

# TEXAS REALTOR®

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August 2021 \$3.50



## HOW DO YOU MEASURE SUCCESS?

Tips brokers can use  
to boost business **p. 22**

NEW LAWS: WHAT YOU  
MUST KNOW p. 18

SELLING HOMES  
WITH SOLAR p. 10

PROPERTY-TAX  
DEDUCTIONS p. 24



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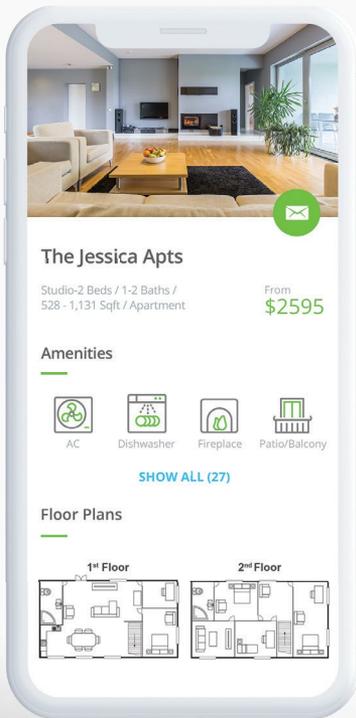
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# CONTENTS



## 16 FEATURE

### INTROVERTS CAN THRIVE IN A SOCIAL BUSINESS

Real estate may seem tailor-made for extroverts, but introverts can be successful in this industry by playing to their strengths.



## 22 COVER STORY

### MEASURING SUCCESS

As a broker, you're all about the numbers. Focus on these strategies to improve performance and outcomes.

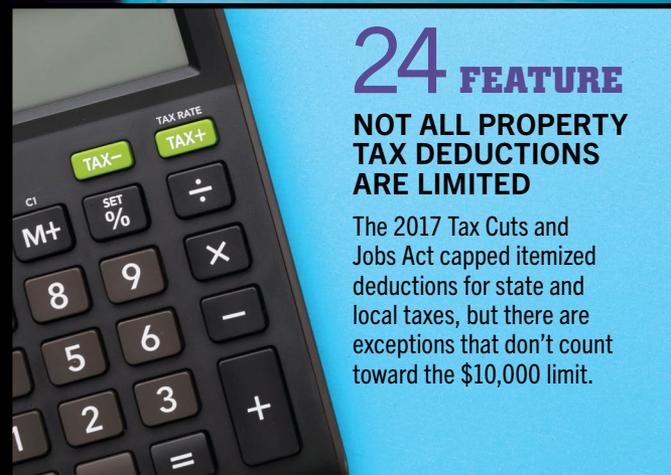
- INSIGHTS**
- 4 Chairman's column: Appraisal solutions
- 5 Register now for the international cruise
- BUSINESS**
- 6 Share clients' rave reviews on social channels
  - Which REITs have bounced back?
- 7 What to know about homes on private roads
  - Owner-occupied households going way up in Texas
- 8 Understanding the title agent's role

- LEGAL & ETHICS**
- 10 Shedding light on solar: How panels affect transactions
- 11 Your Forms: *Notice From Buyer's Agent to Seller*
- 12 Complete your Code of Ethics requirements before it's too late
  - Where to send the fee to extend the termination option
- 13 Appraisal waivers

- SHARE THIS**
- 27 Three considerations for your seller clients

- TAKE 5**
- 28 Make the most of your professional networks

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## 24 FEATURE

### NOT ALL PROPERTY TAX DEDUCTIONS ARE LIMITED

The 2017 Tax Cuts and Jobs Act capped itemized deductions for state and local taxes, but there are exceptions that don't count toward the \$10,000 limit.



## 18 FEATURE

### HOW NEW STATE LAWS AFFECT YOU

The 87<sup>th</sup> regular session of the Texas Legislature is over. Learn what changed and how it will affect your business.

## 14

### LEARN AND NETWORK AT THE TRADE EXPO

Check out the exhibitors participating at this year's Trade Expo during the 2021 Shaping Texas Conference. You won't want to miss the opportunity to visit booths, get free merch, and play fun games!

# INSIGHTS



## Chairman

### Appraisal Solutions

Your Texas REALTORS® Leadership Team has been listening.

There are problems with appraisals. Lots of problems. Long turn-around times, high costs in certain cases, questions about geographic competency, challenges in rural areas, frustration in high-volume markets, issues with appraisals of complex properties, and a shortage of licensed appraisers.

How do we solve these problems? We solve these problems *together*.

Solutions of this magnitude definitely require the work of a village. In order to fully resolve the gamut of issues, cooperation will be required by Congress, agencies at both the state and federal levels, Fannie Mae, Freddie Mac, NAR, Texas REALTORS®, your local association, and *you!*

Within the real estate family, there are several opportunities for progress:

**The National Association of REALTORS®** has been focused on appraisal concerns dating back to 2013 and prior. Currently, NAR has four member groups looking very

diligently for solutions: Real Property Valuation Committee, Conventional Financing & Policy Committee, Federal Financing & Housing Policy Committee, as well as the Public Policy Coordinating Committee. These committees are the starting point for receiving member input, conducting research, and formulating well-crafted policy positions.

**Texas REALTORS®** has been getting input from members and has now created an Appraisal/Appraiser Workgroup to identify potential solutions. The workgroup, composed of REALTORS®, lenders, and appraisers, will serve as a think tank and clearinghouse for ideas and strategies on a path forward. Texas REALTORS® also supported House Bill 2533, which allows Texas appraisers to complete evaluations without complying with the Uniform Standards of Professional Appraisal Practice (USPAP). Evaluations, which can be done more quickly and potentially at a lower cost, can apply to transactions that meet specific criteria.

**TREC/TALCB:** The Texas Appraisal Licensing and Certification Board has been working on the Texas implementation of *Practical Applications of Real Estate Appraisal* (PAREA) recently adopted by the Appraiser Qualifications Board. PAREA will provide another pathway for aspiring residential appraisers to fulfill their experience requirement through online and virtual reality technologies in lieu of the traditional supervisor/trainee model.

**Your local REALTOR® association:** Many local boards are offering roundtables and education opportunities for REALTOR® members to become better acquainted with appraisal and lending processes.

**You:** Together, you and I as REALTORS® have the most influential and relevant role in making an immediate difference in the lives of our buyer and seller clients. Here

TEXAS REALTORS®  
HAS BEEN GETTING  
INPUT FROM MEMBERS  
AND HAS CREATED AN  
APPRAISAL/APPRaiser  
WORKGROUP TO IDENTIFY  
POTENTIAL SOLUTIONS.

are a few actions we can take as REALTORS® in the field:

- Stay open-minded and engaged with all parties and all steps in the process.
- Get educated as fully as possible on depository lenders, non-depository lenders, appraisal management companies, and appraisal requirements.
- Educate and consult your buyers and sellers regarding varying approaches by different lender types.
- Build valuable mutual relationships with a range of lenders who specialize in niche loan programs.
- Vote for REALTOR®-supported candidates.
- Respond to calls for action from NAR and Texas REALTORS®.
- Invest in TREPAC.

