



**Government of the Virgin Islands  
of the United States of America  
Department of Licensing and Consumer Affairs**

[www.dlca.vi.gov](http://www.dlca.vi.gov)

Golden Rock Shopping Center  
3000 Golden Rock, Suite #9  
St. Croix, VI 00820-4311  
Telephone: (340) 713-3522  
Facsimile: (340) 718-6982

Administrative Complex  
"The Battery"  
St. John, VI 00830  
Telephone: (340) 693-8036  
Facsimile: (340) 776-6989

Property & Procurement Building  
8201 Sub Base, Suite #1  
St. Thomas, VI 00802-5821  
Telephone: (340) 714-3522  
Facsimile: (340) 776-8303

**H. Nathalie Hodge  
Commissioner**

**Testimony  
Before the  
35<sup>th</sup> Legislature of the Virgin Islands**

**Carla J. Joseph, Chair  
Committee on Government Operations, Veterans Affairs, and Consumer Protection**

**Bill 35-0193**

**May 20, 2024**

*"Serving Businesses & Assisting, Educating and Protecting Consumers"*

Good Day Honorable Senator Carla J. Joseph, Committee Chair, Committee on Government Operations, Veterans Affairs, and Consumer Protection, 35<sup>th</sup> Legislature of the Virgin Islands, committee Senators present, non-committee Senators present, and the listening and viewing audience.

My name is H. Nathalie Hodge, Commissioner for the Department of Licensing and Consumer Affairs (hereinafter referred to as “DLCA”). Today, I am accompanied by Virgin Islands Real Estate Commissioner Chair Laurent Alfred, and Commission members *Stephanie Hodge, Yvonne Toussaint, Sharon Amey, Christopher McDonald BJ Harris, and Kasima Hodge.*

Thank you for providing the DLCA with the opportunity to testify before the 35<sup>th</sup> Legislature on Bill 35-0193, an Act amending Title 27 Virgin Islands Code, Chapter 15 relating to real estate brokers, sales associates, and property managers. The DLCA has oversight and management responsibility as the Administrator of the Board of Real Estate Brokers and Salesmen and is here in a supportive role to the experts in this profession.

The proposed changes seek to modernize the existing law to better serve the Virgin Islands community and the real estate industry. These amendments reflect contemporary realities and serve the best interest of the public as the current Real Estate Brokers and Salesman laws in the Virgin Islands have gone relatively unchanged since inception.

The amendments proposed in Section 1 of this bill aim to enhance the regulation and professionalism within the real estate industry in the Virgin Islands. These

amendments, outlined below, demonstrate a comprehensive approach to ensuring transparency, competency, and ethical conduct among real estate professionals:

**Definition Updates:** Clarification and expansion of definitions related to real estate brokers, sales associates, property managers, and transactions, ensuring clarity and consistency in regulatory oversight.

**Commission Empowerment:** Granting the Real Estate Commission enhanced powers and duties, including the ability to hear testimony, receive evidence, subpoena documents and witnesses, and maintain records in accordance with established procedures and regulations.

**Regulatory Enhancements:** Updating regulations to establish clear scopes of practice for each license category, setting professional standards, continuing education requirements, and adopting a professional code of ethics aligned with industry standards.

**Fee Rationalization:** Setting reasonable fees to cover operational expenses while ensuring affordability for industry participants, with provisions for fee adjustments within reasonable limits.

**Enforcement Strengthening:** Strengthening enforcement mechanisms by allowing the Commission to recommend prosecutions or civil actions against violations, ensuring accountability and deterrence.

Section 2 of the bill appropriately mandates compliance with these amendments upon license renewal, while Section 3 ensures timely regulatory adaptation by requiring the Commission to update its regulations within a specified timeframe.

The Real Estate Commission, in collaboration with the DLCA and the Office of the Governor, has been deeply involved in the development of this bill alongside Senator Novelle Francis' office for the past two years. While the DLCA endorses these proposed changes, I do have two primary concerns regarding the licensure process for local Virgin Islanders and the education requirement in the absence of a formal educational course.

