PAIR AI LLC

Texas Unincorporated Private Foundation Guide

Formation, governance, federal exemption, Texas implementation, and continuing compliance for a Chapter 252 unincorporated nonprofit association classified as a private foundation.

Professional reference guide
Public educational edition

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PROFESSIONAL USE AND LEGAL NOTICE

Texas Unincorporated Private Foundation Guide

A public professional overview of Texas Business Organizations Code Chapter 252, federal exemption, private-foundation classification, formation evidence, governance, filings, and continuing compliance.

> **IMPORTANT**
> This is not the 92-page attorney model packet and does not contain executable constitutions, bylaws, consents, membership instruments, or filing workpapers. It is not legal advice and does not create an attorney-client relationship. A Texas Chapter 252 association requires client-specific legal, tax, factual, banking, title, insurance, and implementation review.

This public edition distills a longer counsel-directed model-document packet into a professional educational guide. It preserves the framework and principal controls while omitting internal practice directions, client signature materials, and stand-alone legal forms.

Scope

This guide addresses a Texas unincorporated nonprofit association intended to seek recognition under Section 501(c)(3) and classification as a nonoperating private foundation. It does not approve a private operating foundation, church, integrated auxiliary, supporting organization, donor-advised fund sponsor, Section 4947 trust, foreign foundation, split-interest arrangement, or another state's entity law.

NAVIGATION

Contents

01 - EXECUTIVE CONCLUSION

Chapter 252 supplies the Texas entity form. Section 508 does not.

CORE CONCLUSION

There is no separate entity legally created "under Section 508." The Texas structure addressed here is an unincorporated nonprofit association created by the mutual consent of at least three members through a signed constitution or articles of association. The organization then obtains an EIN, seeks recognition under Section 501(c)(3), accepts the appropriate Section 509 classification, and complies with Section 508 and Chapter 42.

No Texas certificate of formation creates this association. The executed organizing instrument and formation record are therefore critical evidence for banks, custodians, counterparties, tax filings, title professionals, and later governance.

Recommended professional position

01 Use a true Chapter 252 association with at least three genuine members joined by mutual consent for a common nonprofit purpose. Five reliable members and advance successor planning are generally more defensible.

02 Use one signed constitution and articles of association as the primary organizing instrument and place the Section 501(c)(3), dissolution, and Section 508(e) provisions in that document.

03 Do not file a certificate of formation or use nonprofit-corporation forms for the association. Optional filings do not convert the association into a filing entity.

04 Use the full Form 1023 for a materially funded, complex, or operationally active family foundation unless the current Form 1023-EZ worksheet is satisfied and the streamlined filing is strategically appropriate.

05 Install Chapter 42 controls before accepting assets or entering related-party, grant, investment, or compensation arrangements.

06 After IRS recognition, complete the appropriate Texas tax, Attorney General, property, solicitation, and activity-specific steps.

02 - ENTITY SELECTION

A Chapter 252 association is legally available, but it is an unusual foundation vehicle.

Factor	Chapter 252 association	Chapter 22 corporation	Decision control
Creation and evidence	Created by mutual consent of at least three members under a signed governing instrument; no filed certificate establishes existence.	Created by filing a certificate of formation with familiar public records.	Use a complete signed formation record and preclear counterparty evidence requirements.
Governance	Chapter 252 supplies a limited statutory framework; the constitution and rules must carry most governance terms.	Chapter 22 supplies a more developed corporate framework.	Use Chapter 252 only with tailored documents, disciplined records, and annual legal review.
Continuity	The association must continue to satisfy its minimum-member framework; death, incapacity, resignation, or removal can create live risk.	A corporation can be nonmember and generally continues despite director turnover.	Begin with five reliable members and approved successor instruments.
Property and financing	The association may own property, but title, lending, custody, and authority evidence may be bespoke.	Corporate existence and authority evidence are standardized.	Prefer a corporation for repeated real-estate acquisitions, secured borrowing, or institutional diligence unless the association path is precleared.
Growth and structural change	Merger or conversion requires the applicable Chapter 10 process plus federal tax and charitable-asset review.	The corporate form may avoid a later conversion merely to scale.	Prefer Chapter 22 when employees, direct programs, institutional fundraising, multiple properties, financing, or frequent turnover are expected.

