

RAC Operation Guidelines

Registered Agent/Office

In compliance with Texas Business Organizations Code, Title 1, Chapter 5, Sections § 5.201 - § 5.204 (<http://www.capitol.state.tx.us/statutes/>), all business entities to include Regional Advisory Councils must file and maintain a registered agent and office with the Texas Secretary of State.

To meet the requirements of filing and maintaining Franchise Tax Certification of Account through the Texas Secretary of State office and the Comptroller of Public Accounts, the following issues are stipulated to meet requirements.

1. The registered agent should be a named individual associated with the council and be a responsible party the Office of Secretary of State may contact relevant to council's liability, documentation, filings etc. The registered agent should be the RAC Chair and or his/her designate that has working knowledge of the RAC's financials.
2. Whenever the registered agent changes, and the registered agent's address changes as well, the council must file a change of agent/address with Office of Secretary of State on SOS Form 401
3. Additional actions, form filing or notification to the Texas Comptroller of Public Accounts was not necessary. All filings relevant to certification of account filed with the Secretary of State would automatically be filed by Secretary of State with the Texas Comptroller of Public Accounts.

For verification of the RAC's Certification of Account status, the Regional Advisory Council can obtain their status with the Office of Comptroller of Public Accounts by going to the CPA website (<http://www.window.state.tx.us>), select Franchise Tax Account Status, and then select Corporation Search. With the Corporation Search window open, enter the RAC's File Number or Tax ID. A request for Certificate of Account Status may also be obtained from the Office of Comptroller of Public Account by submitting Form 05-359. Additional assistance may be emailed to tax.help@cpa.state.tx.us. Should there be a need to contact the Office of Secretary of State, call 512 463-5555 or 512 463-5581.

Once a RAC has been made aware of the need to update their status with the Secretary of State or the Comptroller of Public Accounts, the following process should be followed.

1. File a Form 401 with the Office of Secretary of State.
2. Go to website (<http://www.sos.state.tx.us/corp/forms>), select Business and Consumer Services, Franchise Tax Information and Forms. On the Franchise Tax Corporation and Bank webpage, select Form Number 401: Change of Registered Agent/Office. Ample directions are provided when accessing the form on the requirement for change of registered agent or office.
3. A **\$5.00** filing fee will be assessed when submitting this form. Submit the completed form in duplicate along with the filing fee. The form may be mailed to P. O. Box 13697, Austin, Texas 78711-3697; faxed to (512) 463-5709; or delivered to the James Earl Rudder Office Building, 1019 Brazos, Austin, Texas 78701. If a document is transmitted by fax, credit card information must accompany the transmission (separate Form 807). On filing the document, the Secretary of State will return the appropriate evidence of filing to the submitter together with a file-stamped copy of the document, if a duplicate

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copy was provided as instructed.

Recapping, a RAC is required by Texas Business Organizations Code, Title 1, Chapter 5, Sections § 5.201 - § 5.204 to have a registered agent and office. In accordance with the Secretary of State, for a regional advisory council as a nonprofit entity, the RAC Chair and or his/her designee should be the registered agent for the RAC. Additionally, the registered office/address must be a physical address; no post office service is permitted. Whenever there is a change of the registered agent or office, Form 401 along with filing fee of \$5.00 must be submitted with the Office of Secretary of State.

Upon accessing the Secretary of State website (<http://www.sos.state.tx.us/corp/forms>), the attached document is made available.

Additional Information

Go to State of Texas, Texas Online at

<http://www.window.state.tx.us/taxinfo/franchise/index.html>

Select Business and Consumer Services

Select Taxes on pop-up menu

Select [Franchise Tax Information and Forms](#)

File a franchise tax extension, research strategic investment areas, and access franchise tax forms online.

Web Change: Update tax account information

Change Mailing Address/Phone Number

Office of Texas Secretary of State: (512) 463-5582

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Form 401—General Information
(Change of Registered Agent/Office)

The attached form is drafted to meet minimal statutory filing requirements pursuant to the relevant code provisions. This form and the information provided are not substitutes for the advice and services of an attorney and tax specialist.

Commentary

This form has been promulgated to comply with the provisions of the Texas Business Organizations Code (BOC) as well as prior law regarding changes to registered agent and office of entities filed with the secretary of state. There are not substantive differences in the filing of the statement under prior law and under the BOC. Consequently, instructions for the form only make statutory references to the BOC.

Section 5.202 of the BOC specifies the procedure to be followed when a Texas or foreign filing entity that is subject to the BOC desires to make changes to its registered office or registered agent. On acceptance of the statement of change by the secretary of state, the statement is effective as an amendment to the appropriate provision of the entity's certificate of formation or the foreign filing entity's registration. Since an entity may be terminated or its registration revoked for failure to maintain a registered office and agent, any change should be submitted promptly. Changes to registered office and agent may also be included as part of a certificate of amendment or restated certificate, as an amendment in a plan of merger, and in the certificate of formation for a converted entity. Use this form if the only changes to be made to the certificate of formation or registration are to the registered office or agent or both.

Unincorporated nonprofit associations, Texas financial institutions, or defense base development authorities should use form 707 rather than this form to change the statement of appointed agent.