Helen Keller said, "Alone we can do so little; Together we can do so much."

Making the world a better place for buyers and sellers, and making homeownership more accessible, is our job. It is up to all of us. Let's do our part!

**Marvin Jolly**

## SET SAIL FOR FUN AND CE

Looking for a little excitement while you earn CE and network with other real estate professionals? Reserve your spot on the Texas REALTORS® 11<sup>th</sup> annual international cruise. REALTORS® and their companions will set sail January 9, 2022, on the Royal Caribbean *Liberty of the Seas* from Galveston to Roatan, Honduras; Costa Maya, Mexico; and Cozumel, Mexico. This seven-day cruise features onboard classes and onshore excursions at each port. Learn more at [texasrealestate.com/cruise](https://texasrealestate.com/cruise).



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# BUSINESS

## TURN TESTIMONIALS INTO SOCIAL POSTS

Have your clients left you rave reviews online? Spread the good news by turning your clients' endorsements into content for your social media channels. This is a great way to strengthen your brand and inspire confidence in prospective customers.

Here are five ways to repurpose your reviews into social content:

- **Quote Them.** Facebook has a feature in the text box where you can select different background colors, images, or textures. Copy a portion of your customer's review and paste it as a quote to whatever background option you choose. For other social channels, use a free photo editor tool or filter to make the quote stand out.
- **Get Sticky.** If you have a Google My Business account, utilize the free marketing tool to turn your customer feedback into "review stickers." To create a sticker, go to [g.co/marketingkit](https://g.co/marketingkit). Once created, download or share to your social channels.
- **Screen Grab.** Take a screen capture of your reviews and ratings on Yelp, Google Places, and other review sites and save them as JPGs to share on your social channels.
- **Make a Montage.** Create a slide deck of several reviews with PowerPoint or a free app like Canva.
- **Make a GIF.** Turn a snippet of a video testimonial into an attention-grabbing animated image with a free tool like Giphy.

Don't forget to add an extra message thanking your customers for the review. And, of course, always ask for permission to use their names on your social channels.

## Commercial

### WHICH REITs HAVE BOUNCED BACK?

The performance of real estate investment trusts (REITs) has unsurprisingly improved in all sectors as the economy rebounds from the effects of the pandemic. But which types of REITs are faring best? Storage REITs top the list with a 32% return from February 2020 through May 2021, according to the Mortgage Bankers Association. Industrial and single-family-rental REITs have the next highest return, both at 19%. The only other commercial sector with positive returns is strip malls at 7%. However, even REIT sectors still in the red have improved significantly. For example, lodging REITs moved from a -51% return between January and May 2020 to a -1% return between February 2020 and May 2021. The Mortgage Bankers Association notes that REIT returns do not necessarily reflect private commercial real estate values.

## HELP CLIENTS NAVIGATE PRIVATE-ROAD HOME SALES

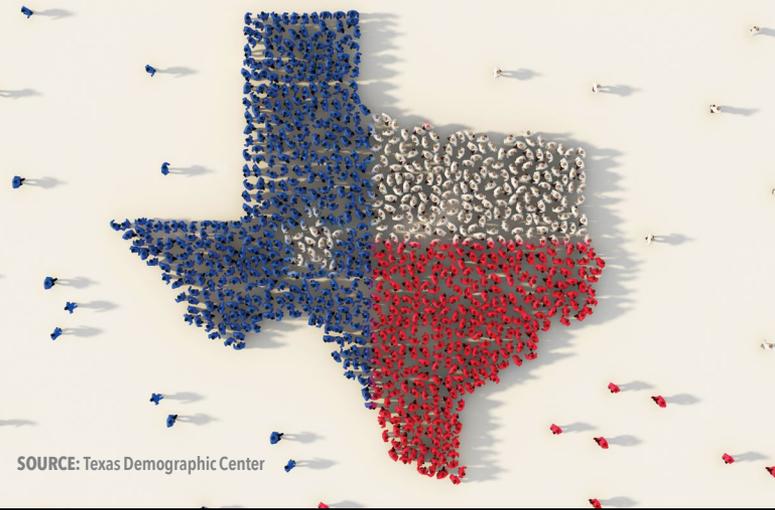
Not all Texas homes are accessible from public roads. Private roads are roads on private property and generally do not receive public services. They can be found in rural areas as well as gated communities and subdivisions.

The Texas Transportation Code allows the owners of private roads to regulate or prohibit their use. But that doesn't always mean anything goes. In some situations, property owners or a subdivision governing body can have arranged for the county to extend speed limits and traffic enforcement to private roads. Additionally, local ordinances could potentially govern the availability of certain municipal or county services available for properties located on or adjacent to a private road.

If your buyer clients are interested in a home on a private road, suggest they find out how the road is maintained. Often there's a homeowners association or private road maintenance agreement in place. Some lenders—including VA, FHA, USDA, and Fannie Mae—may require permanent easements allowing use of a shared private road and/or an HOA or maintenance agreement before approving a home loan. Buyers should speak with a private attorney if they have any specific questions regarding the road agreements or easements in place for a particular home.

**By 2050, Texas will have almost twice as many owner-occupied households as it had in 2010.**

**2010** |————| **2050**  
**5,563,043** → **10,772,153**



SOURCE: Texas Demographic Center

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## ASK A TITLE AGENT

*This is the third in a series of interviews with other professionals who participate in the real estate transaction.*

### John P. Bruce

Executive Vice President-Commercial Escrow  
Heritage Title Company of Austin

#### **How do title agents normally interact with real estate agents?**

What typically happens is a property is listed, a property is shown, a contract is offered, and a contract is executed. Once that contract is executed, it needs to be deposited with a title company. That is most often the first contact that we have with the real estate agents involved. Once that contract is deposited, it triggers an effort by the title company to receipt the contract, circulate receipted contracts, and circulate wiring or other payment instructions if earnest money and/or option money is not presented with the contract. We work with real estate agents to coordinate due diligence materials and schedule the closing itself to accommodate the buyer and seller in executing the documents.

#### **What are some of the most common topics that you deal with?**

One of the biggest problems during the pandemic has been the coordination of the physical closing itself. Is a buyer or a seller comfortable coming to the title company to close? Would they prefer to have a mobile notary sent for closing? Do they have access to a notary in their location? That's less of an issue now as we are starting to open up. I am very happy to say we are starting to see many more in-house closings.

When a contract comes in, we perform a title search. That title examination results in the issuance of a commitment for title insurance. When that commitment for title insurance is issued, we list any curative matters that need to be addressed prior to the closing. They can be anything from old unreleased liens to gaps in the chain of title. If we are dealing with property that came through probate or bankruptcy, it often triggers

other requirements for additional research or affidavits to be produced. Your curative matters on title could involve having to cure issues that no longer affect the subject property.

#### **What current issues are title agents facing?**

It is a very brisk and vibrant real estate market that we're all living in right now. So the title companies are dealing with managing their workloads. We're all very busy, which unfortunately results sometimes in it taking a little longer to get title work out.