SELECTION STANDARD

Use Chapter 252 only when the reduced state formation-filing footprint and customized member governance are material objectives; stable member continuity is realistic; the foundation will primarily make controlled grants; and banks, custodians, title professionals, insurers, and core counterparties accept the proposed evidence package.

03 - FORMATION AND EVIDENCE

The signed formation record carries unusual weight.

Formation elements

- ☐ At least three members join by mutual consent for a common nonprofit purpose.
- ☐ The signed constitution or articles identifies the exact legal name, Texas form, effective date, purpose, membership, governance, authority, property, amendment, and dissolution framework.
- ☐ Every person treated as a founding member signs on or before the same effective date. Later admissions use a separate joinder and actual admission date.
- ☐ The founding-member consent adopts the governing documents, elects directors, confirms the formation date, and records the initial and successor membership plan.
- ☐ The initial board action elects officers, authorizes the EIN and exemption filing, opens accounts, adopts policies, and assigns tax and compliance responsibilities.
- ☐ A permanent hard-copy and secure electronic record book is created at formation.

Evidence of existence and authority

Because there is no Secretary of State certificate of formation or certificate of existence, the association should maintain an alternative evidence package:

Formation evidence

- Executed constitution and articles.
- Founding-member consent.
- Secretary certification of the effective date.
- Current member register and successor schedule.
- Initial board consent.

Counterparty evidence

- EIN confirmation.
- Current director, officer, and signer schedule.
- Secretary certificate of status and incumbency.
- Optional Form 706 evidence if filed.
- IRS determination and Texas exemption letters when available.

Membership continuity

The minimum-member framework creates a structural risk not present in a nonmember corporation. The organization should maintain more than the statutory minimum, approved conditional successor instruments, a current roster, prompt admission procedures, and an annual continuity certification. A contractual delay of resignation should not be treated as the sole cure for a minimum-member failure.

04 - GOVERNANCE ARCHITECTURE

Membership is governance, not ownership.

Constituency	Role	Control
Members	Continuity and reserved powers: directors, membership, constitutional amendments, conversion, merger, substantially all assets, dissolution, and other protected matters.	No capital, distribution, redemption, reversionary, transferable, or beneficial interest in charitable assets.
Board of directors	Management of property, activities, grants, investments, compensation, policies, professional advisers, risk, and annual compliance.	At least three directors; consider independent judgment and relevant charitable, financial, legal, and community experience.
Officers	Implementation, records, finance, tax, grant, account, and calendar functions under board authority.	Separate authorization, custody, initiation, and reconciliation where practical.
Committees and advisers	Specialized grant, investment, audit, compliance, and compensation support.	Written charters, defined delegation, conflicts, reports, and board oversight.

Recommended governance controls

- Five founding members when practical and never intentional operation at the minimum.
- Three to seven directors, with at least one person independent of the donor family when feasible.
- Annual member and board meetings, with quarterly board review for active or materially funded organizations.
- Written conflicts, gift acceptance, grantmaking, investment, compensation, reimbursement, records, whistleblower, data, and public-disclosure policies.
- Separate bank and custody accounts, no commingling, and dual control for material disbursements and changes to payment instructions.
- Direct access for the outside CPA and engaged counsel to the board or compliance committee.

05 - ORGANIZING INSTRUMENT

The constitution is both the Texas formation evidence and the federal organizing document.

