

# Affidavits and Declarations (Real Estate) Research Guide

## Overview

This research guide includes information and resources on some of the more common affidavits and declarations related to real estate law. Both affidavits and declarations are types of sworn statements. An affidavit is “a voluntary declaration of facts written down and sworn to by a declarant, usually before an officer authorized to administer oaths,” like a notary. A declaration is “a formal statement, proclamation, or announcement, especially one embodied in an instrument.” (*Black Law Dictionary, 11<sup>th</sup> ed.*) The resources listed below are not exhaustive and may not include the most up-to-date information. It is for information purposes only and should not be construed as legal advice or act as the substitute for legal counsel.

## Statutes and Codes

Texas Statutes Online [www.statutes.capitol.texas.gov](http://www.statutes.capitol.texas.gov)

Civil Practice and Remedies Code

- Ch. 132 Unsworn Declarations  
<https://statutes.capitol.texas.gov/Docs/CP/htm/CP.132.htm>

Texas Property Code

- §12.019 Affidavit of Authority to Transfer  
<https://statutes.capitol.texas.gov/Docs/PR/htm/PR.12.htm#12.019>
- Ch. 52 §52.0012 Release of Record of Lien on Homestead Property; §52.0012(f) Homestead Affidavit as Release of Judgment Lien (form)  
<https://statutes.capitol.texas.gov/Docs/PR/htm/PR.52.htm#52.0012>

Texas Rules of Civil Procedure

<https://www.txcourts.gov/rules-forms/rules-standards/>

- Rule 717 Claimant Must Make Affidavit

## Secondary Resources in Print

**Texas Real Estate Forms Manual REF KFT 1326 .T4**

- Vol. 1, 3-38 Affidavit of Interpreter
- Vol. 1, 10-9 Affidavit of Homestead
- Vol. 1, 10-24 Affidavit of Mailing of Lender’s Rescission and Waiver of Acceleration of Note
- Vol. 1, 11-19 Affidavit of Compliance (Pursuant to Section 50(f)(2), Art. XVI, TX Const.)
- Vol. 1, 14-8 Affidavit of Posting and Filing
- Vol. 1, 14-9, 23-18 Affidavit of Mailing
- Vol. 1, 14-19 Affidavit of Advancement
- Vol. 1, 14-34 Affidavit in Support of Petitioner’s Application for an Expedited Order Under Rule 736
- Vol. 1, 14-41 Affidavit of Return of Bid Amount
- Vol. 2, 16-14 Affidavit of Debts and Liens [and Indemnity]
- Vol. 2, 18-5, 19-12 Affidavit of Commencement
- Vol. 2, 20-3 Affidavit of Completion and Indemnity
- Vol. 2, 20-4 Affidavit of Acceptance
- Vol. 2, 21-4 Affidavit Claiming Mechanic’s and Materialman’s Lien
- Vol. 2, 23-20 Affidavit of Nonredemption
- Vol. 2, 24-17 Affidavit of Redemption
- Vol. 2, 26-1 Affidavit of Facts Concerning Identity of Heirs
- Vol. 2, 26-2 Affidavit of Identity
- Vol. 2, 26-3 Affidavit of Marital Status
- Vol. 2, 26-4 Affidavit of Nonproduction
- Vol. 2, 26-40 Affidavit of Authority (Pursuant to Section 12.019, TX Property Code)
- Vol. 2, 26-41 Affidavit of Termination of Authority to Transfer (Pursuant to Section 12.019, TX Property Code)

- Vol. 2, 26-43 Affidavit Contradicting Homestead Affidavit as Release of Judgment Lien

**Texas Forms Manual: A Guide for Real Estate and Title Documentation REF KFT 1326 .A65 .T49**

- Ch.II Escrow Documentation
  - Affidavits of Debts and Liens
    - Form II-103 Indemnity and Affidavit as to Debts and Liens (Seller or Owner-Borrower)
    - Form II-104 Indemnity and Affidavit as to Debts and Liens (Contractor)
  - Foreign Investment Reporting Documentation
    - Form II-109 Nonforeign Person Affidavit
    - Form II-109A Nonforeign Person Affidavit ( entity )
    - Form II-116 Marital Status Affidavit
- Ch. III Title Curative Documentation
  - Form III-100 Not Same Person Affidavit
  - Form III-115 Affidavit of Nonproduction
  - Form III-116 Texas Homestead Designation Affidavit (bridge loan transaction)
  - Form III-117 Affidavit Bridge Loan Transaction (Permanent Abandonment of Texas Homestead Establishment of Permanent Residence Outside of Texas)
  - Form III-118 Texas Homestead Designation Affidavit (Designation of Rural Property Disclaimer of Excess Rural Property)
  - Form III-119 Texas Homestead Designation Affidavit (Designation of Rural Property Disclaimer of Urban Property)
  - Form III-120 Texas Homestead Designation Affidavit (Designation of Urban Homestead Residential Property Disclaimer of Nonhomestead Urban Residential Property)
  - Form III-121 Texas Homestead Designation Affidavit (Designation of

