



# Texas Application for Exemption – Homeowners' Associations

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TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

A nonprofit corporation that is a homeowners' association should use this application to request exemption from Texas franchise tax. The homeowners' association exemption extends only to franchise tax and is applicable to franchise tax reports due on or after May 1, 1982.

To receive a state franchise tax exemption as a homeowners' association, the association must be a nonprofit corporation organized and operated primarily to obtain, manage, construct and maintain the property in or of a residential condominium or residential real estate development that is legally restricted for use as residences. The property cannot be used for any commercial activity. Additionally, the individual resident owners of the lots, residences or residential units must have at least 51% voting control of the association.

The exemption for a homeowners' association is provided for in Section 171.082, Texas Tax Code, and more detailed information is available in Franchise Tax Rule 3.583.

Texas tax law provides an exemption from sales tax on goods and services purchased for use by organizations exempt under Section 501(c)(3), (4), (8), (10) or (19), Internal Revenue Code (IRC). However, exempt organizations are required to collect tax on most of their sales of taxable items. See *Exempt Organizations, Sales and Purchases*, Publication 96-122.

Texas law also provides an exemption from franchise taxes for corporations exempted from the federal income tax under IRC Section 501(c)(2), (3), (4), (5), (6), (7), (8), (10), (16), (19) or (25).

If your organization has been granted federal tax exemption under one of the qualifying sections listed above, your organization will be granted an exemption from Texas franchise tax, or sales and franchise tax, on the basis of the Internal Revenue Service (IRS) exemption, as required by state law. Organizations that qualify for state tax exemption based on the federal exemption are not exempt from hotel occupancy tax because the hotel occupancy tax law does not recognize any federal exemptions.

The laws, rules and other information about exemptions are online at [www.Comptroller.Texas.Gov/taxes/exempt/](http://www.Comptroller.Texas.Gov/taxes/exempt/).

You can submit your completed application along with required documentation by mail, fax, or email

Mail: Texas Comptroller of Public Accounts  
Exempt Organizations Section  
P.O. Box 13528  
Austin, Texas 78711

FAX: (512) 475-5862  
Email: [exempt.orgs@cpa.texas.gov](mailto:exempt.orgs@cpa.texas.gov)

We process applications in the order they are received. To establish claimed exemptions, we may require additional information. After review of the material, we will inform the organization in writing if it qualifies for exemption. The Comptroller, or an authorized representative of the Comptroller, may audit the records of an exempt organization at any time during regular business hours to verify the validity of the organization's exempt status.

If you have questions or need more information, contact us at 800-252-5555.

**You have certain rights** under Chapters 552 and 559, Government Code, to review, request and correct information we have on file about you. Contact us at the address or phone number listed on this form.

## Specific Instructions

**Item 5.** The filed document of record, and any subsequent amendments, that establishes the purpose of the property usually provides the qualifications for association membership, owners' voting rights and whether the property is held exclusively for residential use. This document and the plat map are filed with the local county clerk's office, and may be referred to as the:

- Declaration;
- Deed Restrictions;
- Covenants, Conditions and Restrictions, or similar titles.

To complete Item 5, take the language directly from the appropriate controlling document, which is normally the Articles of Incorporation but may be the association's Declaration or Bylaws. Also, specify in Item 5 the title of the document and the specific citation from which the language was taken.

**Item 6.** To be eligible for exemption as a homeowners' association, the property must be **residential** and have **no commercial property** within the real estate development. A condominium project or real estate development is considered residential if the property is legally restricted for use as residences, **with no commercial use allowed**.

To complete Item 6, enter the total number of lots/units as shown on the plat map for the real estate development. The plat map should be on file with the local county clerk's office.

**Item 7.** To complete Item 7, enter the total number of lots/units owned by the individual resident owners. Do not include any lots/units owned by the declarants, developers, builders, banks, investors or similar parties. Do not include multiple-owned lots by an individual owner, unless an exception applies. An exception occurs when an individual owner purchases two lots to construct a single residential structure; in that case, the adjacent lot would be considered as being owned by the individual resident owner, and the lot should be included in the total reported in Item 7.

**Item 8.** To complete Item 8, enter the total number of lots **not** included in Item 7. Include multiple-owned lots by an individual owner, and all lots/units owned by parties other than the individual resident owners. Attach a list identifying these owners and the number of lots owned.

In order to qualify for exemption as a homeowners' association, these parties cannot control more than 49% of the association's total votes. Majority control cannot be held by a single individual or family, or by one or more developers, declarants, banks, investors or similar parties.

**Item 12.** If the answer to number 12 is yes, also complete Items 12a and 12c. If the answer to number 12 is no, also complete Items 12b and 12c. For 12a, 12b and 12c, take the language directly from the controlling documents. If the language is not found in the declaration, then look for it in the Articles of Incorporation or Bylaws. Also, provide the title of the document from which the language was taken.



# Texas Application for State Tax Exemption for Homeowners' Associations

• TYPE OR PRINT

• Do NOT write in shaded areas.

CLASS A:

CLASS B:

(List additional classes if necessary)

12b. Enter the language that identifies the number of votes each member is entitled to, including the declarant's voting rights.

Title of document and cite from which 12b was taken

12c. List conditions that determine when the Declarant's voting rights ceased, or converted to other conditions allowing the individual owners to gain voting control of the association.

Title of document and cite from which 12c was taken

13. Based on the information provided above, the date the individual resident owners collectively gained voting control (at least 51 percent) of the association was ..... 

Month	Day	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

14. Corporation name (For Texas corporations, name must match the official corporate name as on file with the Texas Secretary of State. For out-of-state corporations, name must match the official corporate name as filed in the home state of charter.)

The homeowners' association is a nonprofit corporation.

I further state that the corporation's purpose is to organize and operate primarily to obtain, manage, construct and maintain property in or of a residential condominium or residential real estate development.

I confirm the declarant does not have the ability to amend the declarations or other documents.

The corporation will maintain proof that the condominium project or real estate development is legally restricted for use as residences, with no commercial use allowed, and will maintain proof that the collective resident owners of individual lots, residence or units control at least 51 percent of the votes of the corporation.

I, ,

Name

Title

of , affirm

Corporation Name

these are true statements.

sign here ▶

Date