#### **What do clients look for when choosing one title company over another?**

Title companies in Texas all sell the same product for the same cost. The Texas Department of Insurance sets our rates. So title companies compete on service and relationships. I think that the choice of a title company by an agent or a buyer or a seller is often based on the service that person has received in the past and the relationship that party has with a title company. This is a business where title companies and real estate agents form friendships and relationships. It's truly amazing how intertwined our businesses are.

#### **Anything else you'd like to add?**

If I had anything to say to our REALTOR® friends out there, it's communicate and work with your title company on the timelines that the parties negotiate in a contract to make sure that the title company and the surveyor can meet the deadlines that are required. Also be conscious of other third-party reports that are required that may also need a longer lead time than you would normally expect.



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# LEGAL & ETHICS

## SELLING SOLAR

How the TREC contracts handle sales with solar panels.



Judy Jones listed a property with solar panels in Kennedale for a seller who had to move out of state due to a catastrophic accident. The broker-associate from Southlake was trying to put together all the necessary information on behalf of her client and was having trouble getting a response from the solar panel company.

"I lost the first buyer because the solar company didn't respond to my requests for three weeks," she says. "Another contract came in on the property. The title company contacted the solar panel company several times to get the paperwork for closing. It took two weeks to get a response, and the solar company said that the buyer would need to assume the lease on the panels—there were 16 years remaining on the original 20-year lease—and they wanted me to sell the lease to the buyer!"

The second buyer wasn't able to qualify for a mortgage loan once the lender factored in the 16-year lease as a lien on the property.

Jones's experience isn't unique. Most owners don't know or don't remember what is in the paperwork they signed with the solar panel company.

How the Texas Real Estate Commission contract forms handle the sale of a property with solar panels depends on whether the panels are paid off, financed, or leased.

### Paid Off Panels

If the solar panels are fully paid off, they are treated the same as any other fixture in Paragraph 2 of the TREC contracts.

### Financed Panels

If the panels were financed, the solar panel company has likely placed a lien on the property. Paragraph 9B(4) of the

TREC contracts make it clear that all existing liens must either be satisfied by the seller at closing or assumed by the buyer. The solar panel company might also have its own requirements that must be satisfied if the home and panels are sold.

Encourage your sellers early in the process to review the contract they signed and contact the solar panel company—preferably before the property is listed. Sellers and listing agents would need to calculate the cost of satisfying the solar panel lien in their estimate of proceeds. If the lien is going to be assumed by the buyers, the parties need to seek help from a private attorney. The buyers should also speak with their lender, since assuming the lien could cause issues with obtaining third-party financing.

### Leased Panels

If the panels are leased, the *Addendum Regarding Fixture Leases* (TXR 1954, TREC 52-0) must be used. This form allows the buyers and sellers to negotiate whether the lease will be assumed and whether the panels will remain on the property. Additionally, the form requires sellers to deliver copies of the solar lease to the buyers, allows the buyers to terminate the contract if the sellers fail to timely deliver copies of the lease, and reiterates that all liens must be satisfied at closing or assumed by the buyers.

Again, the solar company may have additional requirements that the buyers must satisfy before the lease can be assumed, and the assumption of the lease could cause issues with the buyers obtaining third-party financing. The buyers would need to consult with a private attorney and their lender to address any issues that arise relating to the solar lease.

**Your Forms**

Most of the time, the buyer’s agent works with the seller’s agent throughout the real estate transaction. Occasionally, the seller’s agent authorizes the buyer’s agent to present an offer directly to the seller such that it does not violate restrictions under the Real Estate Licensing Act. In these cases, buyer agents may use the *Notice From Buyer’s Agent to Seller* (TXR 1504) to explain what buyer agents will and will not do.

The notice tells sellers that the buyer’s agent will not provide seller’s agent services, such as offering advice, helping to draft offers, and giving relevant market information. The notice also informs sellers that buyer agents have an obligation to inform their buyers of any material information sellers provide.

The notice can be used with residential, commercial, and farm & ranch properties. *Notice From Buyer’s Agent to Seller* is one of more than 130 forms exclusively available to Texas REALTORS®.



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## LEGAL & ETHICS

### DO THIS BY DECEMBER 31 OR YOU MAY NO LONGER BE A REALTOR®

If you don't satisfy NAR's Code of Ethics training requirement by the end of this year, your REALTOR® membership will be suspended. If you still haven't completed the training by March 1, 2022, your membership will be terminated.

#### How to Find Your Ethics Training Status

NAR has an online lookup to check your ethics training status: [nar.realtor/my-account](https://nar.realtor/my-account) (login required).

#### What Courses Currently Satisfy the NAR Requirement?

- Code of Ethics courses offered by Texas REALTORS® (search courses at [texasrealestate.com/ethicstraining](https://texasrealestate.com/ethicstraining))
- Code of Ethics courses offered through a local association
- The NAR C2EX endorsement
- NAR Official Code of Ethics Online Training
- Courses from The CE Shop in partnership with Texas REALTORS® ([texasrealtors.theceshop.com](https://texasrealtors.theceshop.com), use discount code COE35 for 35% off).

#### What Is All This About?

All members must complete the training every three years. The current deadline by which all REALTORS® must take the training is December 31, 2021. The Texas Real Estate Commission Legal II course required to renew your license no longer satisfies the NAR requirement for REALTOR® Code of Ethics training. This change was adopted by the NAR Board of Directors in 2019.

**If you completed TREC Legal II in 2019 or the NAR-approved ethics training in 2019 or 2020:** You have completed the NAR requirement for the current cycle that ends on December 31, 2021.

**If you did not complete TREC Legal II in 2019 or another NAR-approved ethics training in 2019 or 2020:** You must complete NAR Code of Ethics training by December 31, 2021.

If you have questions, contact your local association of REALTORS® or the Texas REALTORS® Professional Development Department at [education@texasrealtors.com](mailto:education@texasrealtors.com).



### SHOULD THE FEE TO EXTEND THE TERMINATION OPTION PERIOD BE DELIVERED TO THE TITLE COMPANY OR THE SELLER?

Although the initial option fee should be sent to the title company, the fee to extend the termination option should be delivered directly to the seller.

Paragraph 6 on the *Amendment* form states, "Buyer has paid Seller an additional Option Fee..." Because this language is in the past tense, it assumes that the additional option fee was paid to the seller before the amendment was signed. The amendment acts more like a receipt.

#### How Much Should the Fee to Extend the Option Fee Be?

The fee to extend the option period is a negotiable amount between the buyer and seller. There is no minimum or maximum amount. However, buyers should not enter \$0 to extend the option period. If no money is paid, the buyer runs the risk that the option to terminate would not be enforceable. No matter how small the amount the parties agree to, the buyer should pay the seller. Failing to do so opens the door for the seller to claim the buyer did not fulfill the contractual obligation necessary to extend the option period.



## APPRAISAL WAIVERS

An article in the July issue about the *Addendum Concerning Right to Terminate Due to Lender's Appraisal* (TXR 1948) used an example that did not take into account factors that would typically apply. The following example corrects that oversight. Find the full, corrected article at [texasrealestate.com/magazine](http://texasrealestate.com/magazine).

