

# INFORMATION FOR YOUR FLORIDA HOMESTEAD DECLARATION

## Overview

A homestead law helps to protect you from losing your home to creditors. If you are sued for money in court and lose, the person who sued you will receive a judgment from the court. If you do not pay the judgment, they can then try to collect the judgment by garnishing your wages, having your automobile sold or by having your home sold. The homestead law protects a certain amount of your equity in your home from being taken to pay the judgment.

It is also worth noting that in addition to the limit on the value of the exemption, the state of Florida also places a limit upon the size of the homestead itself. Exempt homesteads can be no larger than 160 acres in rural areas and 1/2 acre in urban areas. All states vary as to size and amount of exemption.

While it is not required in some states that you file a declaration of your homestead in order to enjoy the exemption, it may still be to your advantage to complete and record a declaration. This will ensure that your homestead is defined and recorded properly and completely, and will avoid the tight deadlines and potential for costly errors inherent in filing a declaration only after a dispute arises and/or an economic disaster occurs, or in waiting for a court to survey and assign boundaries to your homestead in the absence of a declaration.

For married couples, most states require that any conveyance of property transferring the homestead must be executed by both spouses. Also note: the Declaration of Homestead does not protect you from: (i) loans or debts secured by the dwelling, (ii) liens by contractors who put labor and materials into the dwelling, or (iii) tax liens. If you desire additional information you should read the sections of the Code pertaining to that particular item.

If you are filling out the forms manually and are not using a typewriter, use black ink and print as legibly and neatly as possible. The court may reject forms that are difficult to read or they may input the information incorrectly.

## Disclaimer

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***Check our website for any updates to the form.***

# INSTRUCTIONS FOR YOUR FLORIDA HOMESTEAD DECLARATION

## A. GETTING STARTED – COMPLETING THE FORMS

**Step 1: Read the Instructions Carefully.** You need to read these instructions as well as the instructions contained in the form carefully.

**Step 2: Completing the form.** Insert the appropriate information in the form. Below are additional instructions for the trickier sections of the form:

**Return Address.** In the upper right hand corner, insert the address you would like the Declaration mailed to once it is recorded.

**Legal Description.** You are asked to give a legal description of the dwelling. Don't panic, this description can be taken off the deed to the property or off the tax bill. If you do not have this description, the court will sometimes accept the complete address alone.

**Signature and Date.** You will need to have this form notarized, so wait to sign it until you are in front of the notary.

**Notarization.** Don't bother filling this in, it will be completed by the notary.

## B. RECORDING THE DECLARATION

**Step 3: Notary Acknowledgement.** Take the form to a Notary Public, you can find one in your telephone directory or at local bank. Take personal identification with you (e.g. social security card, driver license, passport, etc.).

**Step 4: Copies.** You should make at least two copies of your completed forms in case additional copies are required by the court and for your personal records.

**Step 5: Recording.** You can either record the Declaration in person or by mail.

**In Person** –Recording your Declaration in person will be quicker because you won't have to wait for delivery. You can take the form to your County Recorder. You will need to bring in the original and two copies (just to be safe) of your completed and notarized Declaration. You will tell the clerk you want to record a Declaration of Homestead. The clerk will help you from here.

**Fees.** You will need to pay the clerk the amount of the recording fee, probably around \$10. To get the specific amount of the recording fee you can contact your County Recorder. You can find its address and telephone number in you local telephone directory.

**Mail** –If you choose to mail your Declaration to the County Recorder you will need to begin with a cover letter explaining what you have included and what you need done. You will want the clerk to record the Declaration and mail back it back to you (in the self-addressed stamped envelope you've enclosed). You will need to include the following items:

**Forms.** The original and a copy of the Declaration

**Fees.** You will need to include a check for the recording fee. To get the specific amount of the recording fee you can contact your County Recorder. You can find its address and telephone number in your local telephone directory.

**One Self-Addressed Stamped Envelopes.** You will need this because you will be asking the clerk to return a copy of the recorded Declaration.

**RECORD AND RETURN TO:** )  
 )  
 )  
 \_\_\_\_\_ )  
 Name )  
 \_\_\_\_\_ )  
 Address )  
 \_\_\_\_\_ )  
 City State and Zip )

STATE OF FLORIDA }  
 COUNTY OF \_\_\_\_\_ }

Above Space for Recorder's Use Only

**DESIGNATION AND DECLARATION OF HOMESTEAD AFFIDAVIT**

KNOW ALL MEN BY THESE PRESENTS that we, \_\_\_\_\_ and \_\_\_\_\_, do hereby certify and declare that we are the owners of property located at \_\_\_\_\_, in the City of \_\_\_\_\_, and County of \_\_\_\_\_, State of Florida, and more particularly described as follows:

We hereby claim this property and the dwelling(s) thereon as our homestead. This property is our principal dwelling and we own and reside in this property on the date that the homestead declaration is recorded. The facts stated in this homestead declaration are known to be true as of our own personal knowledge and we petition any court of competent jurisdiction, to make this election of our homestead a matter of public record in said court of the above stated County by recording or filing the same as provided by law. We make this written statement by virtue of the provisions of, and pursuant to Florida Const. Art. 10, §4(a); Code §222.01 onward.

_____ Signature	_____ Date	_____ Signature	_____ Date
_____ Print Name		_____ Print Name	

State of Florida }  
 County of \_\_\_\_\_ } ss.

On this \_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_, before me, \_\_\_\_\_, personally appeared \_\_\_\_\_ and \_\_\_\_\_, personally known to me \_\_\_\_\_ or proved to me on the basis of satisfactory evidence \_\_\_\_\_ to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument. WITNESS my hand and official seal.

NOTARY SEAL

\_\_\_\_\_  
NOTARY SIGNATURE