Urban Homestead Residential property disclaimer of nonhomestead Urban Residential Income Producing Property)

- Form III-122 Texas Homestead Designation Affidavit (Designation of Urban Residential property disclaimer of excess Urban property)
- Form III-123 Texas Homestead Designation Affidavit (Designation of Urban property disclaimer or rural property)
- Form III-124 Nonhomestead Affidavit and Affidavit for Designation of Homestead
- Form III-125 Affidavit of Texas Homestead (to Induce Lienholder to Release a Judgement Lien)
- Form III-126 Affidavit of Facts Concerning the Identity of Heirs
- Form III-129 Affidavit for Collection of Homestead Under Section 205.006, Texas Estates Code
- Form III-130 Affidavit as to Payoff of Mortgage (Underwriter)
- Form III-131 Affidavit as to Payoff of Mortgage (Title Insurance Agent)
- Form III-132 Affidavit as to Payoff of Mortgage (Borrower)
- Form III-137 Affidavit of Use and Possession (Lis Pendens)
- Form III-138 Homestead Affidavit as Release of Judgment Lien
- Form III-139 Homestead Affidavit as Release of Judgment Lien Related to Child Support
- Form III-142 General Warranty Deed Correction Affidavit (Immaterial)

- Ch. VI Loan Documentation

- Form VI-122 Affidavit of Commencement
- Form VI-122a Affidavit of Completion
- Form VI-123 Subcontractor's Lien Waiver Affidavit
- Form VI-133 Business Purpose Affidavit

- Ch. XIII Indemnities

- Form XIII-107 Affidavit/Nonmilitary Service
- Form XIII-109 Affidavit of Posting and Filing

## O'Connor's Texas Forms Real Estate KFT 1326 .A65

- Ch. 4 Loan Default & Foreclosure Forms
  - Nonjudicial Foreclosures
    - Form 4A:8 Affidavit of Posting and Filing
    - Form 4A:9 Affidavit of Personal Notice
    - Form 4A:15 Foreclosure Affidavit
    - Form 4A:17 Affidavit of Return of Bid Amount
  - Expedited Foreclosures
    - Form 4B:6 Affidavit for Expedited Order
    - Form 4B:7 Declaration for Expedited Order
    - Form 4B:8 Military Status Affidavit
    - Form 4B:9 Military Status Declaration
- Ch. 5 Mechanic's Lien Forms
  - Form 5:7 Affidavit of Noncommencement
- Ch. 6 Residential Subdivision Restrictions & PA Forms
  - Form 6:1 Declaration of Restrictive Covenants- Residential Subdivision
- Ch. 7 Title Affidavits
  - Form 7:1 Affidavit of Heirship
  - Form 7:2 Affidavit of Identity
  - Form 7:3 Affidavit of Marital Status
  - Form 7:4 Affidavit of Nonproduction
  - Form 7:5 Affidavit of Adverse Possession
  - Form 7:6 Affidavit of Adverse Possession by Cotenat Heir
  - Form 7:7 Affidavit of Authority to Transfer
  - Form 7:8 Affidavit of Termination of Authority to Transfer
- Ch. 10 Miscellaneous Closing Forms
  - Form 10:1 Nonforeign Affidavit-Entity
  - Form 10:2 Nonforeign Affidavit- Individual
  - Form 10:3 Patriot Act Affidavit
  - Form 10:10 Designation of Homestead Affidavit
  - Form 10:11 NonHomestead Affidavit
- Ch. 11 Form 11:2 Jurats

## CLE Materials

### Advanced Real Estate Drafting Course KFT 1312 .A75S7

- 2022 Ch. 1 Authority Issues in Residential Real Estate Transactions
  - D. Affidavit of Authority for Transactions Under \$1 Million, p. 10
  - Form C – Affidavit of Location of Execution of Statutory Durable Power of Attorney, p. 19
  - Form F – Affidavit of Facts Concerning the Identity of Heirs

## Online Resources

General Affidavits (Texas Law Help)

<https://texaslawhelp.org/article/general-affidavit>

Unsworn Declarations (Texas Law Help)

<https://texaslawhelp.org/article/unsworn-declaration-information-instructions-and-forms>

## Legal Assistance

**Legal Lines – Ask Attorneys simple legal questions (free service)**

- Tarrant County LegalLine Sign-up  
<https://www.tarrantbar.org/>
- Dallas County LegalLine Sign-up  
<https://www.dallasbar.org/index.cfm?pg=legalline>

**Tarrant County Bar Association Lawyer Referral Service:** 817-336-4101 (\$20 for the first 30 minutes)

