Black and Latino Heirs’ Property and Access to Property Tax Relief in Texas

Webinar
February 23, 2021

Website: law.utexas.edu/clinics/ecdc/publications/#proptaxes

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Summer 2020
Outline:

• Part 1: Background: Heir property and impacts
• Part 2: Homestead exemption programs and barriers for heir property homeowners
• Part 3: Senate Bill 1943
• Part 4: On-going problems and actions needed
Part One: Heir Property Overview
Intestacy

A homeowner dies without a will or transfer on death deed.

Legal title to the home passes automatically to the homeowner’s children or other relatives under the laws of “intestate succession.”

No legal paper trail.
Persons 55 and older **without** a will

- **82%** Hispanic
- **80%** Black
- **39%** White
Population by Race/Ethnicity

1 dot = 25 persons

- White
- Black
- Hispanic/Latino
- Asian/Pacific Islander

*Multiple co-owners listed on tax rolls; tax bill sent to the homestead
Estate-Owned Single-Family Residential Properties in Harris County (2020)

Population by Race/Ethnicity

- 1 Dot = 50
  - Hispanic/Latino
  - White
  - Black
  - Native American
  - Asian

Estate-Owned Single-Family Residential Properties With a Homestead Exemption

- 1 Dot = 3

Estate-Owned Single-Family Residential Properties Without a Homestead Exemption

- 1 Dot = 3

- City of Houston
- Harris County

Source: ESRI 2020 Popular Demographics, Harris County Appraisal District 2020 Appraisal Records
Kicked Off the Land
--The New Yorker, July 22, 2019

In the Cross-Heirs
--ABA Journal, February 2021

Black Lands Matter: The Movement to Transform Heirs’ Property Laws
--The Nation, September 25, 2019

This Land Was Our Land
--The Atlantic, September 2019

Black Americans Lose Big Under Longtime Property Provision
--NPR, July 20, 2019
Impacts of Heir Property

• Risk of a partition action
• Difficult or impossible to sell your home
• Disqualification from home repair and disaster recovery programs
• Limited access to the homestead tax exemption
Part Two: The Homestead Exemption and Barriers for Heir Property Owners
Homestead exemption benefits

General homestead exemption
- Reductions off the taxable value
- 10% annual cap on increases in the assessed value
- Installment payment agreements for late taxes w/o penalties

Senior and disability exemption
- Additional reductions off the taxable value
- Cap on school taxes (+many cities and counties have a cap)
- Four installments w/o penalties or interest
- Tax deferral
Background: Barriers Faced by Heir Property Owners

Prior to Senate Bill 1943:

1. Proof of ownership requirements for heir property owners were unclear and too stringent.

2. Heirs were unable to access the full homestead exemption when the residence was co-owned.
Property Tax Impact on Heir Property Homeowners

Heir property home in Cedar Crest Area, Dallas
2020 Appraised Value: $114,660
15% Co-Ownership Interest

2020 Taxes with partial (15%) senior homestead exemption: $2,117
2020 Taxes with full senior homestead exemption: $11

Four years back taxes owed: $7,882
Part Three: Senate Bill 1943
Senate Bill 1943

Clear and accessible application requirements

Heir property owners receive 100% of the homestead exemption
Residence Homestead Exemption Application

Form 50-114

Appraiser District Name
Appraiser District Account Number (if known)

Do you own and live in the property for which you are seeking this residence homestead exemption? Yes No Tax Year

GENERAL INFORMATION: Property owners applying for a residence homestead exemption file this form and supporting documentation with the appraisal district in each county in which the property is located. (Tax Code Sections 11.13, 11.131, 11.132, 11.133, 11.134 and 11.432). Do not file this form with the Texas Comptroller of Public Accounts.

