TEXAS REALTORS®

Legislative Priorities for the 87th Texas Legislature

TEXAS REALTORS®

On behalf of our association's 130,000-plus members, I'm proud to introduce the Texas REALTORS® Legislative Priorities for the 87th Texas Legislature. This publication highlights areas of interest Texas REALTORS® will monitor during the 2021 session.

Ours is truly a grassroots organization powered by local involvement. This is especially true for our legislative priorities, which are created through the association's member-driven Public Policy Issues Committees.

Committee members are experienced Texas REALTORS® from across the state who are committed to protecting the real estate industry through strong public policy. Our dedication to the real-world implications of public policies allows us to remain diligent in following diverse issues affecting Texas real estate and to protect our vibrant local and state economies.

We know first-hand that 2020 has brought unexpected challenges to our state, and we acknowledge that the state's changing needs will bring new priorities and a focus on issues related to the COVID-19 pandemic.

Our ultimate goal is to ensure Texas remains a great place do business, raise a family, and buy, sell, or lease real estate.

We look forward to working with you in the 87th Texas Legislature and beyond to achieve this goal.

Sincerely,

Marvin Jolly
2021 Chairman
Texas REALTORS®

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Appraisal Caps

Issue

Texas real estate is in demand, and the increase in value is what makes property in our state such a great investment.

In fact, the state's homeownership rate reached an all-time high of 70% in September 2020, according to the Real Estate Center at Texas A&M University.[1]

However, some lawmakers in the past have sought to lower the current 10% appraisal cap rate to 3% or 5% under the guise of limiting the property tax bill of a residential homestead. Further lowering the artificial limit on the appraisal value of a home through a government overreach program sets a dangerous precedent.

Unfortunately, these proposals nearly guarantee an automatic annual increase in a property tax bill. Appraisal caps also shift the property tax burden of higher-valued properties to middle-class homes, which typically do not appreciate in value at the same rate as higher-priced homes.

What does this mean for the real estate industry?

Vilifying appraisal increases is dangerous rhetoric and can lead younger populations to shy away from homeownership. Value increases in real property are signs of a robust local and state economy and lead to greater building of wealth.

In fact, a 2018 Journal of Economic Perspectives article that focused on U.S. homeownership and financial benefits concluded that "… homeownership is a valuable institution. On average, it allows families to build wealth and serves as a measure of financial security."[2]

Texas REALTORS® position

Texas REALTORS® opposes efforts to reduce the property-tax appraisal cap from its current level of 10%. We also oppose the imposition of an appraisal cap on commercial properties.

Legislative outlook

Expect legislation to be filed relating to lowering the appraisal cap for homestead properties. These bills may also try to extend the appraisal cap to all real property in Texas. These efforts are attempting to rein in increasing property tax bills, but legislators should instead focus their attention on the process to collect property tax revenue at the local level.

Historical perspective

A limit on appraisals was enacted by the Texas Legislature in 1997 and was fully implemented for the 1998 property tax year. The cap on appraised values is currently applicable only to residential homesteads. Past legislatures have correctly turned away these types of ill-advised proposals guaranteeing an automatic increase in local property tax bills.

While the political pressure to lower the appraisal cap percentage may be great, there are consequences. Appraisal caps do not address the underlying problem with our current property tax system and would merely limit the increase in value a residential homestead could experience.

Lowering the property-appraisal cap also creates havoc within the appraisal system.

A report from the Real Estate Center at Texas A&M University outlines the detrimental impacts various tax plans following this model would have on the Texas economy.[3]

According to the report, "[a] proposal to cap value increases at 5% per year similar to the California Proposition 13 model offers a promise of relief from climbing taxes, but the cure could produce undesirable side effects in the long run" and "... would work to distort housing purchase decisions by keeping property taxes low for long term residents."[4]

The report's conclusion found that the prospect of appraisal caps "threatens to impact the marketability of new homes and retard demand for new development by increasing the burden of purchasing new homes or even moving to another existing home. As time passes that impediment would continue to grow into a sizable distortion of the housing market."[5]

[1] "Texas Housing Insight," Real Estate Center at Texas A&M University, November 2020. https://assets.recenter.tamu.edu/Documents/Articles/2120.pdf

[2] "Homeownership and the American Dream," Journal of Economic Perspectives, Vol. 32, No. 1, Winter 2018. https://pubs.aeaweb.org/doi/pdfplus/10.1257/jep.32.1.31

[3] "Property Taxes: The Bad, The Good, and The Ugly," Real Estate Center at Texas A&M, 2013. https://assets.recenter.tamu.edu/documents/articles/2037.pdf

[4] Ibid

[5] Ibid

Broadband Access

Issue

The COVID-19 pandemic has forced many Texans to limit travel and work or take classes from home. This has increased the dependence on high-speed internet across the state and emphasized the challenges faced in communities without broadband access and adoption.

In 2020, the Governor's Broadband Development Council issued its first report to the Texas Legislature after members were appointed in January 2020, only a few months before the COVID-19 pandemic hit Texas.[1]

The council found that more than 300,000 locations in Texas are underserved, and as of July 2020, an estimated 926,859 Texans do not have access to broadband at home.

The 2019 American Community Survey from the U.S. Census Bureau found that only 67.6% of Texas households have broadband at home—placing the state below the national average of 70.8% of households.[2]

The COVID-19 pandemic has reinforced the importance of reliable broadband-based educational services for K-12 and higher education; however, this need has been present for years.

An October 2019 publication from the Texas Comptroller reported that limited broadband access in their homes can prevent students from completing their homework outside of school and present challenges for rural students seeking higher education opportunities.[3]

What does this mean for the real estate industry?

Increased access to broadband internet is a critical infrastructure goal that would benefit individual Texans and the state overall in several ways.

With increased access, real estate consumers will be provided with more housing options as more Texans have the option to work remotely. This would bring economic development opportunities for smaller communities outside of the state's metro areas.

Enhanced broadband access will also provide real estate professionals with greater ability to conduct business in the field, shortening wait times that only exist for the parties to reach a service area when minutes can make a difference.

In addition, increased broadband access is necessary for educational and professional success.

One estimate finds that increased access to digital tools could generate more than $6.6 billion in increased annual sales for rural Texas businesses.[4]

Texas REALTORS® position

This year we have seen the importance of technology access and it is only becoming more crucial for educational and economic success, and therefore Texas REALTORS® supports the development of and increased access to broadband technologies throughout the state.

Legislative outlook

In 2021, legislators will make broadband access a high priority. The Legislature is expected to take action to improve connectivity in rural and underserved areas.

The Legislature is likely to create a state broadband plan and establish a state broadband office. Legislators are also expected to continue studying the development of a state broadband funding program to incentivize deployment in unserved areas.

Historical perspective

In 2019, the Legislature passed broadband-related legislation, including laws that created the Governor's Broadband Development Council; laws that authorize electric cooperatives to provide highspeed internet service to their customers using the cooperative's existing electricity easements; and laws to allow broadband providers to work with the Texas Department of Transportation to deploy broadband access using the state's right-of-way.

[1] "2020 Governor's Broadband Development Council Report," November 2020, https://gov.texas.gov/uploads/files/press/2020_Texas_Report_-_Governors_Broadband_Development_Council.pdf

[2] Ibid

[3] "Texas' Digital Divide: The State of Broadband in Texas' Rural Communities," Fiscal Notes, October 2019, https://comptroller.texas.gov/economy/fiscal-notes/2019/oct/divide.php

[4] Ibid

Central Appraisal Districts

Issue

Property appraisal is one of the elements that determine tax liability for real property in Texas. However, the appraisal process and local taxing-jurisdictions' budget processes have become increasingly convoluted and difficult for property owners to understand.