Required architecture

Article group	Required subject matter
Name, status, formation, and duration	Exact legal name; Texas unincorporated nonprofit association; mutual consent; effective date; perpetual duration unless lawfully dissolved.
Office, service process, and territorial scope	Principal office; optional statutory-agent appointment; reliable notice process; no assumption that Texas formation authorizes activity elsewhere.
Exclusive exempt purposes	Charitable, religious, educational, and scientific purposes under Section 501(c)(3), with a specific mission and limited powers.
Section 501(c)(3) limitations	Private inurement and benefit, lobbying, political campaign intervention, and other nonexempt activities.
Section 508(e) restrictions	Required distribution, self-dealing, excess business holdings, jeopardizing investments, and taxable expenditures.
Property and charitable assets	Ownership by the association, restricted gifts, separate title, real-property authority, and no personal use.
Members, board, officers, and actions	Admission, succession, resignation, removal, reserved powers, board management, meetings, written action, and records.
Conflicts, records, insurance, amendment, and dissolution	Preclearance, compensation, books, public disclosure, indemnification, insurance, protected amendments, charitable dedication, and Section 507 review.

ORGANIZING INSTRUMENT - NOT BYLAWS ALONE

The IRS treats the constitution or articles of association as the organizing document for an unincorporated association. The Section 501(c)(3), dissolution, and Section 508(e) provisions should therefore appear in that signed instrument. Bylaws may repeat or operationalize them but should not be their sole source.

Amendment control

Any amendment affecting purpose, dissolution, private-foundation restrictions, member rights, structure, or asset dedication should receive advance federal and Texas review. Retain every signed amendment and reconcile the exact legal name and entity characterization across tax, bank, title, contract, and public records.

06 - TEXAS FILINGS AND AUTHORITY

No certificate of formation. Several optional or conditional filings remain.

Filing or action	Status	Control
Texas certificate of formation	No - do not file for the Chapter 252 association.	The executed organizing instrument and member consent create and evidence the association.
Secretary of State Form 706	Optional; often considered when the association will hold material assets, contract, employ personnel, own real estate, or operate publicly.	Appoints a statutory agent for service of process. It does not create the entity or convert it into a filing entity.
Real-property statement of authority	Optional but often prudent before acquiring, encumbering, leasing, or transferring Texas real property.	Record in the relevant county and calendar the five-year expiration, amendments, and cancellations.
Assumed-name filing	Conditional.	Review current county procedure when public operations use a name different from the exact governing-document name.
Secretary certificate of status and incumbency	Not a state filing, but a key bank and counterparty document.	Certifies formation date, current documents, members, directors, officers, EIN, optional filings, and transaction authority.

BANKING NOTE

A bank may use its own resolution form. Review and correct any form that characterizes the association as a corporation, partnership, sole proprietorship, trust, or owned entity. The legal signature should identify the exact association name and the authorized representative's title.

Real-property diligence

Before a real-property transaction, confirm title, authority, member and board approvals, environmental and insurance issues, property tax, UBIT and debt-financed income, self-dealing, Section 4942 consequences, and the authority statement's expiration docket.

07 - FEDERAL EXEMPTION

The state-law association and federal tax status are separate layers.

The association legally exists when formed under Texas law, not when the IRS determination letter arrives. It may obtain an EIN, open accounts, receive contributions, contract, and conduct approved charitable activity while the application is pending, but it must comply from inception with the governing documents and applicable tax rules.

Application sequence

01 Obtain the EIN in the exact legal name after formation.

02 Prepare the current Form 1023 or, only when eligible and appropriate, Form 1023-EZ.

03 Reconcile the organizing instrument, governing rules, member roster, officers, activities, compensation, related parties, grants, fundraising, assets, and financial projections.

04 Submit electronically through Pay.gov and preserve the exact filed package and receipt.

05 Respond to IRS requests and review the determination letter for the exact name, effective date, exemption, and foundation classification.

06 File Texas AP-204 and complete other conditional Texas implementation after the federal letter is available.

Form 1023 position

Use the full Form 1023 for materially funded foundations, complex assets, individual or foreign grants, direct programs, related-party compensation, shared services, unusual governance, or any matter that should establish a detailed factual record. The streamlined form is a narrow eligibility option and does not reduce the need for compliant organizing documents and permanent records.