SECTION 1: Exemption(s) Requested (Select all that apply)

[ ] General Residence Homestead Exemption
[ ] Disabled Person
[ ] Person Age 65 or Older (or Surviving Spouse)
[ ] 100 Percent Disabled Veteran (or Surviving Spouse) is a disability a permanent total disability as determined by the U.S. Department of Veterans Affairs under 38 C.F.R. Section 4.15
[ ] Surviving Spouse of an Armed Services Member Killed in Action
[ ] Surviving Spouse of a First Responder Killed in the Line of Duty
[ ] Donated Residence of Partially Disabled Veteran (or Surviving Spouse)

Residence Homestead Exemption Affidavits

Form 50-114-A

Appraiser District Name
Appraiser District Account Number (if known)

GENERAL INSTRUCTIONS: This affidavit is for use when claiming residence homestead exemptions pursuant to Tax Code Sections 11.13, 11.131, 11.132, 11.133, 11.134 and 11.432.

FILED INSTRUCTIONS: Attach the completed and notarized affidavit to your Residence Homestead Exemption Application for filing with the appraisal district office in each county in which the property is located. Generally between Jan. 1 and April 30 of the year for which the exemptions are required. Do not file this document with the Texas Comptroller of Public Accounts. A directory with contact information for appraisal district offices is on the Comptroller’s website.

AFFIDAVIT FOR OWNER/APPLICANT WHO IS AGE 65 OR OLDER AND OWNERSHIP INTEREST NOT OF RECORD

STATE OF TEXAS COUNTY OF

悖 Before me, the undersigned authority, personally appeared , who, being by the duly sworn, deposed as follows:

1. My name is , and I am applying for a residence homestead exemption for property owners who are age 65 or older. I am 65 years of age or older. I am fully competent to make this affidavit; I have personal knowledge of the facts in this affidavit; and all of the facts in it are true and correct. I am an owner of the property identified in this application. I am not identified as an owner on a deed or another appropriate instrument recorded in the real property records of the county where my residence homestead is located.

Percent Ownership Interest:

Further, Affiant sayeth not.

Yes

SUBSCRIBED AND SWORN TO before me this the 
day of ,

Spouse of Affiant:

Notary Public in and for the State of Texas

My Commission expires:

AFFIDAVIT FOR OWNER/APPLICANT WHO IS 100 PERCENT DISABLED AND OWNERSHIP INTEREST NOT OF RECORD

STATE OF TEXAS COUNTY OF

悖 Before me, the undersigned authority, personally appeared , who, being by the duly sworn, deposed as follows:

1. My name is , and I am applying for a race homestead exemption for property owners with qualifying disabilities. I am over 18 years of age; I am fully competent to make this affidavit; I have personal knowledge of the facts in this affidavit; and all of the facts in it are true and correct. I am an owner of the property identified in this application. I am not identified as an owner on a deed or another appropriate instrument recorded in the real property records of the county where my residence homestead is located.

Percent Ownership Interest:

Further, Affiant sayeth not.

Yes

SUBSCRIBED AND SWORN TO before me this the 
day of ,

Spouse of Affiant:

Notary Public in and for the State of Texas

My Commission expires:

AFFIDAVIT FOR OWNER/APPLICANT WITHOUT WRITTEN OWNERSHIP DOCUMENT FOR MANUFACTURED HOME

STATE OF TEXAS COUNTY OF

悖 Before me, the undersigned authority, personally appeared , who, being by the duly sworn, deposed as follows:

1. My name is , and I am applying for a residence homestead exemption as an owner of a manufactured home. I am over 18 years of age; I am fully competent to make this affidavit; I have personal knowledge of the facts in this affidavit; and all of the facts in it are true and correct. I am the owner of the manufactured home identified in this application. The seller of the manufactured home did not provide me with the applicable contract or agreement and I could not locate the seller after making a good faith effort.

Further, Affiant sayeth not.

Yes

SUBSCRIBED AND SWORN TO before me this the 
day of ,

Spouse of Affiant:

Notary Public in and for the State of Texas

My Commission expires:

Form developed by Texas Comptroller of Public Accounts, Property Tax Assistance Division

For additional copies, visit: comptroller.texas.gov/taxes/property-tax

5-2013 Rev. 03-30

For additional copies, visit: comptroller.texas.gov/taxes/property-tax

5-2013 Rev. 03-30
Designation of property as heir property

Question included on Comptroller Form 50-114

SECTION 3: Property Information

Date you acquired this property
Date you began occupying this property as your principal residence

Physical Address (e.g. street address, not P.O. Box), City, County, ZIP Code

Legal Description (if known)

Is the appraiser identified on deed or other recorded instrument?

