is extended until the next day that is not a Saturday, Sunday, or legal holiday. The time to deliver the option fee is not affected by the weekend or legal holidays.

—Iman Ali,  
associate counsel



## HERE'S WHAT YOU MISSED AT TREC'S NOVEMBER MEETING



The Texas Real Estate Commission met on November 15. Here are rule changes relevant to your business.

### Adopted changes to 535.2, Broker Responsibility

- Brokers must designate anyone who leads, supervises, or directs a team in their brokerage as a delegated supervisor with TREC if he or she has or will be supervising for more than three months. This will require that person to take the six-hour broker responsibility course at each license renewal.
- The time frame that a broker or delegated supervisor has to respond to clients, agents, or other brokers is now two days.
- The time frame that a broker or delegated supervisor has to deliver TREC correspondence to their agents is now three days.
- In the section covering records retention, the term “work files” is deleted and replaced with “substantive communications with parties to the transaction” to clarify what should be retained. Offers should also be retained.
- Brokers must ensure—through their brokerage policies and procedures manual—that agents are geographically competent in the market area being served; and that brokers will ensure training or coaching for new agents when they undertake new tasks.

The members-only *Model Brokerage Policies and Procedures Manual*, which gives brokerages instant compliance with TREC requirements to maintain written policies and procedures, will be updated with these changes.

### Adopted form revisions

The revised forms will be mandatory for use March 1, 2019. They are available now for voluntary use. The association will work with all forms vendors to post the forms as quickly as possible.

#### *Third Party Financing Addendum*

- The language in the Property Approval section will change to require that if the buyer wants to terminate the contract under this paragraph, the buyer must give the seller written notice not later than three days before the contract’s closing date and must provide the seller written evidence of the lender’s determination.
- The form was reformatted and other non-substantive changes were made for consistency with other TREC-promulgated forms.

#### *Notice of Buyer’s Termination of Contract*

- Statement added that a buyer terminating the contract under the Property Approval section of the *Third Party Financing Addendum* has delivered to the seller a written statement from the lender as to why the property isn’t approved in line with the changes to the *Third Party Financing Addendum*.
- Box added to check if the buyer is terminating under Paragraph 3 of the *Addendum Concerning Right to Terminate Due to Lender’s Appraisal*.
- Box added to check if the buyer is terminating under Paragraph 6D of the contract because

timely objections were not cured by the end of the cure period.

#### *Addendum Concerning Right to Terminate Due to Lender’s Appraisal*

- Statement added clarifying that this form is to be used only if the *Third Party Financing Addendum* is part of the contract (and the transaction still cannot involve FHA or VA financing).
- Non-substantive changes were adopted to make the form clearer.

#### Other adopted changes

TREC Rule 535.101, Fees, is amended to reduce the fee from \$20 to \$10 for an agent establishing or changing sponsorship. In addition, TREC has developed a free online license history certificate, so the \$40 fee has been removed from the rule.

TREC Rule 535.191, Schedule of Administrative Penalties, is amended to move several violations to a lower tier of penalties and adds several violations from recently adopted rules and those missing from the penalty matrix.

Unless otherwise stated, the adopted changes become effective 20 days after the date they are filed with the Secretary of State.

Find the materials from the meeting at [trec.texas.gov/apps/meetings](http://trec.texas.gov/apps/meetings).

The revised forms will be mandatory for use March 1, 2019. They are available now for voluntary use.



# RISKS TO AVOID WHEN SELLING A VACANT HOME

by CRES Insurance Services

You might need to sell a vacant home for any number of reasons—perhaps it's a newly built home, the seller has already relocated, or maybe it's a rental and the tenants have just moved out. Selling a vacant home can bring with it a greater level of risk for an agent or property owner. Here are a few tips to stay safe.

## Encourage sellers to leave the power on

So often a homeowner or tenant moves out and utilities are cut off immediately, making it very difficult to show the home in its best light. This can be a special challenge in homes without natural lighting. Also, if the home you're selling is in a very hot or cold area, showing it can be rather uncomfortable.

But the issues here go beyond a property's attractiveness. Poor lighting means you may not see potential hazards in the home. The last thing you want is someone tripping up the stairs or bumping into door handles accidentally, which can have legal ramifications. To avoid potential danger, encourage property owners to leave the power on. This helps to ensure a safer process. Plus, if you enter into a TREC residential contract, the sellers at their own expense have to keep the utilities on during the time the contract is in effect.

## Keep an eye on maintenance issues

Too often, owners of vacant homes on the market neglect regular maintenance. Especially in the case of foreclosures, a bank may want to sell the homes quickly. Regardless of who owns the home, maintenance issues usually escalate without someone living there.

Water damage is a common maintenance issue for vacant homes. One small leak can escalate into mold or even flooding. This puts you at a serious health risk. You also risk the health



of your prospects, which can become a legal issue if you're not careful.

Electrical fires and gas leaks are much more common in vacant homes than you may think. Smoke detectors are only effective if someone is around to hear them. A small spark can quickly expand into thousands of dollars worth of damage.