The preservation of the temporary permit program within this bill amendment is crucial as it ensures that local Virgin Islanders continue to have access to opportunities in the real estate industry. This program serves as a pathway for individuals to gain practical experience and enter the field, providing valuable training and potential employment prospects within the local community.

However, while acknowledging the ongoing collaboration between the Real Estate Commission and UVICELL to develop a real estate course, it is important to recognize that establishing such a program may take time. In light of this, incorporating a provision for a grace period within the bill would offer a pragmatic approach. This grace period would afford individuals the opportunity to meet the educational requirements once the course is in place, ensuring that they have adequate time to comply with any new regulations without facing undue hardship.

By including a grace period, the bill demonstrates a commitment to supporting local Virgin Islanders in their pursuit of careers in real estate while also acknowledging the practical challenges involved in implementing new educational initiatives. This approach

balances the need for regulatory compliance with the recognition of the unique circumstances and needs of the community.

In closing, I would like to thank the Office of the Governor, Senator Novelle Francis and his team, the VI Real Estate Commission, and the DLCA Team for their dedication in advancing this bill to its current stage. I appreciate the opportunity to testify alongside the V.I. Real Estate Commission in support of these amendments and ask for your continued support of the Department and the Real Estate Commission. I stand ready to answer any questions this Body may have.



**Testimony of Laurent “Tippy” Alfred  
Chairman, Virgin Islands Real Estate Commission**

**Re: Bill # 35-0193**

**35<sup>th</sup> Legislature of the Virgin Islands  
Committee of Government Operations, Veterans’ Affairs and Consumer Protection**

*April 23, 2024*

Good afternoon Committee Chair, Senator Carla J. Joseph, Committee members, other Senators, and members of the viewing and listening public. My name is Laurent “Tippy” Alfred. I am testifying before you in my capacity as current Chair of the Virgin Islands Real Estate Commission.

In addition to my responsibility before you today to share opinions and concerns on behalf of the Real Estate Commission, I am also in a unique position to testify on this bill for two reasons. One is that I have been working as a drafter on this bill and its predecessor for nearly four years. I currently work as a researcher and drafter for the sponsor of this bill, Senate President Novelle E. Francis. In that current capacity, I have been tasked with re-drafting this bill in close consultation with the Department of Licensing and Consumer Affairs and its legal counsel, who had significant input throughout the process.

The second reason why I feel I have a unique perspective on this bill is that, despite my position as Chair of the Real Estate Commission, I have never worked as a real estate industry professional. I bring a neutral and more objective perspective: that of a citizen, a father, a homeowner, and a business owner who defends the best interests of the people of the Virgin Islands regarding the laws, rules, and regulations of the real estate industry.

Bill No 35-0193 is a long-overdue effort to update and modernize our 57-year-old current statute regarding the licensing and regulation of the real estate industry in the Territory, located at Title 27 of the VI Code, Chapter 15. New trends and practices in the real estate industry require that we update the existing law, with consumer protection and fairness for real estate professionals as our two guiding touchstones. Consumer protection, while important in all regards, holds the added importance in the real estate industry that encompasses the public’s most valuable assets and the very plots and properties that make our Virgin Islands. There are three main ways in which this Bill protects consumers, whether they be buyers, sellers, lessors or lessees.

Firstly, this Bill empowers the Real Estate Commission with stronger requirements to ensure that both new and continuing professionals are adequately trained and educated. The Bill also expands the regulatory tools of the Commission to better protect the public from fraudulent, deceptive, predatory or other unethical practices that can, and unfortunately do, occur in the real estate industry.

Secondly, this Bill addresses the crucial issue of agency by providing a framework for mandating written disclosure among all parties in any real estate transaction so that it is clear to consumers (both buyers and sellers), who represents who in a transaction. Confusion and obscurity around the issues of agency and loyalty can cause scenarios where consumers are taken advantage of by paying for the services of an agent who does not act in their best interests. The existing statute, while contemplating that a licensee might represent more than one side of a transaction, is completely silent on the implications of agency representation. This Bill provides a framework to define various agency relationships and clearly describes the fiduciary obligations and disclosure obligations in any given agency scenario.