In addition, many commercial and residential property owners believe the processes to appraise property and protest appraisals are not transparent, fair, or uniform across central appraisal districts (CADs).

Recent public comment has demonstrated a lack of understanding of central appraisal districts' role, leading many property owners to believe CADs either work for or collude with local taxing jurisdictions.

What does this mean for the real estate industry?

A transparent and improved tax appraisal process for commercial and residential property means a more stable and reliable real estate market.

Texas REALTORS® position

Texas REALTORS® supports legislation that would improve state oversight of central appraisal districts and appraisal review boards.

Our association opposes any changes to the "equal and uniform" appraisal laws, which ensure property owners are treated fairly during the ad valorem appraisal process.

Texas REALTORS® opposes the election of chief appraisers and appraisal review board members, as elections would politicize the appraisal process. Chief appraisers were intentionally made appointed officials during the historic property tax reforms of 1979 and 1981 just for this reason.

Legislative outlook

Reforms in the appraisal process will ensure property owners have more trust in the appraisal process. Lawmakers may seek to further clarify new laws that stemmed from property tax reform legislation passed in 2019.

Historical perspective

Texans' property tax bills are skyrocketing, and the state is looking at ways to provide relief. In recent years, the Senate Select Committee on Property Tax Relief and Reform held public hearings across the state to hear from Texans about this critical issue. But because only local entities have the authority to levy property taxes, the state Legislature is limited to reforming the ad valorem process and structure.

New laws out of the 86th Texas Legislature sought to clarify the property tax process and provide taxpayers more opportunities to get engaged to ensure their voices were heard in the process local elected officials follow to set tax rates that will determine property tax bills.

Change-of-use Taxes

Issue

Central Appraisal Districts are responsible for determining and applying the taxable value for all properties in their respective counties, but because Texas has a variety of property types, we don't have a one-size-fits-all appraisal approach.

For example, much of Texas' land is used for agricultural purposes, and our state allows property owners to have their land appraised based on the land's capacity to produce agricultural products rather than the land's market value. This often provides a substantial reduction in the appraised value that is used for ad valorem taxation.

However, the Texas Tax Code allows that when land that has qualified for agricultural appraisal changes use to non-agricultural purpose, the property owner who changes the use will owe a "rollback tax" for each of the previous three years when the land had the lower appraisal (with some exceptions). This "rollback" tax is the difference between the taxes paid on the land's agricultural value and the taxes that would have been paid if the land had been taxed on its higher market value.

What does this mean for the real estate industry?

This circumstance results in unfair and unjustified ad valorem taxation on property owners.

A significant future tax burden can deter potential property owners from seeking to use their property as they see fit, which violates their private-property rights. When considering the burden of "rollback" tax liability, property owners may be hesitant to reclassify their property from agricultural to another use, which not only places a burden on the owners, but potentially limits community growth.

Texas REALTORS® position

Our association supports repealing or reducing the three-year "rollback" tax collection and any related interest charges imposed when land that has qualified for agricultural appraisal changes use to non-agricultural purpose.

Legislative outlook

We expect to see legislation addressing this issue as the Texas Legislature continues to focus on reducing property tax burdens statewide.

Historical perspective

Texas has two constitutional provisions that value qualified property based on its agricultural use rather than on its market value.

Voters first added agricultural valuation to the Texas Constitution in 1966 as Article VIII, Section 1-d. Property qualified if it was used for agricultural purposes and was owned by a family or individual whose primary occupation was farming or ranching. The primary purpose was to keep land in agricultural use and protect legacy farming. As Texas became increasingly urbanized and ownership shifted from the family farm to other ownership structures, this approach became increasingly ineffective.

In 1978, voters added Article VIII, Section 1-d-1 to the Constitution. This approach focuses entirely on the use of the land and does not consider ownership structure or occupation. This approach is now used for most agricultural valuation in Texas.

The two provisions contained a "rollback" penalty to discourage changes from agricultural use and prevent the holding of property in agricultural classifications simply to avoid paying taxes on market value. The deduction from market value for agricultural use property is estimated at more than $210 billion.

It now appears that the "rollback" penalty has served its purpose and has become counterproductive to development and a limitation preventing needed value additions to taxing unit tax bases.

A law passed in 2019 reduced change-of-use lookback taxes due when a property is changed from agricultural to non-agricultural use, reducing the lookback period from 5 years to 3 years and reducing the interest due from 7% to 5%.

Eminent Domain Authority

Issue

The Texas Constitution limits the use of eminent domain by requiring adequate compensation for the land on which eminent domain is used. The exercise of this power, while considered a necessary tool of government, has been argued to have been expanded and abused.

Texans continue to struggle with an unbalanced set of laws at odds with a state known for private-property rights.

What does this mean for the real estate industry?

Private-property rights are threatened whenever the government and authorized entities use eminent domain without communicating with landowners about the process and their rights. Property owners should be treated fairly and protected from abusive eminent-domain practices.

Texas REALTORS® position

Our association understands the need for legitimate property condemnations; however, landowners should be justly and timely compensated. As the leading advocates for private-property rights, Texas REALTORS® are uniquely positioned to ensure fair treatment of property owners.

Significant improvements can be made to enhance protections on private-property rights for Texans.

Our association supports legislation that:

- Requires pipeline and electric utility easement agreements to include a list of basic terms to protect the landowner during construction and future use of the easement and requiring these companies to use a standard document provided by the Attorney General that includes these terms.
- Provides landowners with information about the project seeking their land and about their rights by requiring a public meeting in each county where affected landowners can ask questions about the project and the company's eminent domain authority—as is required for public entities with eminent domain authority—and requiring the landowners to be informed of their rights and how the company will calculate fair compensation.
- Protects the landowner's right to receive a bona fide offer by ensuring a landowner receives an initial offer of fair compensation and information necessary to evaluate whether the initial offer is truly a bona fide offer and requiring a bad actor that negotiates in bad faith to make an additional "penalty" payment to the property owner.

Legislative outlook

In 2019, lawmakers considered several eminent domain reform bills, including one comprehensive proposal developed in collaboration with key stakeholders, including Texas REALTORS®. Ultimately, a final agreement was not reached but versions of the bill did pass out of both chambers.

We expect to see legislation filed this session that will address the remaining unresolved issues, including constitutional issues of who should have the burden of proof, what kind of entities have condemnation authority, and the definition of public use.

Historical perspective

In 2005, during the 79th Legislature's second called session, lawmakers passed SB 7 prohibiting entities with the authority to use eminent domain from condemning private property for economic purposes.

In November 2009, Texans took the first step toward strengthening private-property rights against abusive eminent domain by passing Proposition 11 with an overwhelming 81% of the vote.

Eminent domain was one of Gov. Perry's emergency legislative items for the 82nd Texas Legislature in 2011. SB 18, which strengthened property owners' rights in eminent-domain takings, limits the purposes for which a property may be condemned and specifies that taken property must be made available for resale to the original owner if it's not used for its intended purpose after 10 years.

Home Equity

Issue

When it comes to home-equity lending, Texas has some of the most extensive homeowner protections in the country. Key among these provisions is the requirement that a home-equity loan may not exceed 80% of the market value of the homestead. This is known as the loan-to-value ratio, which is calculated by dividing the loan amount by the purchase property's appraised value.

This Texas Constitution protection allows ample access to capital while at the same time ensures homeowners do not incur excessive debt. This measure helped insulate Texas from the recession that followed the 2008 housing bubble.

What does this mean for the real estate industry?

Some states allow for home-equity loans upward of 120% loan-to-value (LTV), creating a situation where homeowners become instantly upside-down because they owe more to the bank than their homes are worth.