In 2012, a gas leak in a vacant home turned into a fatal explosion, killing an unsuspecting real estate agent who was preparing to show the home to a family with young children. Had the family arrived just a few minutes earlier, the leak may have claimed even more lives.

## Consider your personal security and that of prospective buyers

Without someone living in the home, unlocked windows and doors or security system failure can become hazards for you and your prospects and huge problems for the seller. Squatters, theft, or vandalism may not be your fault,

but you may still be blamed. Consider suggesting the property owner hire a vacant-home monitoring company or asking a neighbor or relative to visit the property on a regular basis.

## A smart move

Point out to your clients the many advantages of vacant-property maintenance. You may also want to take it upon yourself to check on the state of the property ahead of inspectors and prospects.

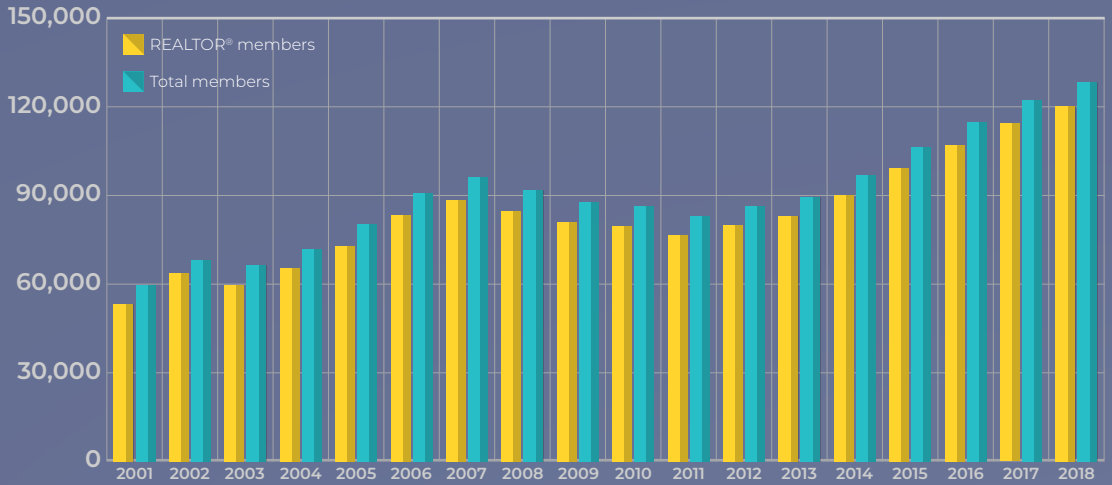
Turning up at the same time as the prospective buyer and being surprised by a raft of maintenance issues and hazards is a waste of everyone's time, including yours. It may also potentially damage your reputation and possibly your pocketbook if a lawsuit ensues.

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# 120,353 REALTOR® MEMBERS

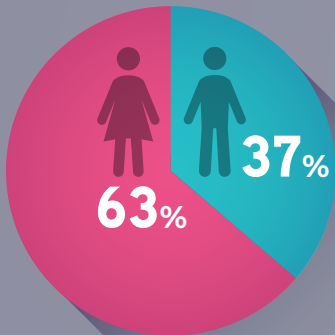
There were 120,353 REALTORS® in Texas when this magazine went to print. That's the highest REALTOR® membership total in the history of the organization—and it's still growing. With affiliate and other classes of members, Texas REALTORS® is more than 128,000 members strong. The following data about your colleagues and fellow members is drawn from the 2018 *Profile of Texas REALTORS®*. You can view the full report at [texasrealestate.com/members/research/profiles/texas-realtors](http://texasrealestate.com/members/research/profiles/texas-realtors).