Thirdly, this Bill finally allows for regulation of the Property Management industry that has operated for decades without effective regulatory oversight, thereby causing confusion both among the public and within the real estate industry in the Territory. Today's testimony of the Vice-Chair of the Real Estate Commission, Ms. B.J. Harris, will describe this point in greater detail.

Before concluding, I would like to briefly address three issues that have been of particular concern to the Commission. One is the issue of residency requirements for applicants to become real estate professionals. The Real Estate Commission is currently in the uncomfortable position of applying a residency requirement that does not align with the VI Code. Existing law, at §423, includes residency requirements of two years for real estate brokers and one year for real estate salespersons. However, in the years following the 1989 US Supreme Court Case of *Barnard v. Thorstenn* that disallowed the VI Bar Association from having any residency requirement whatsoever, the Commission changed its residency requirement in practice, for both broker and salesperson applicants, to 90 days, in alignment with the residency requirement for voter registration. This Bill would preserve this modest residency requirement and bring needed legal clarity. The existing practice of requiring 90 days residency has not led to any legal challenge, nor has it caused an overwhelming influx of outside real estate professionals. Therefore, it would be sensible to write this *de facto* practice into law.



The second issue of concern for the Commission has been understanding the implications of the recent federal lawsuit and subsequent settlement involving the National Association of Realtors (NAR). In a \$418 million settlement announced last month, the NAR resolved a lawsuit that accused it of anticompetitive practices, including limiting competition in the real estate market and inflating commissions. In addition to the class-action settlement payout, the agreement generally releases NAR members of past liability over the issues in question and mandates reforms to the practices and policies of the NAR and the Multiple Listing Service (MLS) listing system. These reforms are designed to bring greater transparency for consumers regarding commissions, and to prohibit certain practices that hinder competition. While neither existing law nor this Bill addresses the issues of commissions or commission splits, Bill No. 35-0193 does firmly address the issue of agency disclosure and fiduciary responsibility that are, in some ways, at the core of the NAR settlement. The increased transparency and agency disclosure requirements in this Bill dovetail well with the reforms announced by the NAR settlement that are ultimately designed to improve consumer protection in the real estate industry.

The third issue of particular concern for the Commission is on the issue of preserving and enabling new pathways for young Virgin Islanders to participate in the real estate industry as licensed professionals, be they Sales Associates, Brokers or Property Managers. This Bill makes significant changes that would encourage wider participation in the real estate industry among our younger residents. Firstly, it lowers the age requirement from twenty-one to eighteen for a Sales Associate license. Secondly, it provides for the Commission to collaborate with the Department of Labor on a new real estate industry apprenticeship program. Thirdly, this Bill preserves the pathway of Temporary Sales Apprentice permit for new entrants into the industry, but wisely limits these temporary permittees from signing off on transactions, something that current law allows. A more diverse body of real estate professionals that reflects the demographics of the community it serves would help make for a more vibrant, sustainable and fair real estate industry here in the Virgin Islands.

I stand in full support of Bill No. 35-0193, and I remain available to answer any questions that you might have.

Thank you.



April 22, 2024

Senator Carla Joseph, Chair

Committee of Government Operations, Veterans' Affairs and Consumer Protection

35th Legislature of the Virgin Islands

Re: Testimony on Bill # 35-0193

Good afternoon Madam Chair, Committee Members, other Senators, Staff, and my fellow Virgin Islanders. I am here today, to offer my support of the current proposed bill to modernize and update the existing statute which governs the licensing and regulation of the real estate industry in the Virgin Islands.

Many of you have seen me in these chambers before, and know that I am a loyal Virgin Islander since 1979, who is passionate about affording opportunities to our youth, and committed to protecting our resources and real property rights in the Territory. Today I am here as the Vice Chair of DLCA's Real Estate Commission and as a veteran of the industry, having served six times as president of the Territorial Association of REALTORS during my 42 years as a VI real estate licensee.