**Can a buyer insert a number in Paragraph 2(ii) that is based on the additional cash they are willing to bring to closing rather than the appraisal amount?**

No. The form only allows you to put in the opinion of value—the appraised

value—because it is referencing the appraisal language in Paragraph 2B of the *Third Party Financing Addendum*. You will have to do some math to come up with a number that works for your buyers based on the additional cash they are willing to bring. Here is a simple formula that can be used to determine the opinion of value to insert in Paragraph 2(ii). This formula assumes the lender will maintain the same loan to value (LTV) ratio with the lower appraised value.

$$\text{SALES PRICE} - (\text{ADDITIONAL CASH} / \text{LTV}\%) = \text{PARAGRAPH 2(ii) AMOUNT}$$

For example, the sales price of a home is \$250,000 and the buyers want to finance \$225,000 with a \$25,000 down payment. A 90% LTV. The buyers are willing to put down an additional \$4,500 if necessary. The buyers could insert \$245,000 in Paragraph 2(ii) as the minimum appraisal they are willing to accept. With a \$245,000 appraised value and 90% LTV, the loan amount will be reduced to \$220,500. The down payment will be increased to \$29,500 to total the \$250,000 sales price. The buyers will be required to bring an additional \$4,500 cash with their original \$25,000 down payment.

$$\$250,000 - (\$4,500 / 90\%) = \$245,000$$

Note: Any additional cash a buyer may be required to bring depends on the lender's reduction of the loan amount. The lender's decision to reduce the loan amount is based on numerous factors, including underwriting requirements and the type of loan, which may affect the above calculations.

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# THE INTROVERT'S SURVIVAL GUIDE TO THRIVING IN A SOCIAL BUSINESS

Understand your personality type to minimize social exhaustion and take advantage of your strengths.

by Patee Franks



A career in real estate involves daily social interactions, networking, and attending industry events. But not all REALTORS® are social butterflies or interested in being the center of attention. Since socializing can be mentally and physically draining for some introverts, many prefer to connect in other ways.

“Introverts recharge by spending time alone, but that doesn’t mean we can’t use learned behaviors to interact with others effectively,” says Tiffany Smith, a broker associate with Compass RE Texas, Prosper.

*Texas REALTOR®* magazine asked members who consider themselves introverts to share their stories and tips.

## Be Prepared

Have a presentation or proposal coming up? Make sure to practice. Spending extra time prepping, collecting data, and organizing your thoughts ahead of time can give you confidence and help relieve anxiety. Smith shared that she performs better when she has allowed ample time for preparation and research. “Keeping a well-managed schedule is key to thriving in what can be thought of as uncomfortable situations,” she says.

Teri Miller, an agent with Coldwell Banker Apex, Mesquite, recommends having a script that you know backward and forward before attending an event. “When you are prepared and know your stuff, it shows with the people to whom you are connecting,” she says.

While you can’t control or predict everything, it is helpful to be proactive. Miller also suggests planning for what might be needed, wanted, and asked during the meeting to avoid unexpected questions. “Be prepared for your plans to need quick alterations.”

## Play to Your Strength

Observant, analytical, and reflective are just some of the traits introverts tend to have. Smith believes that an introvert’s natural ability to be a critical thinker is a huge asset. “Critical thinking is crucial in our industry, and being able to anticipate potential roadblocks is an advantage.”

Smith also adds, “I’m a good listener, and I value genuine connection. While I may loathe small talk, I love the opportunity to have sincere conversations. Connecting on a deeper level leads to meaningful relationships that naturally convert to longtime client relationships—and friendships!”

Crystal Williams, of UTR-Texas, REALTORS®, League City, confesses that her greatest struggle has been the social side of real estate, specifically with potential clients she doesn’t know personally. However, she has found that she performs better when she sees her introverted tendencies as beneficial. “If I focus on the objective of listening and learning about the client and their real estate needs, it takes the pressure off of being charismatic and extroverted,” she says. Williams uses the example that she repeats what the client has said in her own words to make sure she understands the person’s needs.

## Connect Comfortably

It can be awkward and intimidating meeting new people. However, you can still create a great network even if you dislike traditional forms of networking. If you prefer to avoid small talk, dig deeper. Take charge of how you communicate by asking engaging questions. Showing interest and learning more about the other person is a great way to make a connection. If you are still at a loss for words or anxious about reaching out to someone

new, Miller recommends visualizing the person you are talking to as though you have known them a long time.

Molly Lasater, CEO/broker of Solid Real Estate Services, Midland, prefers to work in small groups or one-on-one. "Working with my clients allows me time to get to know them on a personal level, which I really enjoy," she says. "Focus on building your business with the people you already know. It might take a little time to grow your clientele in this fashion, but you will thrive because you are staying true to your character."

Not all communication has to be face to face. By utilizing technology, you can take advantage of the opportunity to process and weigh in on an issue before responding.

"You can develop a secure career in real estate without all the cold calling, door knocking, and attending social functions," Lasater says. "A lot of my day-to-day tasks can be handled through email or texting with other professionals."

Smith adds, "With the use of social media and CRMs, introverts can utilize their strengths to build and maintain lasting relationships."

### Find a Balance and Take Time Out

To be successful, you don't have to say yes to everything. In fact, knowing when to say no or take a break can be essential for staying focused, energized, and avoiding burnout. Lasater tries to keep her morning hours free so she can start her day with quiet time and then be ready to tackle the rest of the day. "The key is to schedule downtime into your daily and weekly schedule," she says. "I might work seven days a week and have plenty of daily social activities, but I always have a few hours a day of alone time, so I can recharge and be at my best."

Wanting downtime doesn't mean you're antisocial. In fact, Smith has found that allowing for occasional downtime enables her to be the best version of herself in social settings.

So how can you recharge? Keep it simple. Don't let the idea of needing to take time out be a source of anxiety. Activities such as taking a walk, enjoying a creative project, exercising, meditating, pampering yourself, or hanging out with a friend are a few suggestions. Find out what works best for you.

Remember, perspective makes all the difference. Being successful isn't about whether you are an introvert, extrovert, or somewhere in between. Instead, it is about embracing your strengths and even your perceived weaknesses. The more aware and comfortable you are with your personality type, the more confident you'll be in your real estate career. ★

**PATEE FRANKS** is digital marketing specialist for Texas REALTORS®.

## ARE YOU AN INTROVERT OR EXTROVERT?

The Oxford dictionary defines extroverts as outgoing and, in contrast, introverts shy and reserved. While this may be a correct characterization for some, psychologist Carl Jung stated it isn't so much about whether you are social or not, but where you get your energy from to be social. For example, extroverts are invigorated by external sources, like groups of people and new experiences. On the other hand, introverts are revitalized from within and by taking time out.

There are many organizations with online tests to assess your personality and help you understand your strengths and challenges. One site that offers several basic free assessments is [truity.com](http://truity.com), and you can find others by searching terms like *online personality test*.