## MEMBERSHIP 2001-2018

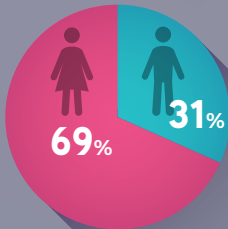


## DEMOGRAPHICS

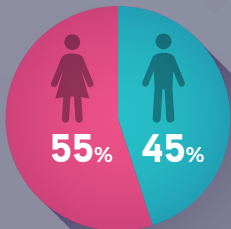
### Gender



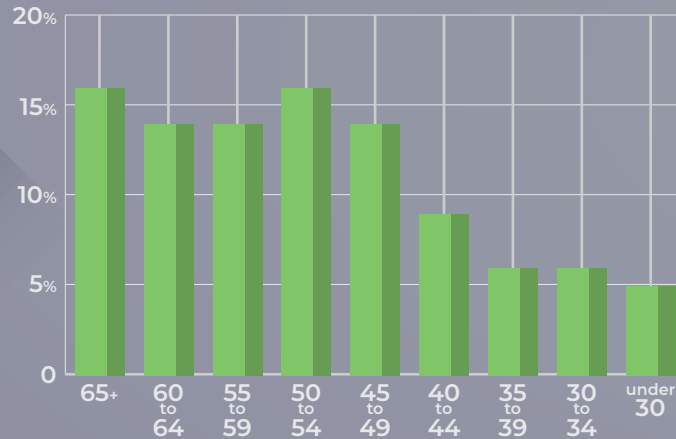
### Gender by agents who work 40+ hrs



### Gender by licensed brokers/broker associates

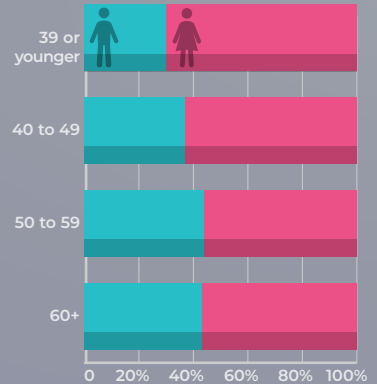


### Age distribution



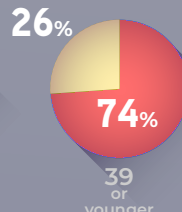
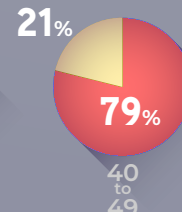
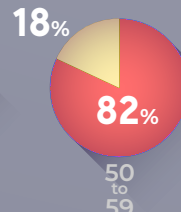
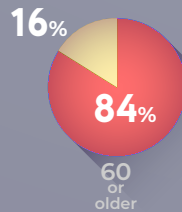
**45** MEDIAN AGE OF THOSE WITH 2 YEARS OF EXPERIENCE OR LESS

### Gender by age group



### Language fluency by age

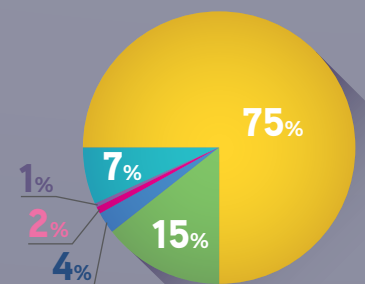
Fluent only in English (teal)  
Fluent in other languages (yellow)



### Race/ethnicity by years of experience

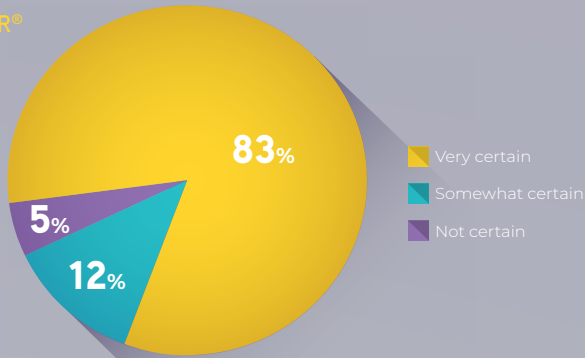
	2 years	3 to 5	6 to 15	16+
White	64%	78%	75%	86%
Hispanic/Latino	21	14	18	6
Black/African American	10	6	6	4
Asian/Pacific Islander	7	5	2	2
American Indian/Eskimo/Aleut	1	1	1	2
Other	1	2	3	3

### All members

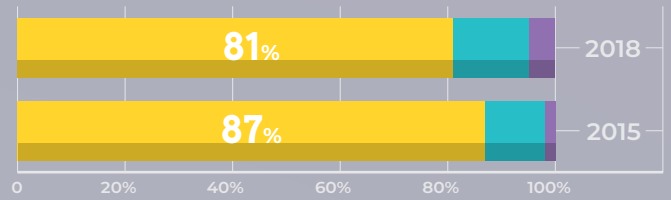


# BUSINESS

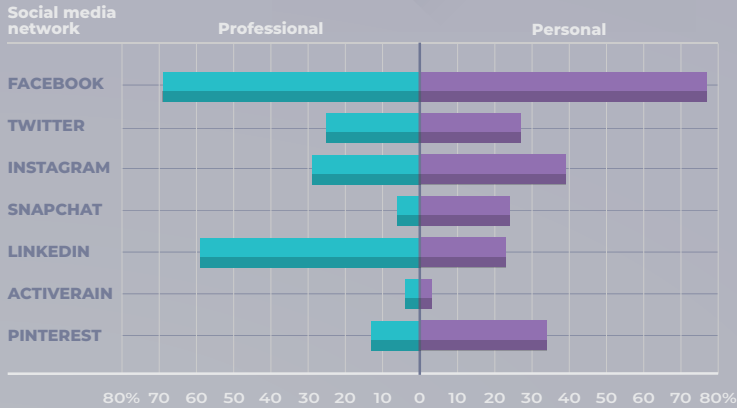
Percent of REALTOR® members who say they will remain active during the next two years



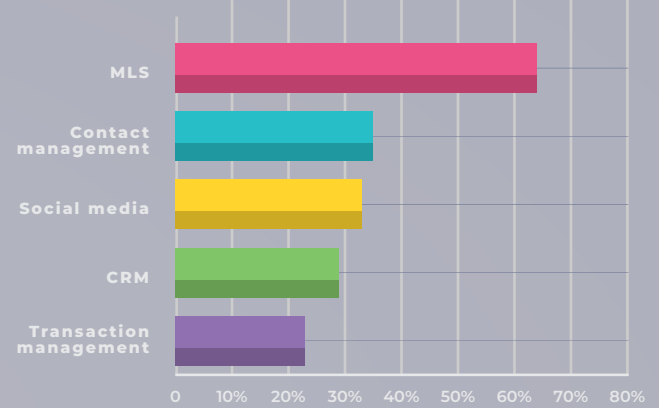
REALTOR® members with 2 years of experience or less on how certain they will remain active during the next two years