When recessions have occurred causing real estate values to dip in these states, many homeowners walked away from their obligation. Foreclosures hurt the overall real estate market and lower home values.

Texas REALTORS® position

Our association supports maintaining the strong consumer protections in home-equity lending provided in the Texas Constitution and opposes moving any segment of those protections, including the required 12-day advanced consumer notice before loan closing, from the Constitution to the Texas Finance Code or any other statutes.

Legislative outlook

Some lawmakers will seek to dilute the strong constitutional protections afforded to Texas homeowners. There may be some attempts to pass a joint resolution amending these consumer protections, however, most lawmakers agree that these protections helped Texas avoid much of the national foreclosure crisis.

Historical perspective

In 1997, Texas REALTORS® was very involved in passing a constitutional amendment allowing Texans access to the equity in their homestead. Texas, for more than 140 years, did not allow home-equity loans because of the possible repercussions from defaulting on the loan.

Since 1997, when the voters of Texas approved home equity lending, some lender groups have tried to tinker with the home-equity provisions of the Texas Constitution to either make them more lender-oriented and a little less consumer friendly or to allow changes to home equity law more easily without having to go to Texas voters for approval.

In 2003, Texas voters passed constitutional amendments that allowed homeowners who currently have one type of home-equity loan to refinance it with another type of home-equity loan to comply with the limitation in the law. Minor revisions were passed during the 2007 legislative session that modified the procedures for obtaining a home-equity loan.

In 2017, Texas voters overwhelmingly approved a constitutional amendment SJR 60 (Proposition 2) that modernized how Texas homeowners can access home equity loans and home equity lines of credit:

- Redefined what is and is not included in the calculation of the 3% cap on fees associated with a home equity loan
- Allowed for a seasoned refinanced loan into one loan with one rate and term
- Maintained the $4,000 draw requirements on home equity lines of credit (HELOCs) and increased the 50% equity provision to 80%–same as in a home equity loan
- Allowed farm and ranch property owners to acquire home-equity loans, while allowing for continuation of agricultural valuation of their properties
- Made technical changes in the Texas Constitution to ensure out-of-date terminology was updated.

As a result, home equity loans have been made available to more Texas homeowners—all while maintaining the strict consumer protections that have served the state so well. In addition, homeowners with existing home equity loans now have more options when it comes to refinancing.

In 2019, a new law was passed to allow a property owner to use agricultural land as collateral for a home equity loan.

Homeowners Associations (HOAs)

Issue

Homeowners associations exist to enhance neighborhoods and increase property values. Increasingly, though, HOAs are taking on functions local governments traditionally provide. The Texas Legislature has addressed HOA issues a number of times over the last 20 years, yet property owners and property buyers still voice concerns over actions taken by HOAs.

Most of the problems with HOAs generally fall into three categories:

- Money or collection issues
- Deed-restriction enforcement
- Lack of responsiveness from the HOA

What does this mean for the real estate industry?

HOAs can provide a great benefit to property owners by enhancing their quality of life and the enjoyment of their property. However, when the HOA is not managed well, marketing and selling homes in those neighborhoods can be difficult.

Texas REALTORS® position

Texas REALTORS® supports efforts to reform laws governing homeowners associations to ensure HOA operations are transparent and resident friendly. We understand that HOA legislation should seek to provide an appropriate balance between private-property rights and agreed-upon community standards, but any reforms must uphold property owners' First and Fourteenth Amendment rights.

- We support legislation requiring HOAs and related nonprofit corporations to have regulatory oversight (whether from their county or an agency of the State of Texas), and to be registered entities and make available relevant and current contact information.
- Texas REALTORS® supports firm timelines for producing HOA documents related to property sales as well as reasonable and necessary fee limits.
- Our association also supports legislation to eliminate the exemption for fees paid to 501(c)3 and501(c)4 corporations from the transfer fee ban in the Texas Property Code.

Legislative outlook

Homeowner association bills are filed every session, but few ever make it across the Governor's desk. Many times, egregious actions by homeowner associations are reported in the news, prompting legislators to file bills intended to address one particular issue.

While the 82nd Texas Legislature made substantial HOA reforms in 2011, some HOAs continue to restrict certain activities which can violate a person's First Amendment rights.

Expect bills to be filed that would protect a property owner's ability to use and enjoy their home without intrusion from a quasi-governmental entity.

Historical perspective

In 2011, the 82nd Texas Legislature made the most significant pro-homeowner changes in a decade. The most significant applies a priority-of-payment structure, so that a delinquent homeowner's payments are applied in the following order: delinquent assessments, current assessments, HOA attorney fees, fines, other past-due amounts. There were also changes to HOAs' foreclosure and notification-of-foreclosure proceedings.

Other laws touch on everything from access to meetings, homeowners' voting rights, solar panels, rain-harvesting systems, religious displays, flags, and resale certificates.

In 2015, the 84th Texas Legislature passed HB 2489, which keeps HOAs out of the property-management business. The resulting law protects property owners' rights by clarifying that HOAs don't have the authority to screen, approve, or deny prospective tenants. The law also explicitly states that prospective tenants don't have to provide a credit report or lease application to the HOA.

Hospital Development

Issue

Texans depend on hospitals in their communities for timely and local access to healthcare and are increasingly relying on telehealth services. However, 70% of Texas counties are considered rural, and the healthcare facilities in many rural areas experience challenges such as limited workforce and resources, provider shortages, and a remote geographic location.

Many patients who access hospitals use public programs such as Medicare and Medicaid. Hospitals who rely on these public programs are vulnerable to payment cuts when federal funds are threatened, which puts small and rural healthcare providers in jeopardy.

Insufficient access to primary care and other essential services in Texas leads to poorer health outcomes for Texans and increases the likelihood of more expensive treatments.

Rural hospitals have been closing at incredible rates. From 2005 to November 2020, 176 rural hospitals nationwide have closed, 24 of which were located in Texas.[1]

The COVID-19 pandemic has heightened the importance of access to hospitals and telehealth for protecting and serving the healthcare needs of Texans.

What does this mean for the real estate industry?

Hospitals are essential to a community's health and well-being as healthcare providers and as employers and investors in the community. They are economic anchors for rural communities, and the loss of rural hospitals can result in business closures, population decline, and reduction in the sales tax base which impacts other community services.

Access to healthcare facilities boosts communities' attractiveness to buyers, makes it more likely that residents will stay, and increases options for real estate buyers and investors seeking livable communities.

Texas REALTORS® position

Our association supports the development and funding of hospitals and health care facilities in our rural communities.

We also support innovative telehealth treatment options that allow for expedient and safe care to be provided to patients who cannot access in-person care facilities.

Legislative outlook

We expect lawmakers to make healthcare access for all Texans a priority during the legislative session.

Historical perspective

The Texas Legislature has made great strides over the years to increase healthcare access, work toward making healthcare more affordable for Texans, and pass pro-consumer healthcare legislation.

Most recently, new laws from 2019 essentially ended the practice of surprise medical billing and its negative impact on consumers, increased transparency of freestanding emergency rooms in Texas, and increased access to telemedicine and telehealth services, especially in rural communities.

In the 2020-2021 state budget, lawmakers approved more than $100 million to help rural hospitals, demonstrating their dedication to supporting Texans in these areas.

[1] "176 Rural Hospital Closures: January 2005-Present (134 Since 2010)," NC Rural Health Research Program. The Cecil G. Sheps Center for Health Services Research, University of North Carolina, https://www.shepscenter.unc.edu/programs-projects/rural-health/rural-hospital-closures/

Irrigation Districts

Issue

Irrigation districts were created to deliver untreated water throughout their jurisdictions for irrigation and to provide drainage. These districts are governed by elected boards of directors and have the power to levy and collect taxes, borrow money, and have eminent domain powers. They are self-governing sub-divisions of the state government; however, irrigation districts can only be formed with the consent of landowners within the area and legislative approval.