The proposed modernization of our existing 1968 law is long over-due. Many of the changes are technical in nature--adding references to electronic communication, the internet, and bringing the statute into alignment with federal anti-trust laws and federal real estate settlement regulations. Some clarify roles and duties of the parties in real estate transactions, and some are new and exciting.

Those latter, are the ones I would like to address briefly today.

As a Real Estate Commissioner, I am here to report that we have repeatedly found the existing laws lacking in depth and specifics, to a point where when we receive a complaint, we are so limited in what we can legally do to help the complainant, that we feel useless. These amendments and modifications will change that, and by more clearly defining the duties and expected conduct of licensees, will allow us to help and protect the public to a much greater degree.

We have a robust property management industry in the Territory. Property management generates substantial income, not only for property owners, but also in hotel and gross receipts taxes, and through the employment of thousands of Virgin Islanders who are essential to its success. But, historically, we have never had a license specifically for "Property Manager". A real estate broker can be a property manager, an 'Owner Representative' can do some of the property manager jobs--but not handle money, rental house owners can have 'licenses' for the houses, but what's that? So people have gotten around not having a specific Property Manager license, and not going through the lengthy and cumbersome process of becoming a Broker, by having an 'Owner Representative' license and a joint bank account with each owner--so they can say it's the owner handling the money. But it's not. It's the person operating the management company who handles the millions of dollars of rental income for the owners. The current law does not protect the owner or the renter, and frankly is uncomfortable for

many 'property managers' who are not real estate brokers. It doesn't require any kind of training or experience, and certainly doesn't have a Commission to help regulate the licensees. It doesn't provide a consolidated list of property managers, which would be helpful to Tourism, BIR and the Territory in general.

This bill offers a new specific Property Manager license which requires education--a clear understanding of the fiduciary duties of a manager, knowledge of accounting and reporting procedures, new technology, and guest services. It gives the DLCA the ability to monitor and track this vital part of our industry by consolidating the many license 'options' into one Property Manager License. This will assist in greater enforcement of our tax laws, and when the Territory has a new initiative to roll out, this will provide an actual list of people in the hospitality sector, who are not hotels. The licensees will be required to attend continuing education courses which can help keep the Virgin Islands the leader in Caribbean hospitality. The Property Managers will become a strong cohesive partner in our tourism sector.

And although those who manage family properties will not be required to obtain this license, its creation provides another avenue for young people (or any people) to enter the real estate industry without the uncertainty of living from commission to commission. The ability to take the classes, then take the exams, then have a potential career in an industry that touches every single one of us, is truly a gift you will be giving to our youth. And it's our duty to offer them opportunities to succeed whenever we can, in this very uncertain world.

I thank you for letting me take this time to support you in this very important legislation.

**Testimony of Carl Gotts, Co-Owner of Vacation St. Croix on  
Bill No. 35-0193  
to the Committee on Government Operations, Veterans Affairs, and  
Consumer Protection  
April 23, 2024**

Good afternoon and thank you to Senator Joseph and other members of the Committee on Government Operations, Veterans Affairs and Consumer Protection for allowing me to testify.

My name is Carl Gotts, my wife Marti and are 35 year residents of St. Croix. In 1996 we formed Vacation St. Croix a Veteran Owned Property Management and Vacation Villa Rental Company which has been in continual operation for the past 28 years.

I do not speak for the entire Property Management industry in the Virgin Islands, but I have many times in the past addressed the various Virgin Islands Real Estate Associations attempts to include our business under their thumb.

**Vacation Villa Rental/Property Management are a completely different business than Real Estate Sales.**

The V.I. Department of Licensing and Consumer Affairs has always recognized this, as well as many other jurisdictions including Florida, Oregon, Washington DC to name a few

Even the federal government recognizes our differences by assigning completely different SIC, Standard Industrial Classification codes and distinctions in the NAICS, North American Industry Classification System.

