

HOMESTEAD AFFIDAVIT

STATE OF TEXAS
COUNTY OF KAUFMAN

BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, ON THIS DAY PERSONALLY APPEARED, WHO BEING BY ME DULY SWORN, DID EACH DEPOSE AND SAY:

AFFIANTS OWN, USE, CLAIM, AND PRESENTLY RESIDE UPON THE FOLLOWING DESCRIBED LOT, TRACT, OR PARCEL OF LAND SITUATED IN _____ COUNTY, STATE OF TEXAS, DESCRIBED AS FOLLOWS:

THE PROPERTY ABOVE DESCRIBED IS NOW, BY AFFIANTS DESIGNATED AND SET APART AS THEIR HOMESTEAD.

AFFIANTS REPRESENT THAT THEY HAVE NO HOMESTEAD RIGHTS IN AND TO ANY OTHER PROPERTY OWNED BY THEM, OR EITHER OF THEM, IN THE STATE OF TEXAS; AND ESPECIALLY DO THEY REPRESENT THAT THEY DO NOT USE, OCCUPY OR ENJOY THE PROPERTY HEREINAFTER DESCRIBED, OR ANY PART THEREOF, EITHER AS A RESIDENCE HOMESTEAD OR AS A BUSINESS HOMESTEAD; AND THEY HAVE NO PERSONAL INTENTION TO USE, OCCUPY OR ENJOY THE SAME OR ANY PART THEREOF AS SUCH HOMESTEAD; TO-WIT SITUATED IN _____ COUNTY, STATE OF _____, AND PARTICULARLY DESCRIBED AS FOLLOWS:

THE FOREGOING REPRESENTATIONS ARE MADE TO _____ FOR THE PURPOSE OF INCLUDING SAID _____

HOMEOWNER

HOMEOWNER

SWORN TO AND SUBSCRIBED BEFORE ME, THIS _____ DAY OF _____ 20____.

NOTARY PUBLIC
KAUFMAN COUNTY

Homeowners Ask About Homestead Designation Versus Exemption

Homeowners calling the State Comptroller's property tax assistance hotline recently have asked about a homestead *designation* and a homestead *exemption* and the difference between the two. Some Texas homeowners have received correspondence from State Recording Service, Inc. and other private businesses offering to file applications and other information for homeowners with the county clerk's office for a fee.

It is important, however, for homeowners to know they may apply for either a homestead designation or homestead exemption without paying a fee to a *private company*. To help taxpayers understand the distinction between a homestead *designation* and an *exemption*, here's a brief explanation.

Texas has two distinct statutes for designating a homestead and for obtaining homestead exemptions. The Texas *Property Code* allows, but does not require homeowners to designate their residences as homesteads to protect them from a forced sale to satisfy creditors. Undesignated homesteads also are protected. The other law is the Texas *Property Tax Code* that offers homeowners a way to apply for homestead exemptions to reduce their local property taxes.

Homestead Designation

Article 16, Section 50 of the Texas Constitution protects a homestead from a forced sale to pay debts. The exceptions from this protection are for the purchase price (the home loan), for work and material used to build improvements (mechanic's liens) and for property tax liens.

Definition. Section. 41.002,

Property Code, defines both an urban and rural homestead. An urban homestead has not more than one acre, which may be one or more lots, together with the buildings (called "improvements"). A rural homestead consists of not more than

200 acres for a family and not more than 100 acres for a single adult, together with the improvements. A homestead is considered rural if the property is not served by municipal utilities, including fire and police protection.

Application. Section 41.005,

Property Code, provides a person may designate voluntarily his or her homestead at the county clerk's office. This recorded designation, however, is not necessary to protect a homestead from forced sale for debts.

To designate a homestead formally, a person files a designation that has been notarized or *proved in the manner required* for recording other documents with the county clerk. The clerk records the designation in the county deed records. Some counties have a filing fee for recording legal documents.

The designation must contain several elements, including a description of the property; a statement that the property is a family's or a single adults homestead; the person who is the current owner of record; and acreage information for a rural homestead.

A person may change the homestead designation simply by filing a new one. A property owner who does not formally designate a homestead may claim a homestead when a court issues an order against the owner. For example, in a lawsuit in which a creditor is seeking a court order to seize property, the homeowner may tell the judge which property is his or her homestead. No designation is required in this case.

Homestead Exemption

Article 8, Sections 1-a and 1-b of the Texas Constitution provide for homestead exemptions for property tax purposes. Exemption amounts and qualifications vary according to the type and the taxing unit that offers them.

Definition. Section 11.13

Property Tax Code defines

"residence homestead" for tax purposes as a structure, together with the land not to exceed 20 acres and other improvements, used in the residential occupancy of the structure. The structure must be owned by one or more individuals, designed or adapted for human residence, used as a residence and occupied as the principal residence. The homeowner must meet the qualifications for the exemptions based on January 1 of the tax year.

Application. Section 11.43

Property Tax Code, requires homeowners to file for homestead exemptions with the chief appraiser of each appraisal district in which the property is located.

The one-page homestead application form includes the owner's name, the property's address or legal description and questions on qualifications for general exemptions or exemptions for those homeowners age 65 or older or disabled.

The owner must file the application only one time unless the chief appraiser requires a new application in writing by sending the owner a new application in subsequent years. The appraisal district charges *no* filing fee.