## Personal vs. professional social media use by network

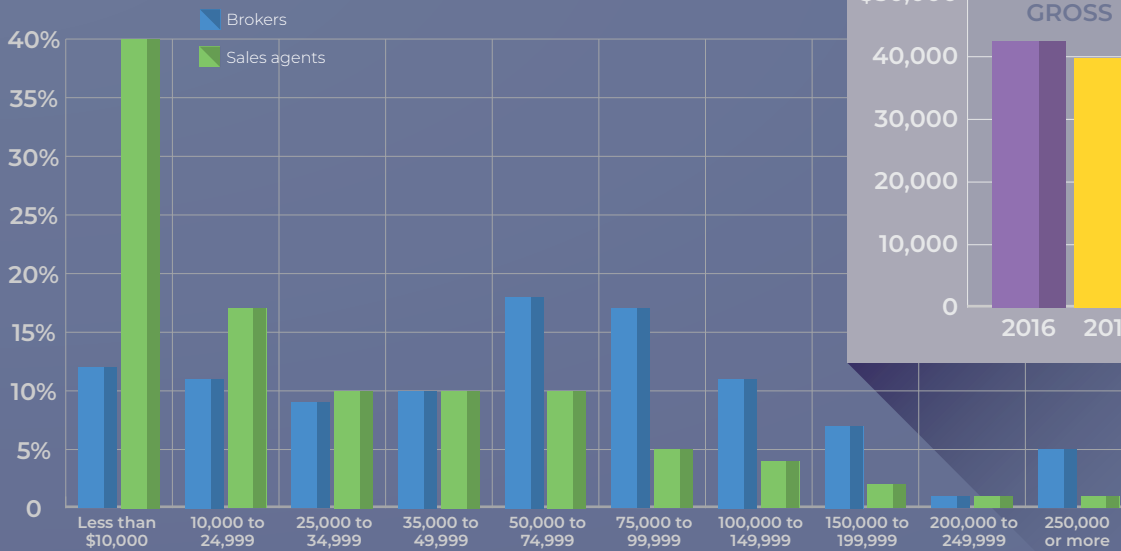


## Daily software use

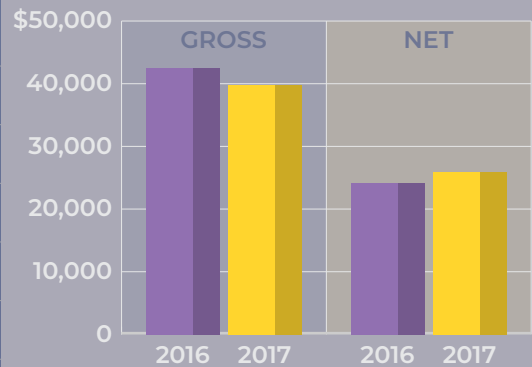


# INCOME

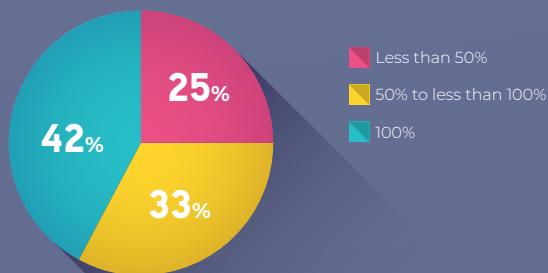
Net income of brokers and sales agents after expenses



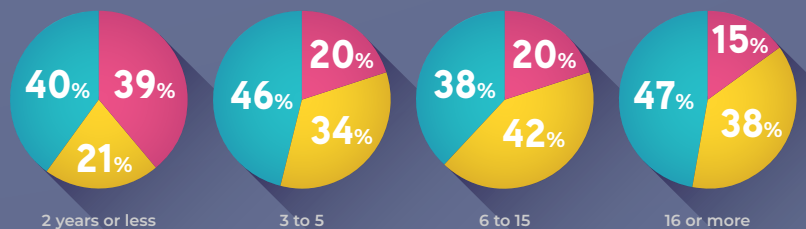
Income for U.S. members



Percent of income earned from main specialty



Percent of income earned from main specialty by years of experience





# LOOKING AHEAD TO THE 86<sup>TH</sup> TEXAS LEGISLATURE

by Jaime Lee

Texas REALTORS® had great success on Election Day, with 89% of REALTOR®-supported candidates winning their races.

But electing pro-real estate candidates to the Texas Legislature is just the first step.

Now we must work with the 150 members of the Texas House of Representatives and the 31 members of the Texas Senate to pass legislation that favors real estate consumers and your industry.

Lawmakers depend on subject-matter experts and industry professionals to educate them about a bill's merits.