## NETWORKING TIPS IF YOU DON'T ENJOY NETWORKING

- Bring a friend or partner to take the pressure off the feeling of always having to be "on."
- Take deep breaths, be present, and don't rush your thinking or responses.
- Ask for introductions to help with the awkwardness of approaching someone new.
- Arrive at an event early. It will be easier to meet one-on-one with someone rather than to try to navigate through a crowd.
- Volunteer. By working at an event, introductions and conversations will come up more organically.
- Set reasonable expectations. For example, focus on having four meaningful conversations rather than pressuring yourself to collect or hand out 100 business cards.
- Manage your inner critic and silence the negativity.
- Be your own cheerleader. Remind yourself of your skills and what you have to offer.





# How New State Laws Affect You

What legislation passed during the 87<sup>th</sup> regular session of the Texas Legislature means for you and your clients.



All bills listed become effective September 1, 2021 unless otherwise noted.

## LEASING AND PROPERTY MANAGEMENT

### **HB 531** (effective January 1, 2022)

Requires landlords to give notice to prospective residential tenants at or before the execution of the lease of whether they are aware that the rental dwelling is located in a 100-year floodplain or whether the rental dwelling has flooded at least once within the previous five years. If a landlord fails to provide the notices and the tenant suffers substantial damage to the tenant's personal property as a result of flooding, the tenant may terminate the lease not later than the 30<sup>th</sup> day after the damage occurred. Texas REALTORS® will update pertinent forms by January 1, 2022, to add this required disclosure.

### **HB 900**

Adds to the writ of possession section of the Property Code that a landlord is not liable to a tenant for any damages resulting from an officer executing a writ of possession in an eviction suit. This change applies to a writ of possession issued in an eviction suit filed on or after the effective date of this bill, which is September 1, 2021.

### **SB 1783**

Allows landlords to choose to offer a tenant an option to pay a nonrefundable recurring fee of equivalent amounts in lieu of a security deposit. The agreement to collect the fee must be in writing and signed by the landlord and tenant. The landlord must inform tenants that they have the option to terminate the agreement to pay the fee in lieu of a security deposit at any time and instead pay a security deposit in the amount that is offered to new tenants for substantially similar dwellings. The landlord may not use a prospective tenant's choice as a criterion when deciding whether to approve an application for occupancy.

The bill allows the fee to be used to purchase insurance coverage for damages and unpaid rent for which the tenant is liable under the lease but prohibits a landlord from submitting such a claim to an insurer unless the landlord notifies the tenant of the damages not later than the 30<sup>th</sup> day after the tenant surrendered possession of the dwelling. If the tenant successfully challenges the claim for damages or unpaid rent, the landlord may not file an insurance claim for insurance purchased with the fee.

## EMINENT DOMAIN

### **HB 2730** (effective January 1, 2022)

Expands the information a property owner must receive from



an entity seeking to acquire property through eminent domain. The bill also allows property owners to file complaints with TREC when entities do not provide the requisite disclosures in the eminent domain process.

### **HB 4107**

Requires that common carrier pipelines exercising the power of eminent domain provide notice to the property owners as well as indemnification, or redress, for damages caused when accessing the property for a preliminary survey. The bill also limits entry only to the portion of the property that is anticipated to be affected by the route of the proposed pipeline.

### **SB 721**

Requires an entity exercising the power of eminent domain to provide disclosure of all appraisal reports used in connection with determining the entity's opinion of value of the property if an appraisal report is to be used at the special commissioner's hearing.

## **FAIR HOUSING**

### **HB 1153**

Brings the Texas Fair Housing Act in line with the federal Fair Housing Act. This bill clarifies that the Texas Fair Housing Act does not apply to the sale or rental of a single-family house sold or rented by the owner under certain circumstances, including if the house is sold or rented without services of any person in the business of selling or renting a dwelling. The bill also gives a definition for who is considered "a person in the business of selling or renting a dwelling."

### **SB 30**

Creates a new process for removing discriminatory covenants from deed records by filing a request with the district court in the county in which the deed is recorded or with another court having jurisdiction over real property matters in the county.

## **APPRAISERS/APPRAISALS**

### **HB 2533**

Allows licensed appraisers to conduct an "evaluation" without complying with the Uniform Standards of Professional Appraisal Practice (USPAP) in certain situations. Evaluations are tools for lenders to determine property value for smaller loans and intended to be quicker and less in-depth versions of a full property appraisal and may ease some of the current appraiser workload issues.

## **BUSINESS REGULATION/ EMPLOYMENT PRACTICES**

### **SB 6**

Protects businesses from civil liability for pandemic-related lawsuits as long as the businesses did not ignore or flagrantly

disregard recommended protocols to protect customers.

### **SB 45**

Makes employers responsible for sexual harassment against an employee if the employer knew or should have known of the harassment and failed to take immediate and appropriate corrective action. The new law applies to all employers with one or more employees.

### **SB 968** (effective June 16, 2021)

Specific to the state's emergency powers, clarifies that cities and counties may no longer issue orders that would limit residential and commercial real estate services and real estate support services during a state of emergency. The bill also prohibits Texas governmental entities from issuing vaccine passports and prohibits businesses that receive government-funded grants or contracts from requiring customers to provide proof of vaccination to gain access or receive service.

## **PROTECTION OF ELDERLY**

### **HB 1156**

Makes it a crime to exploit or financially abuse an elderly person if you are in a "relationship of confidence or trust." This is important because it includes a family member, co-property owner, caregiver, or person with a fiduciary duty (which includes brokers and agents) to the individual.

## **WINDSTORM INSURANCE**

### **HB 2920**

Requires a policy holder of a policy issued by the Texas Windstorm Insurance Association be given a 10-day grace period after a policy expires to allow for renewal of the policy.

### **HB 3564**

Under previous law, a certificate of compliance issued for repairs or work done to a structure pursuant to the Texas Windstorm Insurance Association Act could be rescinded if the resulting improvement to the structure did not comply with the local building code. Under this new law, a certificate of compliance can no longer be rescinded as long as the repairs or work was done in accordance with the TWIA Act.

## **HOMEOWNERS ASSOCIATIONS**

### **SB 1588**

Covers many facets of the management of a homeowners association, specifically with respect to real estate sales and leasing. The bill limits the amount of fees a homeowners association can charge for the production of subdivision information, resale certificates, and updated resale certificates. The bill creates a publicly accessible database of homeowners associations that will be housed with the Texas Real Estate Commission. It requires homeowners associations to maintain a website where manage-

ment certificates and dedicatory documents are made available. The bill protects owners' and tenants' private information by specifying that homeowners associations may not require access to lease agreements. The bill provides numerous other protections for homeowners, including barring homeowners associations from prohibiting certain pool enclosures and religious displays and ensuring due process in resolution of disputes between homeowners and the homeowners association.

## HOME WARRANTIES AND OTHER WARRANTIES

### HB 2110

Provides for the automatic transfer of a manufacturer's warranty on air conditioning systems to be conveyed with residential real property as if the new owner of the air conditioning system is the original purchaser. No forms will need to be filled out and no fees are allowed.