Our specific business is classified under the **SIC Code 7011-16**, in the category of Hotels and sub-classified under Vacation Villas. ***“Providing short term tourist accommodations within a vacation villa or residential vacation home.”***

And under the NAICS classification **721199**. ***“Primarily engaged in providing short term lodging and tourist accommodations.”***

As for the U.S. Virgin Islands Code we are currently governed by and are afforded the protections under the Hotelkeeper laws of the U.S. Virgin Islands, which we would lose if we were classified as real estate

## **VI Code, Title 27, Chapter 13 Hotelkeeper**

### **401. Definitions §**

**The legal definitions in this section of the VI Code Defining a “Hotel”, a “Hotelkeeper or Innkeeper” and the definition of a “Guest”, exactly describe our business, our staff and their duties, and our customers.**

In Addition, to subject us to the category of real estate instead of a hotel would not only jeopardize these protections, but more importantly, if our business is considered a real estate transaction rather than a hotel transaction; **it will jeopardize our ability to collect and turn over the 12.5% Virgin Islands Hotel Taxes each month.**

**Money that goes directly to fund the Virgin Islands Department of Tourism to promote travel to the U.S. Virgin Islands.**

For Full disclosure, I am a licensed V.I. Realtor and have been for 30 years. I am a member of the St. Croix Board of Realtors and with that a member of the National Association of Realtors as well.

However, I am by no means an active Realtor and my co-ownership of Vacation St. Croix, is a completely separate business.

Having our company, Vacation St. Croix being associated with the Real Estate Industry, Specifically the St. Croix, St. Thomas and St. John Boards of Realtors who are members of the National Association of Realtors, also known as NAR would be a hard pass for us.

**The National Association of Realtors are desperate to increase their membership by any means necessary.**

**And that Senators is the real reason for this proposed legislation.**

**The National Association of Realtors is currently under investigation by the United States Department of Justice and has been recently convicted of the charges of Over-Inflated Commissions, Conspiracy and Anti-Trust violations in Federal Court.**

**The New York Times headline of October 31, 2023, "Home Sellers Win \$1.8 Billion After Jury Finds Conspiracy Among Realtors."**

**That's Billions with a B**

There are in fact two investigations headed by the United States Department of Justice, DOJ, one on behalf of Home Sellers and the second on behalf of Home Buyers.

**The article goes on to state, "The Realtors' group and brokerages (Just like the Brokerages here in the Virgin Islands), were ordered to pay nearly \$1.8 Billion to Home Sellers." However, the verdict allows the court to Treble damages, which means the eventual payout will swell to more than \$5 Billion."**

**The membership rolls of the National Association of Realtors are hemorrhaging as well.**

**"NAR lost 26,000 Members in 2023" Real Estate News, January 3, 2024**

**"NAR Membership Continues to Slide in 2024" Housewire. February 7, 2024**

**"NAR Installed its Third President in Under 12 Months After The Previous Two Resigned Due to Scandal and Blackmail" New York Times, December 2023**

**"NAR Sees 3<sup>rd</sup> Consecutive Decline in Membership, With More Drops Likely in 2024 -2025" NY Times, February 7, 2024**

**"And my Favorite..."Real Estate Agents Are Dropping Like Flies: Record Number of Agents Are Leaving The Industry", I Sold My Home .Com, January 4, 2024**

**The National Association of Realtors is a failing Real Estate Trade Organization who is deeply in debt, hemorrhaging money and members.**

**They desperately need new blood, and specifically new dues paying members.**

***And this is completely what the proposed legislation in front of you is all about.***

The local St. Thomas, St. Croix and St. John Boards of Realtors want to force us, and any other Virgin Islands business they can loosely categorize under their new broad definitions of "***Property Management***" and their other term "***Units of Real Property***" in this proposed legislation.

In the proposed legislation, you will see that term, "***Units of Real Property***".

By their definition a "***Unit***" is simply any agreed upon standard unit of measurement.