It's up to Texas REALTORS® to ensure lawmakers are getting accurate information about the potential impact of real estate-related bills.

While you're serving your clients, the volunteer leaders and staff of your association are educating lawmakers about the importance of protecting private-property rights and the real estate industry.

Here are a few issues we expect to be considered at the Texas Capitol in 2019.

# Did you know...?

## TEXAS REAL ESTATE COMMISSION



In 2018, the Texas Real Estate Commission underwent analysis by the Texas Sunset Commission—an in-depth process also known as a “Sunset review.” The Sunset Commission’s purpose is to conduct thorough analyses of all state agencies to ensure they are providing the best and most efficient services to their stakeholders.

The Sunset Commission issued a report in October listing recommendations to improve the service TREC provides to license holders and consumers. Now we expect lawmakers to consider legislation addressing the Sunset Commission’s recommendations.

## PROPERTY TAXES/ APPRAISAL REFORM



The rapid increase in local property taxes was a priority issue for the Legislature in 2017.

Last session, lawmakers debated reforming the property tax system in several ways that would make the process more understandable for taxpayers, including lowering the rollback rate from 8% and providing more proactive information from local governments about their proposed tax rates.

However, none of these measures ultimately passed, but they highlighted

taxpayers’ growing frustration with the process and reasons behind skyrocketing property tax bills.

We expect the Legislature to continue discussing the truth-in-taxation measures proposed in the 2017 session, including enhanced taxpayer notifications and the elimination of a petition requirement on the rollback tax rate, which will improve public education about appraisals and the process to set tax rates.

## SCHOOL FINANCE



The largest part of a property owner’s property tax bill goes to school taxes. However, some school districts don’t get to keep all of the tax dollars their property owners pay.

Texas REALTORS® expects the Legislature to continue discussing ways to improve the current school finance system and ease the burden on local taxpayers.

## TRANSPORTATION



Texas gains more than 1,000 new residents per day, and our transportation infrastructure is struggling to keep up with this demand.

Despite legislation from past sessions that would improve Texas roadways, lawmakers are likely to propose more transportation-funding bills.

### THE CLOCK IS TICKING.

The Texas Legislature only meets for up to 140 days every two years.

### THEY GET A HEAD START.

Lawmakers began filing bills November 12, 2018.

### BUT THEY CAN’T REALLY START RIGHT AWAY.

The Texas Constitution says lawmakers cannot pass legislation during the first 60 days of a regular legislative session unless the legislation is related to an issue the governor has declared an emergency. This could be any issue the governor wants to be prioritized in that year’s session, or any issue the governor wants to support. If a bill is related to a governor’s emergency item, members may vote on it earlier in the session.

That leaves 80 days to do the state’s business ... except that they don’t generally work on weekends until late in the session, when time is running out.

### THEY COULD BE BACK.

The governor could call lawmakers back to the Capitol for a special session—or two or three—to consider legislation related to specific issues determined by the governor. In 2017, Gov. Greg Abbott called lawmakers back to Austin for a special session to consider legislation related to a list of 19 issues.

Photos: STLUB, Selectstock, Jacob Lund, Brian A. Jackson, ItineraryAU, Lee Yu Tung/Shutterstock.com

# 86<sup>th</sup> Texas Legislature dates of interest

## SHORT-TERM RENTALS



Some Texas municipalities have approved ordinances banning short-term rentals. These measures violate private-property owners' rights to use their properties as they wish.

Texas REALTORS® expects to see proposed legislation that would prevent a local entity from prohibiting short-term rentals in its jurisdiction.

## ANNEXATION



A law that was passed in 2017 put Texas counties in two categories for annexation-related purposes, based on population.

Several counties across the state petitioned to include propositions on their ballot on November 6 to become counties that would allow residents a vote before their property is annexed. These ballot measures were overwhelmingly approved on Election Day. This support tells lawmakers that Texans demand the opportunity to have a say in whether their property is annexed.

We may see proposed legislation that would make this a requirement statewide, regardless of a county's population.

**JAIME LEE** is governmental affairs communications manager for Texas REALTORS®.

# See you in Austin on March 26

One reason Texas REALTORS® are successful in working with the Legislature is because of the strong turnout during REALTOR® Day at the Texas Capitol.

This daylong event brings thousands of Texas REALTORS® to the statehouse to meet with your lawmakers one on one and educate them on the impact that proposed legislation may have back home.

The Texas REALTORS® headquarters is just across the street from the Texas Capitol, so be sure to make plans to head over and enjoy a barbecue lunch after your meetings.

Contact your local association to attend.

Photos: goodluz, Christian Hinkler/Shutterstock.com

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# What property managers need to know about

# ASSISTANCE ANIMALS

by **Chalisa Warren**

Squirrels, peacocks, and pigs are just a few animals that have made national news headlines for serving as assistance animals. Although some wonder whether these animals can be allowed in a rental property, those who require assistance animals have rights under the law.





Anyone who has a physical or mental impairment that substantially limits one or more major life activities, has a record of impairment, or is regarded as having impairment is considered disabled and is part of a protected class under the federal Fair Housing Act. The Texas Fair Housing Act mirrors the Federal Fair Housing Act and provides for fair housing practices in the state.

