

— LEGAL —

Protecting your Assets

When you think about homestead exemption, most people immediately think of the \$25,000 property tax exemption. That's because many people are unaware of a valuable form of asset protection granted under Florida's Constitutional homestead exemption. The Florida Constitution, Article X, Section 4, exempts homestead property "from forced sale under process of any court". This means the proper homestead designation can also keep your property out of hands of creditors.

What qualifies for homestead exemption?

The designation of homestead is granted to a person's primary residence, including condominiums, townhomes, and mobile homes. If the property is located within a municipality (i.e. within city limits) up to one-half acre, plus the improvement, shall be exempt homestead. If the property is located outside of a municipality then up to 160 acres of land, along with the improvements, shall be exempt homestead.

How does homestead exemption work?

If a large (court) judgment is entered against you, it can attach to property that you own in the county, and the creditor can force that property to be sold in order to satisfy the judgment. Fortunately creditors

cannot force sell your homestead property. You may be wondering how the creditor or the Court determine whether your property is homestead? You can sign an affidavit stating that property is your homestead property,² which is recorded with the Clerk of the Courts. However, there is no formal requirement that this affidavit be filed.

Is this different than homestead property tax exemption?

With homestead property tax exemption, an application has to be filed with the Osceola County Property Appraiser's Office. All Florida residents are eligible to apply for a \$25,000 homestead property tax exemption if they have legal or equitable title to the property and maintain it as their primary residence beginning on January 1st of the application year.³ Constitutional homestead exemption was created to prevent people from losing the homes they live in to creditors and allows homestead property to be transferred to your spouse and/or children free from creditor claims upon your death. If you have questions about Florida homestead exemption, an experienced attorney can help you protect your assets.

¹See Article X, Section 4, of the Florida Constitution.

²See Florida Statute § 222.01 and 222.02

³Visit the Osceola County Property Appraiser's website <https://ira.property-appraiser.org/homestead/WebForm1.aspx> for more information.



Overstreet, Miles,
Cumbie & Finkenbinder P.A.
EST. 1928 KISSIMMEE, FLORIDA



Jennifer R. Bondy
Partner
Overstreet, Miles, Cumbie
& Finkenbinder P.A.