**A parking space can be a Unit, a self-storage unit can be a Unit, (It's even in the name), or a boat slip can be a Unit.**

**These Realtors can define a Unit as anything they wish and say this new Real Estate Property Management License is necessary, along with your mandatory membership in the National Association of Realtors of course.**

According to the proposed legislation, on Page 4 lines 2,7 and 8 of the document, it defines a "***Real Estate Transaction***" as, "***the lease or rental of a Unit of Real Property.***"

Renting a Self-Storage Unit – that's a Real Estate Transaction,

Paying to Park your Car in a Private Paid Parking Lot, that's a Real Estate Transaction.

Renting a Conference Room at a Business Center, that's Real Estate Transaction.

Renting a Boat Slip at the Marina, well Senator, that's a Real Estate Transaction too.

And certainly the management and staff of any Condominium Complex in the Virgin Islands will fall under this broad Property Management definition.



**And now the managers and employees of all these businesses must have the new Real Estate Property Management License, along with the National Association of Realtors mandatory membership as well.**

Another consideration and a direct result of the Federal Court decision is that,

**All Real Estate Commissions will be cut in half.**

**CNN Reports in a March 15<sup>th</sup> article, "The 6% Commission on Buying or Selling a Home is Gone after Realtors Association Agrees to Seismic Settlement"**

**The article reports, "*Real Estate Commissions are expected to fall by 50% according to experts.*"**

They have to make up that 50% drop in income somehow I guess

***The only way these Realtors can get new dues paying members and make up for their lost income, is by convincing you to pass this proposed legislation to expand their base of influence and legally force businesses like mine and others to join them.***

**I'm curious; did any of the local Realtors that originally brought this proposed legislation to you inform you about their legal and financial problems?**

I didn't think so.

**So in closing, ask yourself Senators, what is the real reason that these local Realtors, who are directly associated with the National Association of Realtors; a failing, debt ridden and convicted criminal enterprise, so desperately want to pass this law?**



# ***Home Sellers Win \$1.8 Billion After Jury Finds Conspiracy Among Realtors***

The influential National Association of Realtors and several brokerages were ordered to pay damages to home sellers who said they were forced to pay excessive fees to real estate agents.



**By Debra Kamin**

Oct. 31, 2023

A federal jury ruled on Tuesday that the powerful National Association of Realtors and several large brokerages had conspired to artificially inflate the commissions paid to real estate agents, a decision that could radically alter the home-buying process in the United States.

The realtors' group and brokerages were ordered to pay damages of nearly \$1.8 billion. The verdict allows the court to issue treble damages, which means they could swell to more than \$5 billion.

It's a decision that has the potential to rewrite the entire structure of the real estate industry in the United States, lowering the cost of moving homes by reducing commissions. Under a N.A.R. rule, a home seller is required to pay commissions to the agent representing the buyer, which sellers claimed forced them to pay excessive fees to the agents. The home sellers said the brokerages collaborated with N.A.R. to enforce what is called the "cooperative compensation rule."

But under the verdict, the sellers would no longer be required to pay their buyers' agents, and agents would be free to set their own commission rates, which could be slashed in half or less. For example, a home seller with a \$1 million home can now

