

# advisory

## THE FLORIDA HOMESTEAD ADVANTAGE

Individuals have been flocking to Florida for years. So, what's so great about Florida? It's not just the weather. Individuals who establish their homestead in Florida enjoy the following benefits:

- 1. Limitation on Property Tax Increases.** The Florida Constitution was amended effective January 1, 1995, to limit annual increases in assessed value of property with homestead exemption to three percent (3%) or the change in the Consumer Price Index, whichever is lower. Further, Florida homeowners are entitled up to \$50,000 exemption on the assessed value of their homestead. These provisions help minimize property taxes in Florida even if property values increase rapidly from year to year.
- 2. Creditor Protection.** An individual's Florida homestead is protected from a creditor who has obtained a judgment against the individual. Florida law provides that the creditor cannot force an individual to sell his or her homestead to satisfy the judgment. This protection from judgment creditors also carries over to certain heirs who might inherit your homestead after you die, including your spouse, children, siblings, nieces, and nephews. However, any creditors who obtain judgments specific to the property, such as foreclosures, past due association fees, and contractors' liens, will be able to avoid Florida's homestead protection. The value of the homestead exempt from creditor claims is unlimited so long as the homestead is not more than a one-half (1/2) acre inside a municipality and not more than 160 acres outside of a municipality.
- 3. Death, Descent and Distribution.** If an individual is the sole owner of his or her homestead and is survived by a spouse and minor children then by operation of law the surviving spouse is entitled to elect either a life estate with remainder to the minor children, or a one-half tenant in common interest in the homestead. Note the individual cannot devise the entire homestead to the surviving spouse. If, however, an individual is survived by a spouse and adult children, then he or she may devise the entire homestead to the surviving spouse. If the individual attempted to devise the homestead to someone other than the surviving spouse (i.e., adult children), then the surviving spouse would be entitled to a life estate or one-half tenant in common interest.

Please feel free to contact us if we can help you navigate the law and benefits of having a Florida homestead. To contact our Boca Raton office in Florida, call 561-362-2030, or call our Johnston, Rhode Island office at 401-824-5100, or email Gene M. Carlino, Partner, at [gcarlino@pdlolaw.com](mailto:gcarlino@pdlolaw.com), Bernard A. Jackvony, Of Counsel, at [bjackvony@pdlolaw.com](mailto:bjackvony@pdlolaw.com), Rebecca M. Murphy, Senior Associate, at [rmurphy@pdlolaw.com](mailto:rmurphy@pdlolaw.com) or Jason S. Palmisano at [jpalmisano@pdlolaw.com](mailto:jpalmisano@pdlolaw.com).

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