☐ Yes
☐ No

If yes, state record/filing number on recorded deed or other recorded instrument

If no, if no, required documentation must be provided. (see important information)

Is the property for which this application is submitted an heir property (see Important Information)?

☐ Yes ☐ No

Do other heir property owners occupy the property?

☐ Yes (affidavits required) ☐ No
Heir property

- residence homestead = primary residence
- acquired by will, transfer on death deed, or intestacy, regardless of whether their ownership interest is recorded in the county’s real property records.
Heir property: Homestead Exemption Application

Information required for proof of ownership when no legal documentation in county deed records:

• an affidavit establishing the applicant’s ownership of interest in the property (see Form 50-114-A);
• a copy of the prior property owner’s death certificate;
• a copy of the property's most recent utility bill; and
• a citation of any court record relating to the applicant's ownership of the property (such as a probated will), if available.

The homeowner must also provide the documentation required for all applications (e.g., driver’s license or state-issued i.d. that matches the property address)
Simplified affidavit requirement for heir property

Affidavit included on Comptroller’s Form 50-114-A

AFFIDAVIT FOR APPLICANT CLAIMING AN OWNERSHIP INTEREST OF PROPERTY, INCLUDING HEIR PROPERTY
For Purpose of Residence Homestead Exemption Application Only

STATE OF TEXAS
COUNTY OF ________________________________

Before me, the undersigned authority, personally appeared ________________________________, who, being by me duly sworn, deposed as follows:

“My name is ________________________________ and I am applying for a residence homestead exemption. I am over 18 years of age; I am fully competent to make this affidavit; I have personal knowledge of the facts in this affidavit; and all of the facts in it are true and correct. I am an owner of the real property identified in this application. I acquired the ownership of the real property identified on this application by will, transfer on death deed or intestacy, and I am not identified as an owner on a deed or other appropriate instrument recorded in the real property records of the county where the property identified in this application is located.

Further, Affiant sayeth not.”

Signature of Affiant

SUBSCRIBED AND SWORN TO before me this, the ____________________ day of ____________________, 20___

________________________________________
Notary Public in and for the State of Texas
My Commission expires: ____________________
Removal of application barriers

Appraisal districts can no longer require these documents for heir property:
- Deed
- Affidavit of heirship recorded in the real property records
Additional affidavit requirement if more than one heir occupies the property as their primary residence:

Also included on Comptroller’s Form 50-114-A

AFFIDAVIT FOR OWNER OTHER THAN THE APPLICANT THAT OCCUPIES HEIR PROPERTY AS PRINCIPAL RESIDENCE
For Purpose of Residence Homestead Exemption Application Only

STATE OF TEXAS
COUNTY OF __________________________

Before me, the undersigned authority, personally appeared ______________________________________, who, being by me duly sworn, deposed as follows:

“My name is ___________________________________________. I am over 18 years of age; I am fully competent to make this affidavit. I have personal knowledge of the facts in this affidavit; and all of the facts in it are true and correct. I am an owner of the real property identified in the application of ______________________________________ and I occupy the property as my principal residence; I authorize ______________________________________ to submit the residence homestead exemption application.

Further, Affiant sayeth not.”

Signature of Affiant __________________________

SUBSCRIBED AND SWORN TO before me, the __________________________ day of __________________________, 20__

Notary Public in and for the State of Texas

My Commission expires: __________________________
Recap of homestead exemption application requirements for heir property owners:

- Heir property designation on application
- Affidavit establishing the applicant’s ownership of interest in the property → included in Comptroller Form 50-114-A
  - Appraisal district cannot require copy of a recorded affidavit of heirship or deed
- Extra affidavit if more than one heir occupies the property as their primary residence → included in Comptroller Form 50-114-A
- Additional documents:
  - prior property owner's death certificate;
  - property’s most recent utility bill;
  - citation of any court record relating to the applicant's ownership of the property (such as a probated will), but only if available.
- Documentation required for all applications (e.g., driver’s license or state-issued i.d. with matching property address)
Part Four: On-going problems and actions needed
On-going barriers:

- Lack of awareness about need to file an updated exemption application to qualify for 100% exemption.
- Application process can be daunting.
- Appraisal districts giving our incorrect information or requiring recorded title.
Estate-Owned Properties with and without a Homestead Exemption in Tarrant County*

Legend

Location of Estate-Owned Properties
- 1 Dot = 3
- Estate-Owned Property without a Homestead Exemption
- Estate-Owned Property with Homestead Exemption

Population by Race/Ethnicity
- 1 Dot = 25
- White
- Hispanic/Latino
- Black
- Native American
- Asian

*Tax bill sent to property
Heir Properties without a Homestead Exemption in El Paso County*

*Tax bill sent to property
Likely Heir Property Homeowners with Partial or No Access to the Homestead Exemption in Austin, Texas (2021)

Race/Ethnicity
- 1 Dot = 25
  - Hispanic/Latino
  - White
  - Black
  - Native American
  - Asian

- Likely owner occupied heir property with no homestead exemption
- Likely heir property with a partial homestead exemption

City of Austin Boundary
- Travis County

Source: ACS 5-Yr Data (2014-18), Travis County Appraisal District (2021)
Heir property home in Montopolis neighborhood, Austin
2020 appraised value: $171,303

2020 Property Taxes

- Without Homestead Exemption: $3,814
- With 100% Senior Homestead Exemption: $1,833
Property Tax Impacts on Heir Property Homeowners

Heir property home in Montopolis neighborhood, Austin

2020 appraised value: $171,303
2026 appraised value: $342,000

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<th>Without Homestead Exemption</th>
<th>With 100% Senior Exemption</th>
<th>Without Homestead Exemption (est.)</th>
<th>With 100% Senior Exemption (est.)</th>
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<td>2026 Property Taxes</td>
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Heir Property Homeowners 65+ with Partial Homestead Exemption in Bexar County (San Antonio)

AVG. APPRAISED VALUE: $60,770
AVG. ANNUAL PROPERTY TAX SAVINGS LOST: $1,157
Heir Properties with Partial Homestead Exemption in Bexar County (2020)

**Race/Ethnicity**
1 Dot = 25
- Orange: Partial Owner Properties
- Yellow: Hispanic/Latino
- Blue: White
- Green: Black
- Pink: Native American
- Light Yellow: Asian

City of SA Boundary
Bexar County

TEXAS HOUSERS
TEXAS LOW INCOME HOUSING INFORMATION SERVICE
Property Tax Impacts on Heir Property Homeowners

Heir property home in the Tobin Hill neighborhood, San Antonio
22% homestead exemption
2020 appraised value: $150,580

Property tax bill w/22% senior exemption (actual 2020): $3,450

Property tax bill w/100% senior exemption (2020): $704

2026: $300,000 appraisal
Property tax bill w/22% senior exemption: $6,775 (est)

Property tax bill w/100% senior exemption: $1,118 (est)
Suggested Actions:

1. Targeted community outreach
2. Pro bono legal clinics
3. Engage with local appraisal district
Targeted community outreach

ex) HECHO: San Antonio

1. Map out all homeowners without a homestead exemption or w/a partial exemption
2. Train community members
3. Each doorknocker speaks to residents and provides exemption paperwork, resources, and basic assistance.
4. Link residents to other types of assistance (ex. title issues, tax protest, etc.)
Lessons Learned from HECHO:

- MANY homeowners are not aware of or misunderstand the homestead exemption
- Importance of reaching out through existing networks (e.g., churches, neighborhood associations, community groups)
- Connecting to organizations that can help with clouded title, estate planning, etc.
- Other homeowner education and resources are often necessary
- Need to follow up with homeowners
Pro Bono Legal Clinics

- Assist with homestead exemption and heir property designation
- Assist with protesting property taxes
- Assist with estate planning, such as TODDs, Wills, Affidavits of Heirship
Appraisal District Engagement:

1. Partner in community outreach
2. Make sure they are following the law
3. Make sure their exemption forms are accessible and compliant
The University of Texas at Austin
Entrepreneurship and Community Development Clinic
School of Law

Email: ecdc@law.utexas.edu
Website: https://law.utexas.edu/clinics/ecdc/publications