What does this mean for the real estate industry?

These districts are created and dissolved with the consent of property owners; however, as property is sold, transparency problems can arise in the transfer, which can negatively affect real estate transactions.

Texas REALTORS® position

Texas REALTORS® believes that property owners and potential buyers should be able to access all relevant and public information related to easements and other encumbrances by governmental or private entities on their property. We support strengthening provisions pertaining to the recording of irrigation districts' encumbrances on real property by ensuring such information is recorded with the County Clerk in which the property is located.

Legislative outlook

The Legislature is likely to examine a full spectrum of proposals that relate to the authority of political subdivisions, including special entities such as irrigation districts. While the creation of such districts has typically been seen as a localized issue, interplay between state and local governing bodies will be under increased scrutiny as Texas emerges from the COVID-19 pandemic. Thus, there may be a good opportunity to include consumer-friendly reforms of these special districts that further protect property rights in the upcoming legislative session.

Historical perspective

The Texas Legislature first authorized the creation of irrigation districts in 1905. The law was then replaced in 1913 by a new irrigation act providing that districts could be established by a county election. Since the original statute was replaced in 1913, legislators have detailed the required process to gain public consent to form an irrigation districts, with the most comprehensive statute restructure taking place in 1977.

Local Rulemaking Authority

Issue

Texas cities have the authority to regulate land use, structures, and platting and subdividing land. They also provide and regulate water, sewer, and other utility services to residential property.

The extraterritorial jurisdiction (ETJ) is an "unincorporated area that is contiguous to the corporate boundaries" of a municipality, as outlined in the Local Government Code. The size of a municipality's ETJ generally depends on its population, and a city's ETJ can only expand as a result of annexation, landowner request, or an increase in the city's number of inhabitants.

The Texas Legislature created the concept of ETJs in 1963 to "promote and protect the general health, safety, and welfare of persons residing in and adjacent to" cities.

Municipal regulatory authority over ETJs in Texas has a variety of purposes, but arguably the most significant has historically been related to planning, development, and future annexation.

With the elimination of forced municipal annexation in 2019, the time has come to thoroughly examine the merits of and needs for municipal regulatory authority in ETJs.

Meanwhile, Texas counties must be specifically granted powers by the Legislature. Some county governments seek to increase their authority and burden the process with unnecessary regulations.

Texas is experiencing a growth in population across the state, increasingly in rural and farming communities as new residents seek opportunities to own Texas real estate.

However, this growth makes it increasingly important for property owners to be aware of their rights and protections granted to property owners under the Right to Farm statute, which protects property owners who consistently use their property for agricultural operations from nuisance lawsuits.

What does this mean for the real estate industry?

At the county level, giving counties more development regulation powers will restrict growth and limit the state's potential for prosperity.

At the municipal level, many Texans purchase property outside of city limits to avoid the regulations and taxes imposed by city government. However, residents of a city's ETJ may still be subject to regulations and fees, which can increase the cost of owning real estate and can price owners out of their property.

This can also limit a buyer's options if they avoid purchasing property near cities because the property is potentially subject to city regulations despite being out of city limits.

Landowners who are complying with laws and regulations deserve to use their property how they see fit. Many municipalities are unaware of property rights protections such as Right to Farm laws, and they may try to unjustly enforce regulations on agricultural operators within their boundaries or their extra-territorial jurisdictions. This could result in time-consuming and costly negotiations for the property owner who is seeking to defend their rights.

Texas REALTORS® position

Texas REALTORS® understands the objective to "preserve the general health, safety and welfare of persons residing in or adjacent to" municipalities, but that interest must not be seen as permission for any wholesale expansion of municipal rulemaking authority within those jurisdictions.

Texas REALTORS® supports the enforcement of laws designed to protect the property rights of landowners within ETJs or who consistently use their property for agricultural operations, such as Right-to-Farm laws.

Our association believes property owners should be given clear information regarding their rights in these circumstances, as well as swift and simple pathways to recourse if those rights are violated.

Legislative outlook

Lawmakers may file legislation to reform municipal regulatory authority in ETJs and legislation to increase county regulatory authority. However, the Texas Legislature has denied such requests in the past.

Our association also expects the Texas Legislature to continue supporting private-property rights by addressing the need for enforcement of Right to Farm laws.

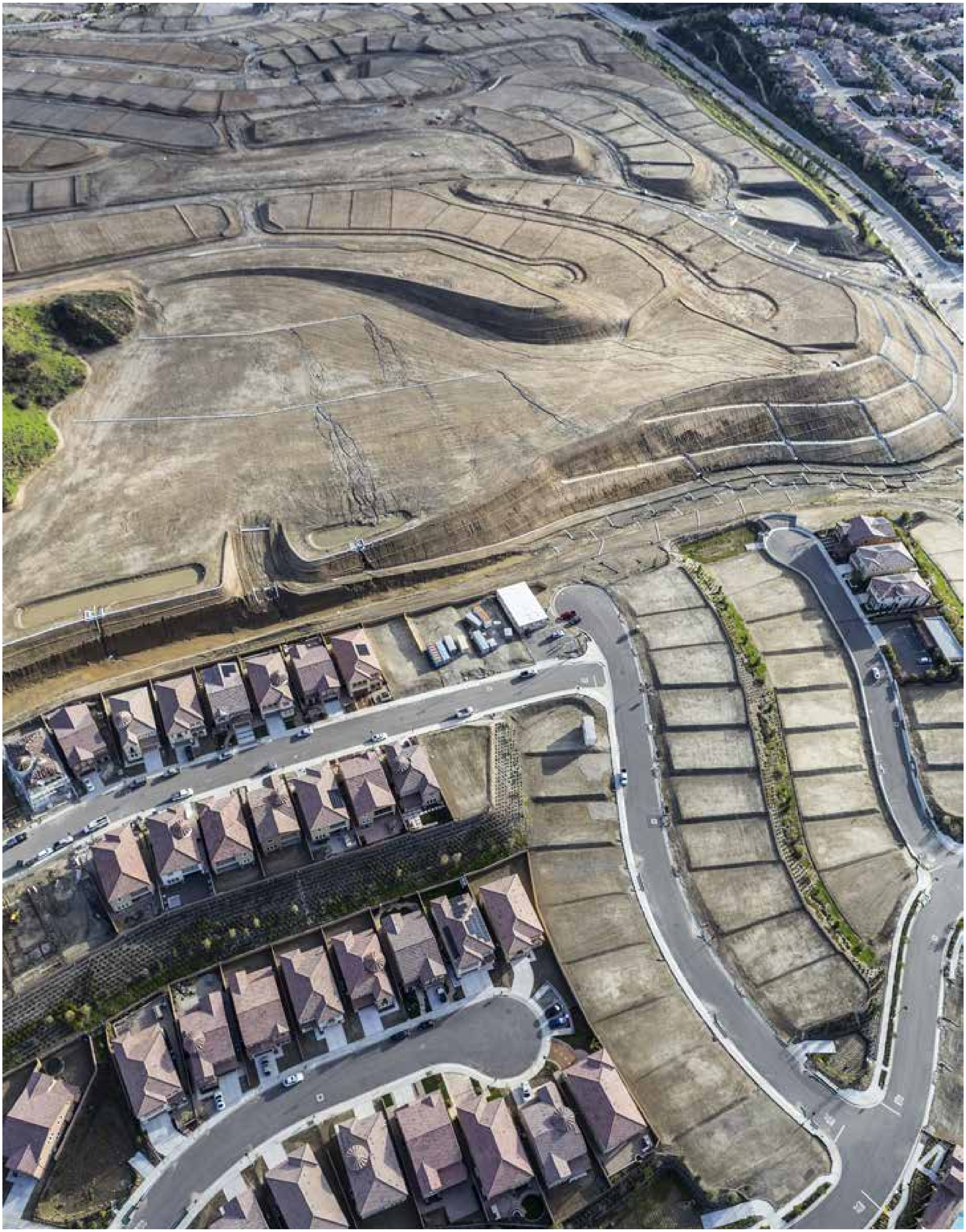
Historical perspective

The Texas Legislature has consistently affirmed its unwillingness to give county governments the same regulatory authority as home-rule cities. However, the Legislature has given county governments some ability to regulate land use, structures, platting and subdivision of land, as well as provide and regulate water, sewer, and other utility services to residential property.