> **DONOR ADVISORY**
> Do not give an unconditional charitable-deduction assurance while recognition, effective date, valuation, substantiation, or asset-specific tax treatment remains unresolved.

08 - TEXAS TAX AND REGULATORY IMPLEMENTATION

Federal recognition does not automatically complete Texas exemption.

Item	Baseline	Control
Comptroller Form AP-204	Use the federal-status-based application for qualifying Texas franchise and sales tax exemptions after receipt of the IRS determination letter.	Attach the current form, IRS letter and addenda, signed governing document, and requested activity materials; maintain exact-name consistency.
Sales-tax administration	Use current exemption certificates only after approval and only for qualifying purchases.	Purchasing controls, receipts, purpose records, and separate analysis of the organization’s sales.
Property tax	Separate application and use analysis through the appropriate local appraisal district.	Do not acquire property based solely on the IRS letter or AP-204; review ownership, actual use, mixed use, leases, vacant land, and related-party use.
Hotel occupancy tax	Transaction-specific state and local review.	Do not promise a universal exemption for travel or lodging.
Texas Attorney General	Furnish Form 990-PF and Form 4720 copies when Texas is a required state, at the same time as the federal filing.	Follow the live OAG submission instructions and retain receipt or mailing proof.
Charitable solicitation and activities	Texas has no broad general registration for most charities, but specialized and multi-state rules may apply.	Screen raffles, gaming, professional solicitors, law-enforcement, public-safety, veterans, local permits, licensing, and out-of-state nexus.

EXACT-NAME RULE

The organization should use one exact legal name on the constitution, EIN, bank records, exemption application, IRS determination letter, Texas AP-204, grant documents, contracts, and public materials. The signature block should identify the association as a Texas unincorporated nonprofit association.

09 - PRIVATE-FOUNDATION CONTROLS

Install Chapter 42 controls before the first asset or grant.

Code	Core rule	Control
4940	Net-investment-income excise tax.	Quarterly estimate; investment-income workpaper; Form 990-PF reconciliation.
4941	Direct or indirect self-dealing.	Conservative disqualified-person register; mandatory preclearance; identified exception; correction and Form 4720 analysis.
4942	Required distributions.	Monthly asset data; quarterly forecast; qualifying-distribution ledger; prior-year hard-deadline certification.
4943	Excess business holdings.	Combined ownership ledger; preacceptance calculation; permitted holding and disposition calendar.
4944	Jeopardizing investments.	Written investment policy; risk, liquidity, diversification, valuation, concentration, and enhanced-review process.
4945	Taxable expenditures.	Recipient classification; expenditure responsibility; foreign-grant and individual-grant procedures; political and lobbying controls.

Annual relationship map

Track founders, substantial contributors, members, directors, officers, key employees, covered family members, controlled corporations, partnerships, trusts, estates, vendors, advisers, co-investors, grantees, and intermediaries. Treat uncertain relationships conservatively until counsel resolves them.

NO FAIRNESS EXCEPTION

A transaction involving a disqualified person cannot proceed merely because it is at market value, beneficial, fully disclosed, or approved by disinterested persons. Written tax review must identify an applicable exception or conclude that the transaction falls outside the self-dealing definition.

10 - OPERATING POLICIES

Policies convert legal restrictions into daily controls.

Gift acceptance

Review mission fit, title, restrictions, debt, valuation, deduction, Section 4943, Section 4941, UBIT, liquidity, insurance, carrying cost, custody, and disposition before accepting complex assets.

Grantmaking

Classify recipients; document purpose and selection; verify public charities; use expenditure responsibility or equivalency determinations when required; control individual grants, lobbying, and diversions.

Investment and spending

Address risk, total return, liquidity, fees, custody, concentration, leverage, business holdings, Section 4942 distributions, and program-related or mission-related investments.