The state and federal fair housing acts require housing providers to make reasonable accommodations to the rules, policies, practices, or services when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling.

When feasible, housing providers like landlords and property managers are required to provide reasonable accommodation when a tenant requests a reasonable accommodation because of his or her disability. However, there has to be a connection between the requested accommodation and the disability. Just because someone has a disability and makes a request doesn't mean it has to be granted. Here's what you should know to avoid problems with state and federal laws.

### What is a reasonable-accommodation request?

A reasonable-accommodation request is any communication that asks that you make an exception to the rules, policies, practices, or services necessary to afford a person with a disability an equal opportunity to use and enjoy the dwelling, such as allowing an assistance animal.

- Requests can be verbal or written. Written requests do not have to be made with a certain form. Don't require the tenant or applicant to put the request in writing.
- There are no specific words that must be included in a request. Requesters aren't required by law to mention the federal or state acts or use the words *reasonable accommodation*.
- A reasonable-accommodation request can be made by the person with the disability, by a family member of that person, or someone else requesting it on a person's behalf.

### Is there a difference between an assistance animal, service animal, or an emotional support animal?

*Assistance animal* is a blanket term that covers service animals and emotional support animals. When someone requests that you allow an assistance animal under the Fair Housing Act, it can be either a service animal or an emotional support animal. Under the law, assistance animals do not have to have a certificate or specific training.

*Service animals* are performing a service, such as a seeing-eye dog or an animal that can detect the onset of an epileptic seizure.

*Emotional support animals* provide support for someone with a mental disability.

### What type of animal can be an assistance animal?

Any animal can be an assistance animal. This also means breed and weight restrictions don't apply to assistance animals, whether those restrictions come from a property owner, an HOA, or an insurance company.

Insurance companies may specify a homeowner or renter cannot have a specific breed in the property. But if a person has a



Reliable documentation for a person's disability or disability-related need for a reasonable accommodation can come from any reliable third party with knowledge of the disability and need for the disability-related accommodation. Documentation is reviewed on a case-by-case basis. Reliable documentation could be from a peer support group, a caseworker, a doctor, or a therapist. Conversely, a letter purchased online (like one from a telemedicine call) is generally not considered reliable documentation.

disability and a disability-related need for the assistance animal, it is a violation of the Fair Housing Act for an insurance company to enforce any of those breed or size restrictions on an assistance animal. The Department of Justice handles complaints for these types of situations.

While it's possible a landlord may be able to deny a request because of an insurance company's policy restrictions, the landlord may want to find out whether comparable insurance is available without a restriction before denying a reasonable-accommodation request.

Provide the information from the insurance company to the requester and explain the policy. Document that you have done so and what each party said. Although you may still be named in a complaint, this action and documentation may help you and the homeowner avoid trouble and put the focus on the insurance company's practices.

## Does the Americans With Disabilities Act apply to assistance animals and property rentals?

There is a difference between the ADA and federal fair housing laws.

Emotional support animals are covered under the Fair Housing Act.

While there is no such thing as an emotional support animal under the American with Disabilities Act, the ADA covers service animals (only dogs and miniature horses) in areas of public accommodation.

Areas of public accommodation are considered places where business is conducted. That includes your office, a leasing office, a restaurant, a recreation facility, and so forth.

The Fair Housing Act is what applies to private property—since it covers the sale or rental of housing and accommodations—and accommodations that you make may make, such as allowing for an emotional support animal.

## What if you aren't able to actually see an individual and discern whether the disability or disability-related need is obvious?

If you are not able to be in the presence of the applicant or make a virtual call through a service like Skype or FaceTime, it's OK to ask for verification of the disability and the disability-related need for an accommodation.

Make sure to document the actions you take, and be sure to follow the same protocol every time.

## Proceed with caution when requesting proof of someone's disability

**Scenario 1:** When both the disability and the disability-related need is apparent or already known, you may not ask any additional questions or request further verification of someone's disability.

**Example:** Someone who is blind makes a reasonable accommodation request for his seeing-eye dog although the property has a no-dogs policy.

In this scenario, the need is apparent, so there is no reason to ask for additional information regarding why the requester would need a seeing-eye dog.

**Scenario 2:** When the disability is apparent but the disability-related need is not apparent or previously known, you may ask for verification of the disability-related need, not verification of the disability.

**Example:** Someone who is blind makes a reasonable accommodation request for an additional parking spot.

In this scenario, the disability is apparent, but the disability-related need for the extra spot is not apparent or not previously known. You can request information from the applicant about the need for the parking space but you cannot ask for verification of the disability.

In a real-world example of this scenario, a tenant requested a parking spot so she would have a safe area for her seeing-eye dog to relieve himself. After she provided verification of this disability-related need, the housing provider made a parking spot available.