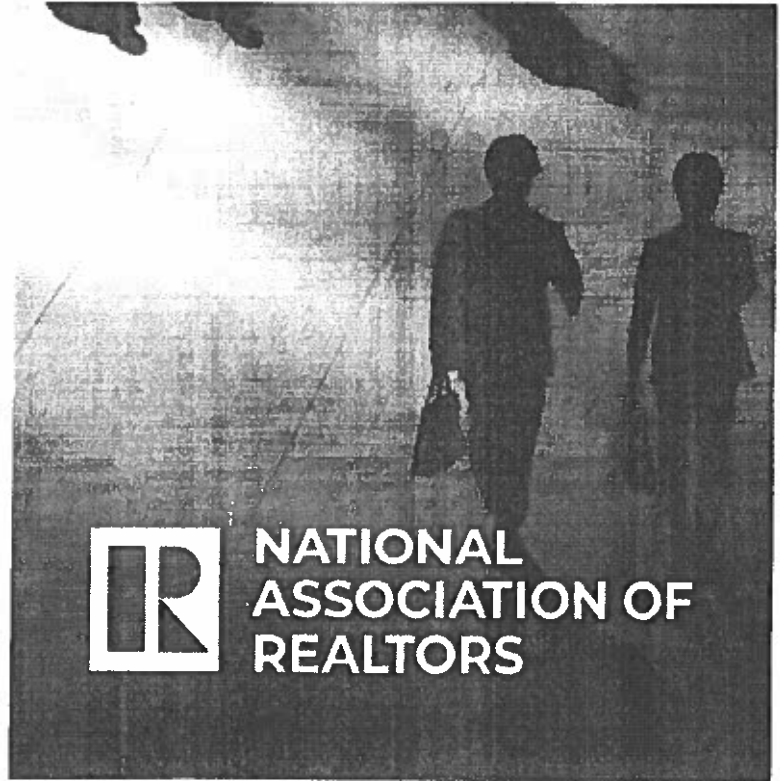


Illustration by Lanette Behiry/Real Estate News

MLS/ASSN

## NAR lost 26,000 members in 2023

Membership fell by more than 17,000 from November to December, and the association posted its first annual decline in more than a decade.



**Dave Gallagher**

January 3, 2024 ⌚ 3 minutes



The National Association of Realtors saw a significant decrease in membership between November and December — and reported its first year-over-year decline since 2012.

**A look at the numbers:** NAR ended 2023 with 1,554,604 members, according to data from the trade organization. That's down 17,489 from November and a drop of 26,367 compared to a year ago.

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## NAR membership continues to slide in 2024

January marked the third consecutive month of membership declines

February 7, 2024, 11:09 am By Brooklee Han

After closing out 2023 with its first annual membership decline since 2012, the **National Association of Realtors** is still struggling with its membership count

C

Month over month, only four states saw an increase in NAR membership from December 2023 to January 2024:

- Nebraska
- Rhode Island
- Utah
- Mississippi

Puerto Rico saw no change. And all other states had month-over-month losses.

## **THE IMPACT OF NAR'S OWN ISSUES ON ITS MEMBERSHIP**

Aside from the external factors mentioned above, NAR has its own internal challenges that have driven some members out of the association.

One such challenge was the scandal that erupted last year with a *New York Times* exposé alleging sexual harassment and a toxic workplace. Next, the trade organization installed its third president in under 12 months after the previous two resigned due to scandal or blackmail.

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# NAR SEES 3RD CONSECUTIVE DECLINE IN MEMBERSHIP, WITH MORE DROPS LIKELY IN 2024-2025

Posted by Sarah Lentz | Feb 7, 2024 |  
RE News

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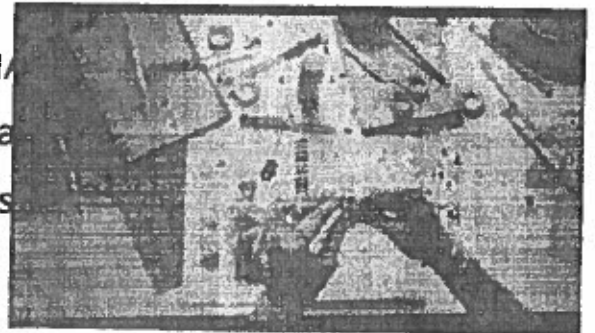
# Real Estate Agents Are Dropping Like Flies: Record Number Of Agents Are Leaving The Industry

POSTED ON JANUARY 4, 2024 BY TONY BONNANI

As reported by Real Estate News, the National Association of Realtors (NAR) experienced a staggering decline in membership, losing 26,000 members in 2023. This marked the first annual decrease since 2012, raising questions about the challenges faced by the organization in what was obviously a tumultuous year.

## The Large Decline In Numbers

Closing the year with 1,554,604 members, the NAR reported a loss of 17,489 members from November to December and a total loss of 26,367 members indicates a trend that is causing concern in the real estate industry.





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Business / Economy

# The 6% commission on buying or selling a home is gone after Realtors association agrees to seismic settlement

By [David Goldman](#) and [Anna Bahney](#), CNN

🕒 7 minute read · Updated 9:17 PM EDT, Fri March 15, 2024