Compensation and reimbursement

Require actual services, reasonableness, necessity, comparability, advance disinterested approval, written agreements, receipts, timing, and separate review of related parties.

Payment and cybersecurity

Use role-based access, multi-factor authentication, independent verification of vendor instructions, dual approval for material transfers, direct statements, monthly reconciliation, and incident response.

Whistleblower and records

Protect good-faith reporting; suspend destruction under legal holds; maintain permanent formation and tax records; preserve grants, transactions, investments, and public-disclosure logs.

Mandatory preclearance categories

Related-party transactions; compensation; reimbursement; closely held business interests; real estate; debt; life insurance; digital assets; grants to individuals or non-public charities; foreign activity; direct licensed programs; political and lobbying activity; program-related investments; structural changes; and any matter involving personal use or family benefit.

11 - RECORDS AND TRANSPARENCY

The association should be able to prove every material decision.

Permanent records

- Constitution, amendments, governing rules, member instruments, formation and board actions, rosters, EIN, exemption applications, determination letters, Texas approvals, major legal opinions, real-property instruments, and structural-change records.
- Filed returns, workpapers, excise-tax calculations, contribution records, appraisals, grants, expenditure-responsibility files, compensation, payroll, contracts, investment records, and transaction approvals for the applicable legal and policy periods.

Public disclosure

Maintain the exemption application, supporting documents, determination letter, and annual returns as required. Designate a response owner, log requests, and protect bank numbers, Social Security numbers, privileged advice, applicant and beneficiary information, and other lawfully excludable data. Confidentiality cannot be used to conceal required public information or wrongdoing.

Data protection

- [ ] Collect only information reasonably necessary for operations and legal duties.
- [ ] Use role-based access, multi-factor authentication, encryption, secure backups, and tested recovery.
- [ ] Conduct diligence on cloud, grant, payroll, accounting, banking, custody, and adviser systems.
- [ ] Use secure transmission for returns, banking, health, education, beneficiary, and identification data.
- [ ] Maintain an incident-response plan addressing containment, counsel, insurer, forensics, notification, remediation, and evidence preservation.
- [ ] Return or securely destroy records at separation, subject to retention and legal holds.

12 - IMPLEMENTATION AND ANNUAL CONTROL

The first 90 days establish the operating discipline.

BEFORE EXECUTION

Complete intake, name and mission review, entity-selection record, member roster, successor plan, governing documents, fiduciary roles, and proposed-asset hold.

FORMATION DAY

Sign the constitution and founding consent, certify the effective date, create the roster, elect directors and officers, adopt policies, and establish permanent records.

FIRST 30 DAYS

Obtain EIN, open accounts, activate accounting and access controls, complete conflict disclosures, bind appropriate insurance, and assign the Form 1023 workplan.

DAYS 31-60

Complete application narratives and financials, accept only approved assets, adopt investment and liquidity plans, classify grants, and establish the Section 4942 forecast.

DAYS 61-90

Submit the federal application, preserve the filed record, activate correspondence and public-disclosure procedures, and conduct the first board compliance review.

AFTER DETERMINATION

Review the letter, file AP-204, update banks and records, implement state copies and property/solicitation controls, and complete the closing handoff.

Calendar-year annual cycle

Timing	Governance and compliance action
January-February	Open annual compliance file; update members, conflicts, grants, investments, related parties, contributions, and asset data.
March-April	CPA prepares Form 990-PF and excise-tax work; board reviews corrections, distributions, grants, investments, and public-disclosure materials.
15th day of fifth month	File Form 990-PF and Form 4720 when applicable; furnish required Texas OAG copies at the same time; pay tax by the applicable due date.
May-June	Annual member and board meetings; approve certifications, budget, compensation, investment policy, grants, insurance, and succession.
Quarterly	Update Section 4942 forecast, excise tax, grants, investments, liquidity, business holdings, conflicts, and transaction log.
September-November	Resolve year-end grants, distribution shortfalls, high-risk assets, related-party matters, and next-year budget before time pressure.
December	Complete qualifying distributions, reports, payroll and information-return data, continuity review, and document closeout.