### HB 1560

This is the Texas Department of Licensing and Regulation (TDLR) sunset bill. It includes provisions that transfer the regulation of residential service contracts from the Texas Real Estate Commission to TDLR. Pertinent Texas REALTORS® forms will be updated to reflect this change.

## SPECIAL PURPOSE DISTRICTS

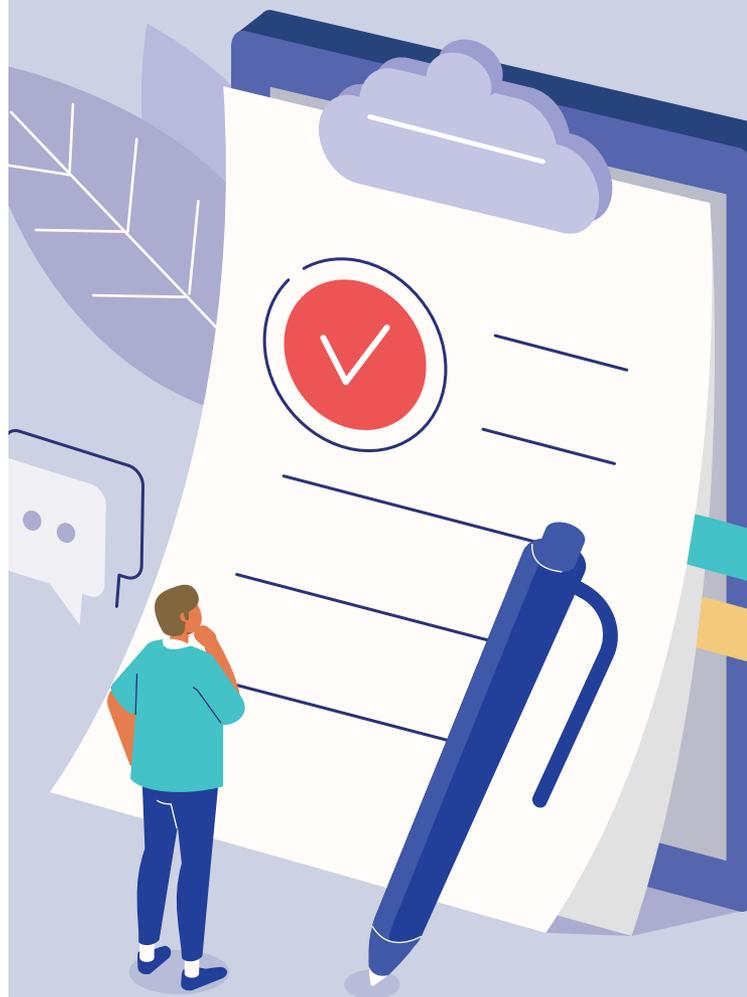
### HB 1154

Requires certain special purpose districts—including water control and improvement districts, freshwater supply districts, and municipal utility districts—to maintain a website and post information to that website. Residents of these districts will have easier access to find out who serves on a district's board, when these districts' boards meet, when they set a tax rate, and the details of the districts' budgets.

### HB 1543

Requires sellers to provide a new notice to buyers when selling property located within a public improvement district (PID). This is similar to existing notice requirements when a property is located in a Municipal Utility District (MUD). The PID notice requirements apply to all property types. The notice requires the seller to provide specific information about the district, including the name of the county or municipality levying an assessment and the name of the PID. If the seller fails to provide the notice, the buyer may terminate the contract or file a lawsuit for damages, under certain circumstances, after the transaction closes. TREC is modifying the disclosure language contained in residential forms, and Texas REALTORS® will do the same to all other forms to meet the new public-improvement-district disclosure requirements under HB 1543. TREC is also promulgating a new notice form to meet the new disclosure requirements. Updated forms and the new notice will be available prior to the September 1, 2021 effective date. ✖

Find more information on these bills and others at [capitol.texas.gov](http://capitol.texas.gov)



## LOOK FOR NEW AND REVISED FORMS

Failure to comply with the new laws by the effective dates—including failure to use required updated and new disclosure forms—can put you and your clients at risk.

Be sure to check with your forms provider for the updated and new forms related to new legislation, including:

- New public-improvement-district disclosure notice (HB 1543, effective September 1, 2021)
- New disclosure for leased properties about floodplains/floods (HB 531, effective January 1, 2022)
- Residential service contracts being regulated by the Texas Department of Licensing and Regulation rather than TREC (HB 1560, effective Sept. 1, 2021)

In addition to these revised and new forms being available through all Texas REALTORS®-licensed forms providers, blank PDFs of the forms will be available to members at [texasrealestate.com/realtorforms](http://texasrealestate.com/realtorforms).



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# HOW DO YOU MEASURE SUCCESS?

Brokers: Tracking these metrics can help you boost your business.

by Joe Olivieri

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Tim Beary



Pat Strong

**A**s a broker, you're watching your performance numbers closely. You know what your brokerage needs to work on. But what can you do to bolster those results and build a more successful business?

Two longtime real estate educators break down how you can improve your metrics. **Tim Beary** is the broker/owner of Beary Nice Homes in the Dallas-Fort Worth area. He also teaches the course Successful Business Plan: Where Are You Now? **Pat Strong**, a San Antonio-based broker and real estate coach, was named Texas REALTORS® Educator of the Year in 2006 and received the lifetime-achievement Excellence in Education Award in 2016 and the Distinguished Service Award in 2020.

## Tap Into Spheres of Influence for More Conversations

Where do sales come from? Appointments. And where do appointments come from? Contact with new and existing clients—the top of the sales funnel.

How do your agents keep track of the people

they talk to? If your brokerage doesn't have a customer relationship management system, get one and train everyone to use it, Strong says. Otherwise you are not keeping up with your business in a systematic way. "I know of agents with sticky notes all over their desks. They write their contacts' information on the notes. Do you think they're following up with them regularly? No."

Agents should be keeping in touch with their spheres of influence. Strong advocates sending video texts. Focusing on your database is a more effective way to reach people than cold calling, Beary adds.

How much time are your agents spending on lead generation and nurturing? He recommends devoting three hours to it every workday. There is no such thing as spending too much time on it.

"One of my real estate coaches early in my career advised that you should lead generate until you have an appointment, and that's your business day," he says. "If three hours isn't enough to get a

day,” he says. “If three hours isn’t enough to get a lead and an appointment, just keep doing it.”

### Require Practicing Scripts to Help Conversion Rates

Many real estate agents think spending two hours on the phone is an indicator of success, Beary says. “It’s not the hours on the phone; it’s the number of conversations you’re having and then the conversion rate of those conversations into appointments and then signed agreements.”

Agents should aim to convert 10% to 20% of all conversations into appointments, according to Beary.

Newer agents are more focused on booking appointments and building rapport. They are still working on their scripts and dialogues. Beary says they should aim to turn half to 75% of their appointments into either buyer representation or seller listing agreements. More experienced agents are nurturing their databases and are primarily booking appointments with properly qualified leads who are highly likely to sign. Seasoned agents should aim to convert 80% to 90% of their appointments into agreements.