In 2019, a new law ended forced municipal annexation statewide, giving property owners a say in whether they are annexed. With that monumental policy change, municipal interest in ETJs has shifted focus and will have reduced consideration for long-term municipal expansion.

In 1981, the Texas Legislature enacted the Texas Right to Farm Act, which demonstrates the state's commitment to the agricultural industry.

The act applies to all agricultural operations, including cultivating the soil; producing crops for human food, animal feed, planting seed, or fiber; floriculture; viticulture; horticulture; silviculture; wildlife management; raising or keeping livestock or poultry; and planting cover crops or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure.



Model Subdivisions

Issue

Our state faces a unique appraisal consideration related to certain residential communities near Texas' international border with Mexico. These communities—known as "colonias"—lack basic infrastructure such as water, wastewater, and paved roads.

All Texas counties within 50 miles of the border are subject to "Colonias Laws" that intend to assure infrastructure exists for new residential developments. However, existing state law effectively makes these properties unsalable, yet property owners are taxed for ad valorem purposes on the property's full value.

The Texas Government Code prohibits selling, offering for sale, or even advertising a property for sale unless it is properly subdivided under the Model Subdivision Rules. This portion of the law applies only to areas along the border, and it carries a minimum fine of $10,000 per lot simply for advertising or offering such a property for sale.

The Texas Water Development Board has rules to assure water and sewer services in these areas and provides training for local officials about these areas; however, enforcement resides with the Attorney General's office.

What does this mean for the real estate industry?

"Model subdivision laws" were put into place to address important infrastructure and health and safety issues; however, the practical effect is that these properties become virtually unsalable, which in turn sets their market value at zero.

This circumstance results in unfair and unjustified ad valorem taxation on property owners and negatively impacts the ability of property owners to freely sell or transfer ownership of this property. These laws are also unequal, being strictly applied only to properties based on their geographic location instead of being a universal standard for all property within the state.

Texas REALTORS® position

Texas REALTORS® understands the need to ensure that inhabited real property has adequate utility connections, such as electricity, sewer, and water.

However, the Model Subdivision laws that are applicable only to land within 50 miles of an international border have unfortunately created an unequal standard for those properties as compared to real property elsewhere in Texas, which infringes upon the ability and rights of property owners to sell or transfer that property.

Texas REALTORS® believes real property should be subject to uniform standards for development throughout the state. As such, our association supports full repeal of the Model Subdivision laws applicable to land within 50 miles of an international border.

Barring a full repeal of these laws, Texas REALTORS® supports modifications to the existing Model Subdivision standards to allow real property within 50 miles of an international border to be legally transferred without fines or other penalty or fear of retribution, while still upholding the need to ensure such property has adequate utility connections for habitability.

Modifications may include:

- Allow buyers to assume the responsibility of establishing utility connections, including septic tanks where appropriate, within a certain timeframe after purchase
- Allow transfers made to certain family members, such as from parent to child or among siblings

Further, property that is not saleable due to government restriction should be deemed to have no value for property tax purposes. Therefore, Texas REALTORS® supports legislation that states if a parcel of real property subject to Model Subdivisions Laws and located within 50 miles of an international border is not improved and therefore is not marketable or saleable due to existing state or local regulations, then any appraised market value shall be fully exempted for ad valorem tax purposes only.

This exemption does not necessarily indicate the property is valueless when being assessed for public or private taking or other real property transfer.

Legislative outlook

We expect to see legislation addressing these issues as the Texas Legislature continues to focus on reducing property tax burdens and increasing available housing supply across the state.

Historical perspective

In 1989, colonias-prevention rules were first mandated by legislation known as the Economically Distressed Areas Program. The model rules were initially required to be adopted and enforced just by counties and cities seeking EDAP funding, but now they must be enforced by all counties within 50 miles of the border.

The rules were revised effective in February 2000 and codified in the Texas Administrative Code.

Property Taxes

Issue

In 2019, REALTOR®-supported property tax reform legislation (Senate Bill 2) brought monumental changes to the state's property tax system.

Local property taxes in Texas have increased dramatically over just the past few decades.

From 1998 to 2017, the total property tax levy statewide increased more than 211%–or $40.35 billion– according to the latest data from the Texas Comptroller available as of December 1, 2020.[1]

Part of the increase in local property tax revenue can be attributed to new property added to the appraisal roll and higher property values. However, an increase in property value should not be an automatic increase in property tax revenue.

If a local taxing entity needs more revenue, a more honest and transparent conversation needs to occur at the local level, so taxpayers completely understand why.

What does this mean for the real estate industry?

Texas has been a dominant force in the national economy, and housing affordability has been a contributing factor. But steep increases in property taxes threaten this affordability.

An April 2020 analysis of housing affordability trends in Texas found that "... housing in Texas is gradually becoming less affordable" and one reason may be "Texas' property taxes are very high compared to other states."[2]

Texans still need more clear information about how their properties are assessed for property tax purposes and how their local governments collect and spend those tax revenues.

The more Texas residents—owners and tenants alike—understand that process, the better they will be able to engage with decision-makers and ensure their voices are heard.

Texas REALTORS® position

Texas REALTORS® supports continued monitoring of the implementation of law changes that resulted from passage of the Texas Property Tax Reform and Transparency Act of 2019, and a case-by-case evaluation of minor modifications to those statutes that may be deemed appropriate and necessary during the 2021 rollout phase.

Legislative outlook

Lawmakers are expected to take up legislation that would further clarify the reform's intent to inform taxpayers and increase taxpayer engagement in the property tax process.

Historical perspective

In 2019, the Texas Legislature agreed that property tax reform is critical, passing The Texas Property Tax Reform and Transparency Act (Senate Bill 2).

The new law implements several measures that enhance transparency for taxpayers by providing more information about how tax rates are set and how to engage in the rate-setting process that determines your property tax bill.

[1] Biennial Property Tax Report for 2016 and 2017, Texas Comptroller of Public Accounts, https://comptroller.texas.gov/taxes/propertytax/docs/96-1728.pdf

[2] "Can Texas afford to lose its housing affordability advantage?" Kinder Institute for Urban Research at Rice University, April 14, 2020. https://kinder.rice.edu/urbanedge/2020/04/14/can-texas-afford-lose-its-housing-affordability-advantage

Sales Price Disclosure

Issue

Some appraisal districts, cities, and counties argue for full disclosure of all real estate sales prices to establish the value of real property in Texas. But there are numerous problems with basing value, especially taxable value, on the sales price of a real property.

Special considerations such as seller concessions are not articulated in final sales prices, nor are the nuances of irregularly-sized lots or custom-built homes.

Farm and ranch property transactions may include improvements like trade fixtures and livestock in the sales price.

Additional difficulties arise with commercial properties, which may include a business and/or trade fixtures, value of long-term leases, and properties where mineral rights are included or excluded from the sale.