13 - STRUCTURAL CHANGE AND DISSOLUTION

State-law change does not erase federal private-foundation obligations.

Covered transactions

- Dissolution or cessation of activities.
- Transfer of substantially all assets.
- Conversion to a corporation, trust, LLC, or another form.
- Merger, consolidation, affiliation, or control transfer.
- Termination of private-foundation status under Section 507.
- Change to public-charity or private operating foundation classification.
- Move of principal office or governing law outside Texas.

Required plan

- ☐ Confirm authority under Chapter 252, applicable Chapter 10 provisions, the governing documents, donor restrictions, and required member and board approvals.
- ☐ Prepare the plan, certificates or filing instruments, effective-date mechanics, and evidence of tax, account, title, contract, and regulatory status.
- ☐ Analyze continuity of identity, EIN, exemption, classification, Section 507, Sections 4941 through 4945, successor qualification, charitable dedication, and donor restrictions.
- ☐ Address liabilities, reserves, contracts, leases, grants, programs, employees, benefits, custody, insurance, records, final returns, public contact, and Attorney General or court involvement.
- ☐ Prohibit any reversion of charitable assets or use of the transaction to avoid tax, donor restrictions, creditors, reporting, or public-disclosure duties.

PROHIBITED ASSUMPTION

Dissolution, merger, or conversion under Texas law does not automatically terminate federal private-foundation status, Section 507 obligations, Chapter 42 exposure, or annual filing duties.

14 - CLOSING CHECKLIST AND AUTHORITIES

A defensible closing file must reconcile every layer.

Texas-specific closing checklist

- ☐ The association was formed by a signed constitution and member agreement and has at least three genuine current members.
- ☐ No certificate of formation was filed and the entity is not represented as a corporation or trust.
- ☐ The organizing instrument contains the Section 501(c)(3), dissolution, and Section 508(e) provisions.
- ☐ The exact formation date, founding roster, later admissions, current member register, directors, officers, and signers are reconciled.
- ☐ Optional Form 706 is described only as an agent appointment; any real-property authority statement is recorded and its five-year expiration docketed.
- ☐ The EIN, Form 1023-series filing, determination letter, AP-204, bank records, grants, contracts, and public materials use one exact legal name.
- ☐ Texas property tax, hotel tax, solicitation, licensing, and other-state activity are addressed separately.
- ☐ Form 990-PF and Form 4720 copies are furnished to the Texas Attorney General when required.
- ☐ Chapter 42, gift, grant, investment, compensation, records, data, annual calendar, and continuity controls are active.

Selected authorities

- Texas Business Organizations Code Chapter 252 and applicable provisions of Chapters 1, 4, 5, and 10.
- Texas Property Code Chapter 163 when applicable to institutional funds.
- Texas Comptroller guidance and Form AP-204; Texas Secretary of State guidance and Form 706; Texas Attorney General private-foundation filing guidance.
- IRC Sections 501(c)(3), 508, 509, 6033, 6104, 4940 through 4946, and related Treasury Regulations.
- Rev. Rul. 2024-10; Rev. Rul. 85-160; IRS Publication 557; current Forms 1023, 1023-EZ, 990-PF, and 4720.

Research note: this public guide was developed from the attached Pair Ai-authored 92-page Texas attorney model packet and verified against current official Texas Secretary of State, Texas Comptroller, Texas Attorney General, and IRS materials available on September 1, 2026. The complete model packet remains appropriate only for attorney-directed, matter-specific use.

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Use the guide to frame the questions - not to replace the analysis.

A Texas Chapter 252 foundation must be validly formed, correctly classified, accepted by its counterparties, funded with reviewed assets, and administered through documented fiduciary and tax controls.