**Scenario 3:** When the disability is not apparent or previously known and the need is not apparent or previously known, you may ask for verification of the disability and the disability-related need for the accommodation. This is most common for mental disabilities.



ed Texas Workforce Commission's Civil Rights  
ision publishes the Civil Rights Reporter, a free  
newsletter covering issues associated with fair  
housing and other civil rights issues. Sign up to receive  
t [twc.texas.gov/partners/civil-rights-reporter](http://twc.texas.gov/partners/civil-rights-reporter).

### Can a housing provider deny a reasonable accommodation request?

The housing provider has reliable, objective evidence that a person with a disability or a service animal poses a direct threat to others. The applicant has to follow the same rules as residents with other animals. You don't have to wait until the person or pet injures others; if they pose a threat that they may injure others, you can deny the request.

There is no disability-related need for the accommodation or there is no disability.

Providing the accommodation is not reasonable, like if it imposes an undue financial and administrative burden on the housing provider or fundamentally alters the nature of the provider's operations. For example, someone may ask for a reasonable accommodation to have his or her trash picked up. If that is outside the scope of services the landlord provides, that request could be denied.

If the request is not reasonable, consider whether there is an alternative accommodation that would effectively address the tenant's needs.

### Charges associated with assistance animals

A housing provider may not require an applicant to pay a fee, or a security deposit for an assistance animal. But can you charge the tenant or deduct from the security deposit if the assistance animal causes damage to the property?

If the housing provider's practice is to assess tenants for damages they cause, then, yes, the applicant can be charged for damage.

### What you can do to avoid problems

It's important to know the law and your responsibilities. Establish policies and procedures that are nondiscriminatory, and consistently apply them. Recognize a request for a reasonable modification or accommodation. Most important, document requests and how you handle them. You could take every step to do things right and still be the subject of a complaint. However, good documentation of the steps you took can keep the complaint from escalating. If you have questions about what to do, contact the Texas Workforce Commission's Civil Rights Division. This office is here to help you follow the law.

**LISA WARREN** is the former housing investigations supervisor and now a housing investigator for the Texas Workforce Commission's Civil Rights Division. Contact her office at 888-452-4778.

### Do's and don'ts when you receive a request for reasonable accommodation

- Do accept a verbal request.
- Don't automatically respond with no.
- Do acknowledge the request, and let the requester know you'll respond with an answer. You can do this by completing and providing the members-only form *Response to Request for Assistance Animal (TAR 2225)*. Using this form is also a good way to document your actions.
- Do keep the lines of communication open and provide updates on progress.
- Do document the steps you take when asked about a reasonable accommodation.

The members-only form *General Information for Landlord Regarding Assistance Animals (TAR 2226)* details what landlords should know when they receive a reasonable accommodation request for an assistance animal. Both the broker and landlord can sign and date the form to indicate the landlord's receipt.

Registration is open! Visit [texasrealestate.com/wintermeeting](http://texasrealestate.com/wintermeeting)

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## CONSIDER THESE COSTS, TOO

Buying a home is a big expense. But the purchase price is not the only cost to weigh as you search for a house. Here are some other expenses to take into account.

### TAXES

Property taxes can take a big bite from your housing budget. Keep in mind that your taxes could vary significantly from prior tax bills on the property. The previous owner may have enjoyed exemptions for which you don't qualify, such as those for seniors or veterans with a disability. Also, a 10% cap on property appraisal values for homesteads will not stay in place when the property changes hands.

### INSURANCE

Most lenders will require you to obtain homeowners insurance. Even if you pay cash for your home, insurance will protect you from losses due to disasters and accidents. Many factors determine the cost of your insurance, including deductible amounts, whether you want—or are required—to get flood coverage, the materials and location of the home, and more.

### HOMEOWNER ASSOCIATIONS

Monthly fees for homeowner associations can be less than \$100 or more than \$1,000. Before you buy a home in an area with a homeowners association, find out whether the HOA is mandatory or voluntary, what amenities the HOA provides, and how much the fees are.

### REPAIRS, REMODELING, MAINTENANCE

Many homebuyers make frequent trips to big-box stores after moving in. The cost of new furnishings and remodeling projects can add up quickly. Don't forget to also factor into your budget any major items in need of repair—like a new roof or AC unit—and the ongoing costs to keep your home in good shape.



Your REALTOR® can discuss the various costs associated with buying and owning a home to make sure you find the property that suits you and your budget.

# TAKE 5

## WAYS BROKERS AND MANAGERS CAN BUILD TRUST

Brokers and managers who create a culture of trust find it spreads beyond just their brokerage and positively affects how the firm is perceived within the industry, community, and clients. Mary Kelly, Ph.D., a leadership expert and executive coach at Productive Leaders in Dallas ([productiveleaders.com](http://productiveleaders.com)), gives her tips for building trust in your brokerage.

### JUMP IN WHEN NECESSARY.

That doesn't necessarily mean doing people's jobs for them. It means providing advice, guidance, and direction when needed.

### DON'T SHOOT THE MESSENGER.

Great leaders should seek out when there are problems so they can fix them. Encouraging agents to speak out about issues can make it easier for you to solve your brokerage's obstacles and establish greater trust.