Each of these circumstances can lead to artificially high tax-appraisal values in the purchase year and beyond.

What does this mean for the real estate industry?

Sales price disclosure could lead to significant property tax increases for Texas property owners.

High property taxes are already a barrier to homeownership and the relocation of businesses to Texas. Increasing property taxes would be a disincentive to homeownership and enterprise, hurting the real estate market and the Texas economy.

Texas REALTORS® position

Texas REALTORS® opposes all legislative efforts to require the disclosure of sales price information because:

- Sales price is not necessarily a good indicator of taxable value
- It is an unnecessary invasion of privacy
- It could pave the way for a new real estate transfer tax in Texas, as most states that require sales price disclosure use it to compute tax liability for the transfer of real estate.

Legislative outlook

Central appraisal districts and local taxing entities may seek full sales-price disclosure of all real estate transactions in Texas. This includes residential, commercial, industrial, raw land, and farm and ranch.

The Texas Legislature has consistently rejected previous proposals to do so, stating that government intrusion into the private matters of Texans is not an option.

Historical perspective

The appraisal process we know today was created by the Legislature in 1979 and was fully implemented in January 1982. Mandatory sales-price disclosure was part of the debate then and has been ever since. Prior to a central appraisal process, each local taxing jurisdiction valued real property separately. The city could have one value on their books while the county had a completely different value.

Since 1982, real property in Texas has been subject to a local property tax administered at the local-taxing-jurisdiction level. CADs are tasked with appraising real property for ad valorem taxation purposes. Many of these appraisal districts have called upon the Legislature to pass sales-price disclosure to enable districts to adequately appraise real property.

In 2006, Gov. Perry created the Texas Task Force on Appraisal Reform, and the final report stated, "Most appraisal districts do not have the internal capacity to analyze complex financial or commercial transactions."

During the 81st Texas Legislature in 2009, lawmakers passed comprehensive appraisal reform in the form of numerous bills aimed at reforming the process. Specifically, the Legislature passed HB 8, which enacted a Methods and Procedures Audit on all 253 appraisal districts in Texas. The comptroller's office was tasked with implementing the bill and completing the audits.

In 2009, the 81st Texas Legislature also passed (and voters approved) a constitutional amendment which allows for uniform appraisal standards to be used in all appraisal districts.

Bills have been filed in every recent legislative session seeking to mandate sales price disclosure; however, lawmakers have not advanced this legislation.

The Texas Comptroller of Public Accounts, in the most recent report on appraisal districts and appraisals, determined that all real property in Texas is being valued at 99% of market value.[1] Based on this official report, it can hardly be determined that real property appraisals in Texas are inaccurate.

[1] School and Appraisal Districts' Property Value Study 2019 Final Findings, 2019 State Totals Summary Worksheet, August 2020, https://comptroller.texas.gov/auto-data/PT2/PVS/2019F/ALL0000001Y.php

Sales Tax on Professional Services

Issue

The State of Texas imposes a sales tax on retail sales, leases and rentals of most goods, and some taxable services. All local governmental entities have the option of imposing an additional local sales tax for a maximum combined state and local tax of 8.25%.

During past legislative sessions, some discussion has concentrated on expanding the state sales tax base to include professional services. All professional services, including real estate services, would be taxed.

What does this mean for the real estate industry?

As an example, the median home price in Texas was $265,500 in the third quarter of 2020, according to the Texas REALTOR® Data Relevance Project. Depending on concessions, commission rate, and local options, the tax could add well over $20,000 due at closing.

Texas REALTORS® Position

Our association steadfastly opposes efforts to expand the sales-tax base to include professional services. Furthermore, the association believes any taxing structure should not place an undue burden on the real estate industry or hamper the economic recovery in Texas.

Legislative outlook

As the Legislature is likely to be facing significant unplanned budget shortfalls as a result of the 2020 COVID-19 pandemic, several groups have already released proposals calling for an expansion of the sales-tax base to include real estate services as part of a larger state tax restructure and to increase revenue sources. However, given the importance of the real estate industry to any economic recovery, the Legislature should continue to rebuff any proposals that would add such a significant cost to the real estate transaction.

Historical perspective

Studies from the National Association of REALTORS®, the Real Estate Center at Texas A&M, and other industry think-tanks confirm that adding a tax on real estate commissions would have a detrimental effect on the housing industry—one study indicates an overall 3% drop in the real estate market.

Sales Tax on Real Estate Transfers

Issue

The State of Texas imposes a sales tax on leases and rentals of most goods, retail sales, and some services. All local governmental entities have the option of imposing an additional local sales tax for a maximum combined state and local tax of 8.25%.

Under the guise of property-tax relief, there are groups proposing a restructuring of the state and local taxing system. Their proposal includes eliminating (or greatly reducing) property tax and replacing lost revenue with an expanded sales tax that would include a dramatic increase in the sales-tax rate and an expansion of the tax base to include the sale and lease of real property.

Other entities seek to add a transfer tax to real estate transactions.

What does this mean for the real estate industry?

Any tax on real estate transactions would wreak havoc on the real estate market, an important part of the Texas economy.

A sales tax on real estate would initially destroy the first-time homebuyer sector. But the problem would quickly extend throughout the entire real estate market. Without the first-time homebuyer component, existing homeowners would have a difficult time selling their property, which would preclude them from moving up.

Texas REALTORS® position

Texas REALTORS® has conducted exhaustive, multi-year studies on local property taxes and believes applying sales tax to real estate is a short-sighted and flawed approach to property-tax relief.

Reducing property taxes with another tax does not achieve the true property tax reform that our state's taxpayers deserve. Not only would adding real estate to the sales-tax base destroy the state's real estate economy, it would disproportionately affect lower- and middle-class Texans.

Our association agrees with the 86% of Texas voters in 2015 (Proposition 1) who opposed a tax on real property by approving a constitutional ban on real estate transfer fees.

Legislative outlook

Property taxes continue to be a burden on Texas property owners. The Texas Legislature will no doubt see many proposals seeking to reduce the property tax burden.

Following the passage of 2015's State of Texas Proposition 1, the Legislature would have to meet a supermajority threshold to approve any resolutions to repeal that constitutional ban and then get voter approval—a feat that while incredibly unlikely, is not impossible. Thus, Texas REALTORS® remains vigilant in reminding legislators that a transfer or sales tax on real estate is untenable.

Historical perspective

In 2015, 86% of voters approved statewide Proposition 1, which constitutionally banned transfer taxes on real estate transactions and provided a $10,000 increase in the state-mandated homestead exemption. This overwhelming response is proof that Texans are demanding relief from burdensome property taxes.

Similarly, adding a transfer tax to a transaction would add another barrier to homeownership and impede the real estate market.

Texas Real Estate Commission

Issue

Our association is committed to ensuring the highest standard of service by Texas real estate license holders. Each legislative session, the association helps update and modernize consumer-protection standards and the Texas Real Estate License Act, which allows for a more efficient system.

In 2018, the Texas Real Estate Commission underwent review by the Texas Sunset Commission. The Sunset Commission issued a report in October 2018 listing recommendations to improve the service TREC provides to license holders and consumers, and in 2019 the Legislature approved the recommendations and passed related statutory changes in Senate Bill 624. Among other requirements, the bill required TREC to demonstrate improvements in customer service, technology systems, and financial oversight. Further, the Commission was directed to undergo another Sunset review in six years, rather than the standard 12 years.

What does this mean for the real estate industry?

The Texas Real Estate Commission licenses and regulates real estate brokers, salespersons, inspectors, and other related professionals. High standards for real estate professionals ensure the industry's continued success. Texas REALTORS® supported the recommendations made by the Sunset Commission and is gratified to see TREC working quickly to meet the requirements.