Instructions for Form

- **Entity Information:** The statement of change must contain the legal name of the entity. It is recommended that the file number assigned by the secretary of state be provided to facilitate processing of the document. In addition, the name of the entity's current registered agent and current registered office address must be provided.
- **Changes to Registered Office and/or Registered Agent.** Complete this section to effect a change to the registered agent or registered office address. The registered agent can be either (option A) a domestic entity or a foreign entity that is registered to do business in Texas or (option B) an individual resident of the state. The filing entity cannot act as its own registered agent.

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If the registered office is changed, complete section C. The registered office must be located at a street address where service of process may be personally served on the entity's registered agent during normal business hours. Although the registered office address is not required to be the entity's principal place of business, the registered office may not be solely a mailbox service or a telephone answering service (BOC § 5.201).

The statement of change must recite that the street address of the registered office is the same as the registered agent's business address.

- **Statement of Approval:** As required by section 5.024 of the BOC, the form includes a recitation that the change specified in the statement is authorized by the entity. While the statement of change has the effect of amending the entity's certificate of formation or registration, the BOC does not provide that the procedures to amend the certificate of formation are applicable. In general, the statement of change should be adopted and approved by the governing persons or by a person authorized to act on behalf of the entity.
- **Effectiveness of Filing:** A statement of change becomes effective when filed by the secretary of state (option A). However, pursuant to sections 4.052 and 4.053 of the BOC the effectiveness of the instrument may be delayed to a date not more than ninety (90) days from the date the instrument is signed (option B). The effectiveness of the instrument also may be delayed on the occurrence of a future event or fact, other than the passage of time (option C). If option C is selected, you must state the manner in which the event or fact will cause the instrument to take effect and the date of the 90th day after the date the instrument is signed. In order for the instrument to take effect under option C, the entity must, within ninety (90) days of the filing of the instrument, file a statement with the secretary of state regarding the event or fact pursuant to section 4.055 of the BOC.

On the filing of a document with a delayed effective date or condition, the computer records of the secretary of state will be changed to show the filing of the document, the date of the filing, and the future date on which the document will be effective or evidence that the effectiveness was conditioned on the occurrence of a future event or fact.

- **Execution:** Pursuant to section 4.001 of the BOC, the statement of change must be signed by a person authorized by the BOC to act on behalf of the entity in regard to the filing instrument. Generally, a governing person or managerial official of the entity signs a filing instrument.

The statement of change need not be notarized. However, before signing, please read the statements on this form carefully. *A person commits an offense under section 4.008 of the BOC if the person signs or directs the filing of a filing instrument the person knows is materially false with the intent that the instrument be delivered to the secretary of state for filing. The offense is a Class A misdemeanor unless the*

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person's intent is to harm or defraud another, in which case the offense is a state jail felony.

- **Payment and Delivery Instructions:** The filing fee for a change of registered office/agent is **\$15**, unless the filing entity is a nonprofit corporation or a cooperative association. The filing fee for a nonprofit corporation or a cooperative association is **\$5**. Fees may be paid by personal checks, money orders, LegalEase debit cards, or MasterCard, Visa, and Discover credit cards. Checks or money orders must be payable through a U.S. bank or financial institution and made payable to the secretary of state. Fees paid by credit card are subject to a statutorily authorized convenience fee of 2.7 percent of the total fees.

Submit the completed form in duplicate along with the filing fee. The form may be mailed to P.O. Box 13697, Austin, Texas 78711-3697; faxed to (512) 463-5709; or delivered to the James Earl Rudder Office Building, 1019 Brazos, Austin, Texas 78701. If a document is transmitted by fax, credit card information must accompany the transmission (Form 807). On filing the document, the secretary of state will return the appropriate evidence of filing to the submitter together with a file-stamped copy of the document, if a duplicate copy was provided as instructed.

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Form 401
(Revised 01/06)

Return in duplicate to:
Secretary of State
P.O. Box 13697
Austin, TX 78711-3697
512 463-5555
FAX: 512/463-5709
Filing Fee: See instructions

This space reserved for office use.



**Statement of Change of
Registered Office/Agent**

Entity Information

The name of the entity is:

State the name of the entity as currently shown in the records of the secretary of state.

The file number issued to the filing entity by the secretary of state is: _____

The registered agent and registered office of the entity as currently shown on the records of the secretary of state are: _____

Change to Registered Agent/Registered Office

The certificate of formation or registration is modified to change the registered agent and/or office of the filing entity as follows:

Registered Agent Change

(Complete either A or B, but not both. Also complete C if the address has changed.)

A. The new registered agent is an organization (cannot be entity named above) by the name of:

OR

B. The new registered agent is an individual resident of the state whose name is:

First Name

M.I.

Last Name

Suffix

Registered Office Change

C. The business address of the registered agent and the registered office address is changed to:

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Street Address (No P.O. Box) *City* **TX**
State Zip Code

The street address of the registered office as stated in this instrument is the same as the registered agent's business address.

Statement of Approval

The change specified in this statement has been authorized by the entity in the manner required by the BOC or in the manner required by the law governing the filing entity, as applicable.

Effectiveness of Filing (Select either A, B, or C.)

- A. This document becomes effective when the document is filed by the secretary of state.
- B. This document becomes effective at a later date, which is not more than ninety (90) days from the date of signing. The delayed effective date is: _____
- C. This document takes effect upon the occurrence of a future event or fact, other than the passage of time. The 90th day after the date of signing is: _____
The following event or fact will cause the document to take effect in the manner described below:

Execution

The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument.

Date: _____

Signature and title of authorized person (see instructions)