### PROVIDE FEEDBACK QUICKLY AND APPROPRIATELY.

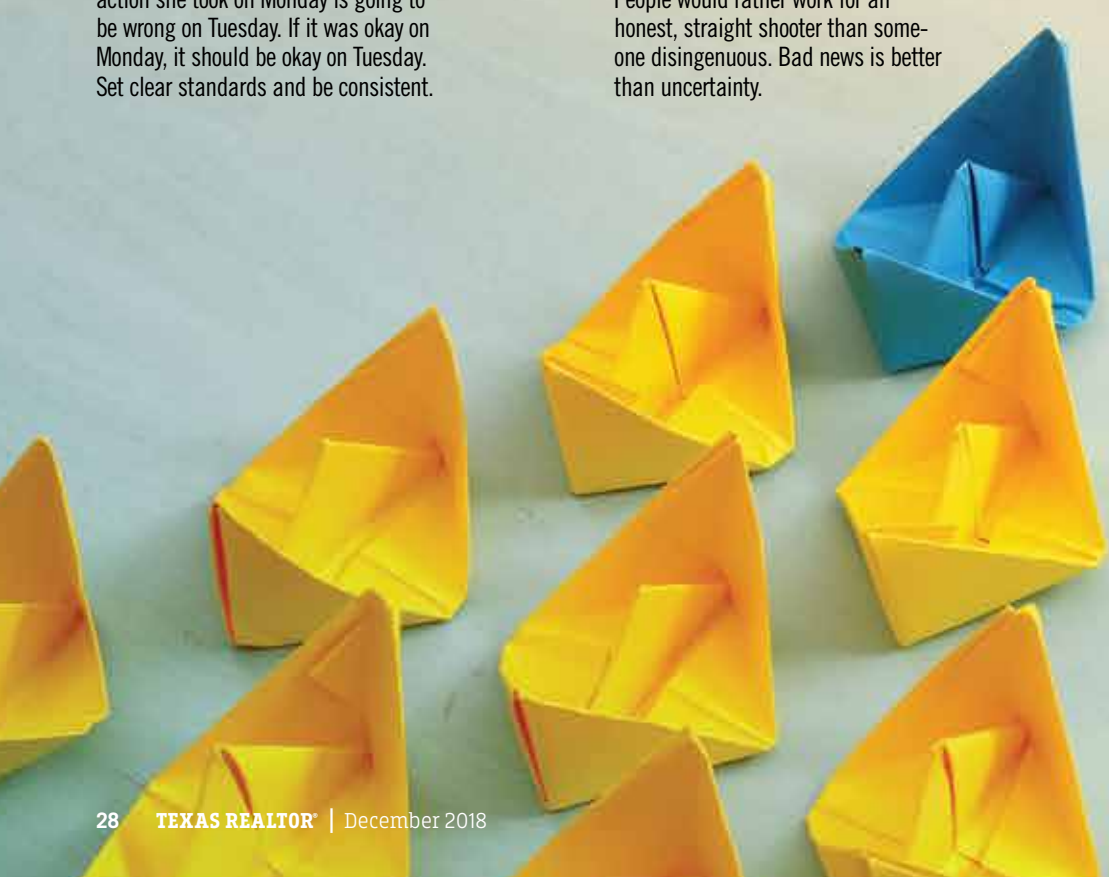
Providing course corrections when you are in a leadership role is not optional—it is expected. Agents should be able to trust that their brokers and managers will care enough about them to let them know when they are being successful and when they are not.

### BE CONSISTENT.

No agent wants to wonder whether the action she took on Monday is going to be wrong on Tuesday. If it was okay on Monday, it should be okay on Tuesday. Set clear standards and be consistent.

### TELL THE TRUTH.

Especially during tough situations. People would rather work for an honest, straight shooter than someone disingenuous. Bad news is better than uncertainty.



**FAIR HOUSING**  
**MAKES U.S.**  
**STRONGER**

*(From left to right): Jazmyn Rushing, REALTOR®; Nicole D. Woods, REALTOR®; Albert Allen, REALTOR®; Brian M. Paris, REALTOR®; Ashley Rathburn, Texas Association of REALTORS®; Andrei Lubomudrov, Austin Board of REALTORS®, in front of the LBJ Presidential Library, Austin, TX*



**We can't change history. The future is  
our story to write.**

**Be a catalyst for change.** 2018 marks the 50th anniversary of the Fair Housing Act. While progress has been made, there's more work to be done. What can you do? Redouble your efforts to understand fair housing laws and how your actions, words and understanding of the issues impact housing choice. And when you see discrimination, challenge it. Report it. Engage in community dialogue about the issues tied to housing choices, like schools, healthy communities, residential displacement and economic opportunity. Be informed, and take action to expand protections to groups who continue to experience discrimination, such as the LGBTQ community. By protecting the rights to housing — free from discrimination for ALL people, the Fair Housing Act preserves and advances opportunities for everyone. As the REALTOR® community, let's take ownership of fair housing rights and uphold the promise of the Fair Housing Act.

Visit [www.FairHousing.realtor](http://www.FairHousing.realtor) to read more about what you can do and to join the commemoration.



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