Texas REALTORS® position

Our association supports legislation that facilitates the administration of the commission and eliminates certain inefficient provisions in the law, when identified.

Legislative outlook

Our association works closely with TREC to identify inefficient and outdated real estate law. We expect lawmakers to continue to closely monitor TREC and its operations for continued improvements, and to make statutory and procedural adjustments as deemed necessary.

Historical perspective

In 2011, during the 82nd legislative session, lawmakers passed SB 1000 designating TREC as a self-directed, semi-independent state agency. This status meant TREC would no longer be subject to the legislative budget or appropriations process at the Legislature—instead, the agency conducts business using the licensing fees it collects.

Also in 2011, SB 747 focused on better preparing license holders to represent consumers in real estate transactions and ensuring education for applicants and license holders is targeted and of the highest quality.

In 2013, HB 2911 amended the law to require real estate inspectors to have the same education and license-renewal requirements as the Texas Real Estate Commission's others license holders and addressed issues regarding errors and omissions insurance coverage and the real estate inspection recovery fund.

In 2015, SB 699 clarified TREC regulations, explained situations that would require license revocation, created procedures for actions brought against real estate brokers and sales agents, and amended the requirements for licenses, fees, and education.

In 2018, Sunset Commission staff evaluated TREC and made recommendations to the Sunset Advisory Commission. The commission adopted recommendations for the full Legislature to consider.

Following the Sunset Commission's recommendations, in 2019 SB 624 was passed, allowing TREC to continue as a self-directed, semi-independent agency, while requiring certain improvements in its structures and processes to better and more efficiently serve consumers and real estate licensees.

Title Insurance

Issue

Title insurance is a unique insurance policy that protects the holder's ownership in real property — in most cases, your home. Unlike other policies, title insurance is a one-time fee policy which protects the owner from past errors related to ownership history. Title coverage is based on the careful research of past ownership records and is designed to address any overlooked or outstanding issues prior to your taking possession of your property.

There is a push by some groups calling for comprehensive reform to the title insurance industry in Texas, similar to states like California, New York, Massachusetts, and New Jersey.

What does this mean for the real estate industry?

Texas property owners benefit greatly from having a stable and reliable title insurance industry with competitive rates, which, in fact, have dropped 15% over the last decade. Texas offers one of the most transparent and complete sets of coverage in the nation, with consistent rates applied evenly to all purchasers, residential and commercial alike.

Texas REALTORS® position

Our association supports the current title insurance consumer protections which ensure competitive rates and comprehensive coverages.

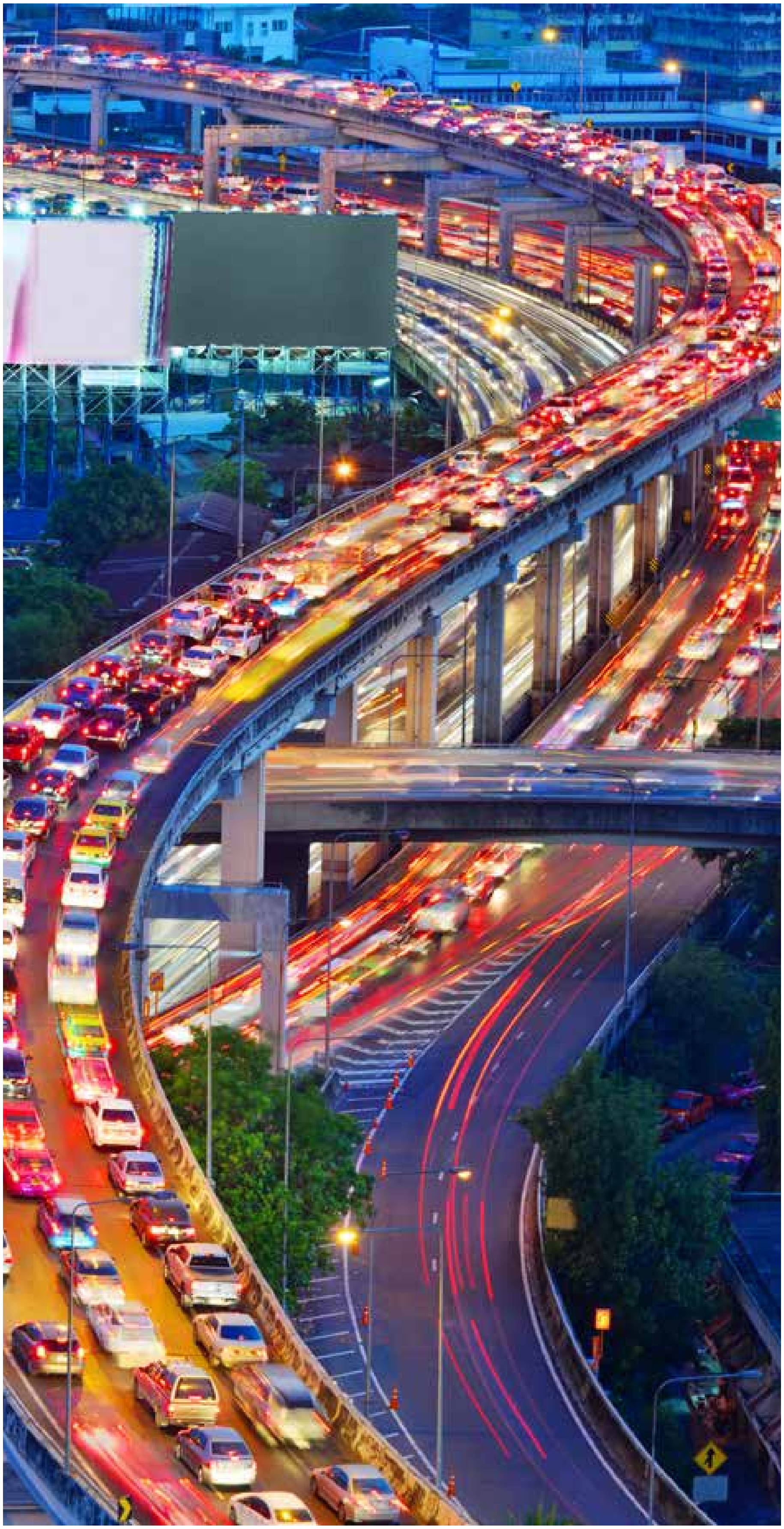
Legislative outlook

A few bills may be filed relating to comprehensive reform of the title insurance industry. Just as in past legislative sessions, the Texas Legislature is unlikely to upend our state's stable title insurance market.

Historical perspective

The Texas Legislature has agreed that our state's stable title insurance market should not be altered.

In 2017, bills were filed that would have changed title insurance protections for consumers (HB 4239) and removed the authority of the Insurance Commissioner to set title insurance rates (SB 372); however, neither advanced through committees.



Transportation Infrastructure

Issue

Despite State of Texas Proposition 1 passing in 2014, highway and road construction in Texas remains underfunded. The shortfall is due mostly to an underperforming gasoline tax and an unwillingness to adjust the tax or increase other transportation-related fees.

The problem is magnified by a population boom, mostly in and around urban population centers. In fact, Texas has four of the 11 most-populous cities in the United States (Houston, Dallas/Fort Worth, San Antonio, and Austin), each of which is growing rapidly.

Due to an insufficient revenue stream, the Texas Department of Transportation (TxDOT) has been forced to over-rely on bond debt to fund roadway maintenance and new transportation projects. However, TxDOT's main bond programs (State Highway Fund bonds, Texas Mobility Fund bonds, and general-obligation highway bonds) are effectively exhausted. Additionally, the agency currently pays approximately $1 billion per year (about 10% of its annual budget) in interest payments on the outstanding bond debt—which exacerbates the funding shortfall.