“There’s a direct correlation between practicing scripts and dialogues and improving your conversion rate,” he says. “Get comfortable with the conversations. Make your conversations more effective and efficient.”

You can train agents on listing presentations, Strong says. If you don’t have time to train new hires, record your trainings and build a training library over time.

### Ensure Correct Pricing to Close More Sales

How many listings did your brokerage close in a given period? Why didn’t some of those homes sell, or why did they take longer to sell? It may be that the agents didn’t know how to price the homes correctly, Strong says.

Your agents need to study their markets closely, Beary says. “What is going on in your market area? What is the listing inventory and the average days on market for that inventory? What are the sales prices? All of that would be MLS data.”

From there, your agents should know if homes are selling at, above, or even below listing price. Homes that are appropriately priced for their markets will sell, especially in this current market.

### Know the Market to Plan More Effectively

Beary recommends brokers review listing inventory closely. How many days were your brokerage’s listings on the market? How many showings did each listing get? How many showings took place in a particular neighborhood or ZIP code? These data points should give you an idea of what to expect in the market—and what to expect from your agents.

You don’t pull sales goals out of thin air. Sales goals are

aspirational but rooted in business needs and past performance. Sales goals can motivate agents and incentivize improvement.

Whether sales goals are personal or company-wide, put them

**“Whether sales goals are personal or company-wide, put them in writing. You’ll know if the goals are too low if you surpass them too easily.”**

in writing, Strong advises. You’ll know if the goals are too low if you surpass them too easily. She knows of a brokerage that beat its annual sales goal in March. Annual goals should be reviewed quarterly, she says.

At Beary’s company, yearly goals are broken down into monthly and then weekly goals. Agents review their goals each week to make sure they’re on track for the month and review each month to be on track for the year.

“A typical business planning strategy that I’ve heard from many an instructor is: How much business do you think you can do this year? Now double it,” Beary says. The steps to complete a transaction remain the same whether you close 50 transactions a year or 100. Your mindset and motivation have a lot to do with your success in the real estate industry. So aim higher.

### Manage Agents to Improve Big Picture

Coaching only goes so far. Your rules and expectations can set the course for the firm.

Many brokerages have a minimum number of transactions each agent needs to close per month. Both educators advised keeping track of each agent’s closed sales.

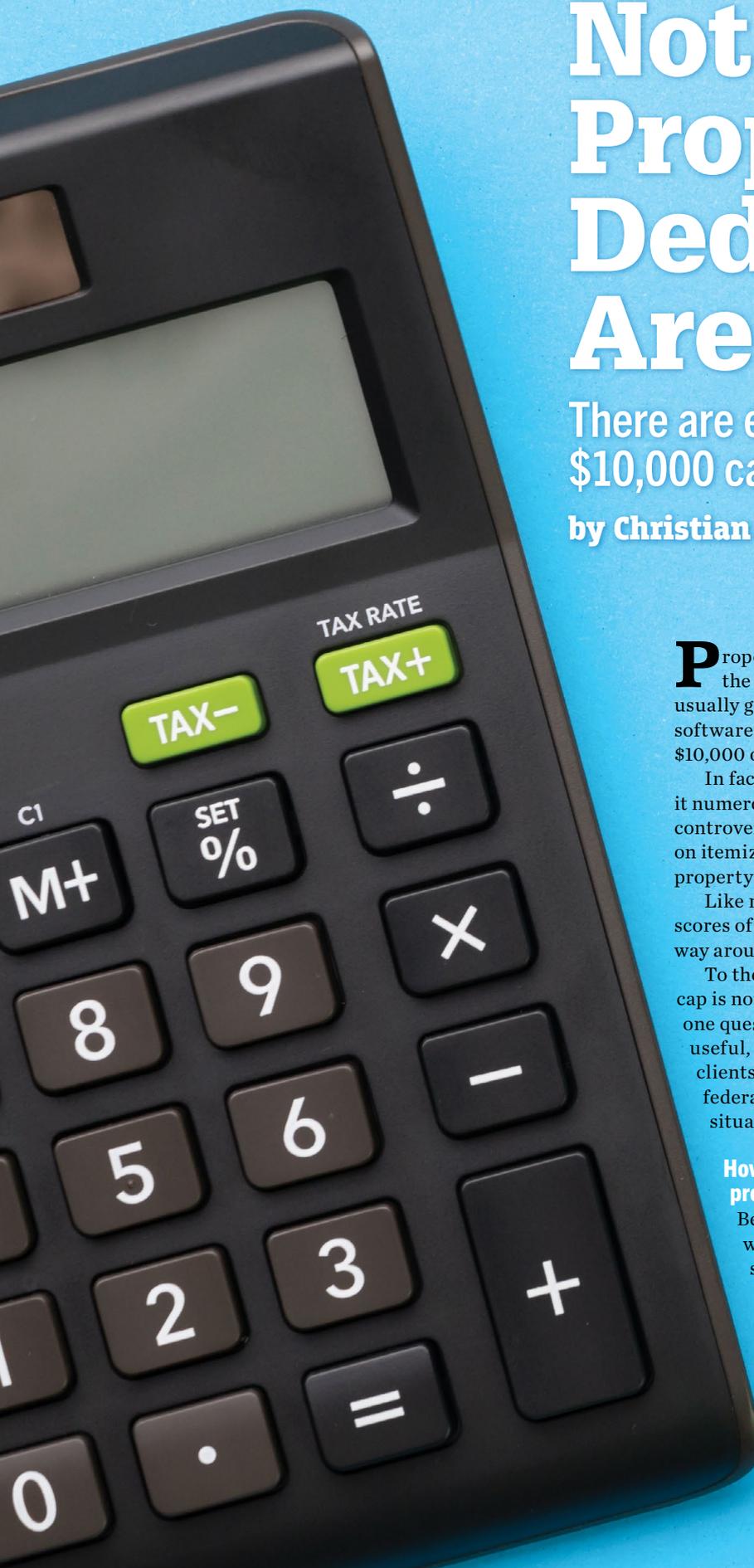
Pay attention to which agents remain near the required minimum, Strong says. They may need additional coaching or training on tools such as REALTORS® Property Resource. Bringing underperforming agents up to speed could make a big difference. If an agent continues to lag, you may need to consider parting ways with that person.

According to Beary, your metrics should be your business drivers. “Really, a real estate agent only has five jobs every day that are dollar producing activities: practice scripts and dialogues, generate leads, go on appointments, write contracts, and close sales.” ★

JOE OLIVIERI is assistant editor for Texas REALTOR®.

## WANT MORE INSTRUCTION?

Texas REALTORS® offers courses to help brokers plan and measure business goals: Building a Business Plan that Gets Results; and Successful Business Plan: Where are You Now? The courses are part of the Certified Real Estate Brokerage (CRB) Manager designation, but agents and brokers can enroll in these individual classes without pursuing the designation. Visit [texasrealestate.com/findacourse](https://texasrealestate.com/findacourse) to register for these and other classes.



# Not All Property Tax Deductions Are Limited

There are exceptions to the \$10,000 cap.

by Christian J. Hofflinger

**P**roperty owners have been turning to online tax forums the past few years with a head-scratching question that usually goes something like this: “Why is my tax preparation software limiting my itemized deductions for property taxes to \$10,000 on my federal return?”

In fact, the 2017 Tax Cuts and Jobs Act (TCJA) brought with it numerous changes affecting businesses and individuals. One controversial change for individuals was the \$10,000 cap placed on itemized deductions for state and local taxes, including property taxes.

Like most tax code changes, this one prompts confusion and scores of questions, including the big one: “Is there any legal way around this cap?”

To the surprise of plenty of real estate owners, the \$10,000 cap is not as absolute as they believe. Drilling into this issue one question at a time should provide REALTORS® with a useful, basic understanding as they field questions from their clients about how to address property taxes when filing their federal tax returns. Of course, specific questions about tax situations should be referred to qualified tax professionals.

## How did the 2017 law change the way property taxes are treated by the IRS?

Before the change, individual taxpayers who itemized were allowed a deduction for property taxes paid to state and local taxing authorities, as well as a deduction for either state income tax or general sales tax. Under the TCJA, taxpayers who itemize are still allowed those deductions but with one major caveat: They are now limited to \$10,000 (\$5,000 for married filing separately).

This sweeping change has created much controversy, especially among residents of states with historically high property taxes—like Texas—who are now limited in the amount of deduction available to them.

## Are there any exceptions to the \$10,000 cap on property tax deductions?

Yes. One example is vacant land held for investment. Individuals who own vacant land generally do not receive any income from the land and also are not entitled to any business deductions related to it. The real estate taxes paid on vacant land before the passing of the Tax Cuts and Jobs Act were recorded as an itemized deduction on Schedule A. Therefore, it would appear that the new rules would subject these taxes to the \$10,000 cap on deductions.

Upon further review, however, this might not always be the case. Section 164(b)(6) of the Internal Revenue Code provides exceptions for taxes that are paid or accrued in carrying on a trade or business and activities described in Section 212.

## What does the IRS mean by “carrying on a trade or business”?

One activity described in Section 212 is the “management, conservation, or maintenance of property held for the production of income.” This section further states that income includes prior, current, and subsequent years. It also states that income includes not only recurring income but also gains from the disposition of the property. Most real estate investors purchase property with the intention of selling it in the future at a gain. So, it appears that property taxes paid on real estate investment property would not be subject to the \$10,000 cap.

## How should property taxes be reported to support the claim of carrying on a trade or business?

Taxes paid on investment property should be reported as “Other Taxes” on Line 6 of Schedule A, Form 1040. One note of caution, however, is that taxes are not a deduction for Alternative Minimum Tax purposes. Depending on the situation, claiming these additional tax deductions might not reduce total federal income taxes owed. In those situations, consideration should be given to making an election under Section 266 to capitalize the taxes paid to the basis of the property, thus reducing the amount of capital gain once the property is sold.

## Are any other property taxes exempt from the \$10,000 deduction cap?

Yes. Property taxes paid for rental properties (in service or available for rent) and those paid in the ordinary course of a trade or business, such as an operating company, are not subject to the \$10,000 cap.

Unfortunately, property taxes paid on personal use property, second homes, and vacation homes, while still deductible as itemized deductions, are subject to the \$10,000 limitation.

The laws are complex, to say the least. Property owners should be careful in calculating their deductions, and REALTORS® would be wise to advise their clients to seek input from a qualified CPA on their options. ★

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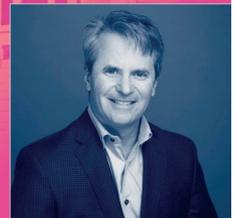
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## THREE THINGS TO CONSIDER BEFORE YOU SELL

Putting your home on the market is exciting. It can be nerve-wracking, too. How do you sort through all the decisions and options? Here are some considerations to keep in mind:



### IS IT WORTH YOUR TIME AND MONEY?

Before you update your 1970s bathroom, know that you may not recoup all your remodeling costs when you sell. Some remodeling choices actually make it harder to sell a home, such as materials on their way out of style. Other upgrades may be necessary to attract any reasonable offers at all. Additional factors are the condition of nearby homes for sale, the price range of the home, and how much current conditions lean toward a buyer's or seller's market.



### WHAT HELPS EVERY HOME

No matter the size, age, price, or location of your home, it pays to make sure it's clean, uncluttered, attractive, and free from minor nuisances. New paint and a few plants go a long way to making a positive first impression. On the other hand, sticking doors, an overgrown lawn, or dripping faucets can turn buyers off before they give your home a fair chance.



### DON'T UNDERESTIMATE THE SIGNIFICANCE OF THIS

Perhaps no factor is as important as your asking price. A too-high number may dissuade offers and leave the property languishing unsold, while a lower one may spark a bidding war that drives offers higher than you had dared dream. Elements outside your control may also dictate price, such as market conditions and time constraints to sell.



Your REALTOR® is the trusted professional who can guide you through the entire process of selling your home.

# TAKE 5



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## SOUP UP YOUR GROUP

Logging on or showing up is a good start when you join a professional network, but if you really want to make the most of your opportunity, get involved! Here are steps you can take during your next online or in-person interaction to optimize your involvement:

### LEAVE NO QUESTION UNASKED

Tap into the group's collective knowledge and experience. Start discussions. Ask questions to tackle issues you're experiencing in your business. You may get a helpful answer, identify an issue worth researching, or at least find a sympathetic audience. Think about how to ask your question to yield the most useful responses.

### DON'T FORGET TO SHARE

If you can answer someone's question, speak up! Share your wisdom. Direct group members to helpful resources. You have contacts and life experiences others don't. Your contribution could make a big difference for another professional. Consider giving a presentation to the group.

### CONNECT, CONNECT, CONNECT

One of the most important functions of a professional group is to facilitate connections. That's why you joined, isn't it? Talk to others with whom you could do business. Get to know people. Exchange contact information and follow up. Build relationships outside of the group setting. When you can, create connections for others. The more links you build, the better.

### SEE THINGS THROUGH

If you get a referral from a group member, contact the referral as soon as possible. Periodically update the referral source on how things are progressing. Even if the referral doesn't turn into business for you, your referral sources will appreciate you keeping them in the loop and will remember you for future referral business.

### STEP FORWARD

Consider applying for a leadership role within the group. You will gain experience and recognition among your peers. Not only can you help influence the group's future, but your visible role will establish you as a go-to resource in and beyond the group.



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<p><b>BANK STATEMENTS</b> Loan Program Qualify with Bank Statement Deposits Self Employed, No Tax Returns</p>	<p><b>SELF EMPLOYED</b> Independent Contractor 1099 Loan Program No Tax Returns</p>	<p><b>SELF EMPLOYED</b> Only 1 Year Tax Return Loan program</p>	<p><b>SELF EMPLOYED</b> 1 Year Profit &amp; Loss Statement Only Loan Program No Tax Returns.</p>	<p>Recent Employment Changes? 1099 To W2 Or W2 To 1099? Loan Programs Available!</p>
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