With the uncertainty of future federal dollars, diminishing revenue, and depleted bond capacity, TxDOT has also resorted to a large number of public/private partnerships (i.e., toll roads).

Clearly, bonds and toll roads are important pieces of the transportation-funding solution, but they will not meet the growing demands on transportation infrastructure by themselves. The agency needs to re-evaluate the current transportation model for the state to identify new methods to efficiently handle the population increases and the state's transportation needs.

What does this mean for the real estate industry?

An insufficient transportation network impedes commerce, increases the costs of goods and services, and creates air-quality issues. Furthermore, poor infrastructure limits Texans' viable housing options and decreases quality of life.

Texas REALTORS® position

The State of Texas must ensure its citizens the right to a safe and efficient transportation system. In doing so, the state must address numerous issues: congestion, capacity, construction and maintenance costs, safety, age and condition of roadways, and the impact transportation delays have on air quality, cost of goods, and quality of life. Failing to pay for infrastructure needs will ultimately cost state taxpayers an extraordinary amount of money in the future.

Our association supports the following:

- The Texas Transportation Commission and Texas Department of Transportation should ensure accountability, transparency, and public involvement in the transportation-planning process.
- A statewide, multi-modal transportation system that facilitates safe and efficient movement of people and goods, including sufficient transportation choices such as roads, freight and passenger rail, waterways, sea and inland ports, and air.
- Local option transportation funding sources, in addition to state funding, which may include toll roads.
- A study on transportation funding sources needed to create infrastructure at or above the state's current levels of service.
- TxDOT's efforts to secure BUILD grant funding for rural roadways near energy sectors.
- The concept of high-speed rail as a mode of transportation in Texas.

Legislative outlook

We expect to see a number of transportation-funding bills filed, including proposals to send proceeds from the motor vehicle sales tax to the State Highway Fund, increase the annual registration fee, increase the gasoline tax, and apply a vehicle-miles-traveled surcharge.

Historical perspective

While various financing options have been proposed and a few passed in recent sessions, the state gasoline tax has not been raised from its current 20 cents per gallon since 1991. The result of this is a decrease in the tax's purchasing power.

In 2014, Texas voters passed a Texas constitutional amendment (Proposition 1) with an overwhelming 80%, signaling to lawmakers that funding for transportation is an important issue and must be addressed.

In 2015, the 84th Texas Legislature ended diversions from the Texas Highway Fund, decreasing bond debt, and allocating motor vehicle sales taxes to the state highway fund (HB 1), and ended diversions from the Texas Highway Fund and prioritized future TxDOT projects based on safety, maintenance, and congestion (HB 20).

In addition, in 2015 voters approved Proposition 7, a constitutional amendment authorized by SJR 5 to dedicate $2.5 billion of sales tax revenue and 35% of motor vehicle sales taxes to the Texas Highway Fund when revenue milestones are met.

In 2019, a new law (SB 962) extended provisions related to that constitutional amendment to ensure no interruption of funding for 10 years, continuing voters' desire to invest in transportation projects.

Water Infrastructure

Issue

Water in Texas is both a critically important resource for livelihood and a natural occurrence that can pose serious threats.

Hurricane Harvey's devastating impact on the Greater Gulf Coast in 2017 brought to light many of our state's failing water infrastructure needs. Furthermore, Texas has seen unprecedented flooding across all regions in recent years, including West Texas, the Panhandle, and the Hill Country. Beyond flood mitigation, water infrastructure updates are overdue throughout the state and failure to address those issues could negatively impact our water supply.

What does this mean for the real estate industry?

The Texas Water Development Board reminds us that "anywhere it rains in Texas, it can flood," and estimates that coastal and riverine flooding combined are expected to cause more than $6.87 billion in property losses over the next five years.[1]

Property owners need assurances that they are as safe as possible from floodwaters. And if disaster does hit, property owners need efficient and affordable insurance and access to contractors and other skilled workers.

Landowners must also be able to rely on secure private-property rights to ensure water availability as the state works on management plans and conservation goals.

A report from the Governor's Commission to Rebuild Texas, appointed by Gov. Greg Abbott to document Hurricane Harvey's effect on Texas and make recommendations for future preparedness, determined that Hurricane Harvey damaged or destroyed more than 200,000 structures.[2] Many property owners faced challenges when rebuilding, such as lack of insurance affecting their ability to secure financing, worker shortages, and inconsistent or confusing regulations.[2]

Texas REALTORS® Position

Our association supports the development and implementation of a broad range of flood mitigation technologies, such as flood warning systems, improved levies, and innovation in construction techniques.

Legislative outlook

In 2021, lawmakers will have significant interest in legislation that will help update our aging infrastructure and do what is possible to mitigate future flood damage.

With that comes the prioritization of clear and consistent water rights, including streamlined permitting and amendment process for water projects that are handled by the Texas Commission on Environmental Quality.

Historical perspective

In November 2013, Texas voters approved Proposition 6 by a 3:1 margin. This amendment authorized the transfer of $2 billion to the State Water Implementation Fund for Texas (SWIFT) and the State Water Implementation Revenue Fund for Texas (SWIRFT). These funds enable cities, counties, and water districts to apply for low-interest loans for water projects that align with the state water plan.

In November 2014, TWDB approved rules that opened the door for those local entities to begin accessing those dollars.

In December 2018, TWDB released its State Flood Assessment for the 86th Texas Legislature. The report proposes strategies to prepare for future floods, such as improved flood modeling and mapping and coordinated watershed-based planning. The report estimates the state needs up to $36 billion for flood mitigation. The report points out that Texas has never conducted a statewide assessment of flood risks and needs.

In 2019, the Legislature expanded the role of TWDB in flood planning and financing, including empowering the agency to manage the Flood Infrastructure Fund and create a regional flood planning group that will report their findings in 2023. These and other measures have designated TWDB as the clearinghouse on flood information for the state.

In 2020, TWDB began accepting and approving applications for the Flood Infrastructure Fund, financed by the Economic Stabilization Fund to support local governments projects for flood mitigation, flood control, and drainage projects.

[1] State Flood Assessment, Report to the 86th Texas Legislature, Texas Water Development Board, January 2019. https://texasfloodassessment.org/doc/State-Flood-Assessment-report-86th-Legislation.pdf

[2] Eye of the Storm, Report of the Governor's Commission to Rebuild Texas November 2018. https://www.rebuildtexas.today/wp-content/uploads/sites/52/2018/12/12-11-18-EYE-OF-THE-STORM-digital.pdf

Governmental Affairs Contacts

Tray Bates
Vice President of Governmental Affairs
Office: 512.370.2141
Mobile: 512.975.5091
tbates@texasrealtors.com
@txrtraybates

Julia Parenteau
Director of Public Policy
Office: 512.370.2102
Mobile: 512.751.2028
jparenteau@texasrealtors.com
@juliaparenteau

Brandon C. Alderete
Director of Political Affairs
Office: 512.370.2124
Mobile: 512.573.3664
balderete@texasrealtors.com
@real_bca

Joanna Ramirez
Political Affairs Specialist
Office: 512.370.2103
Mobile: 713.391.7412
jramirez@texasrealtors.com

Jaime Lee
Director of Advocacy Communications
Office: 512.370.2152
Mobile: 512.712.8788
jlee@texasrealtors.com
@jaikil

Jami Sims
Governmental Affairs Programs Manager
Office: 512.370.2145
jsims@texasrealtors.com

@txrealtors @txrealtors_ga

TEXAS REALTORS®

1115 San Jacinto Blvd., Suite 200
Austin, TX 78701-1906

512-480-8200
texasrealestate.com