

**IN THE CIRCUIT COURT FOR THE 14th JUDICIAL CIRCUIT**

PROBATE DIVISION

**CHECKLIST for Petition To Determine Homestead - 1/2016 Page 1**

<b>ESTATE OF:</b>	Case No:	Date of Death:
<b>TYPE OF ESTATE:</b>	Attorney of Record _____	
	Testate: (____) Intestate: (____)	Formal (____) Summary: (____)

	<i>Reference: Florida Const. Art. X, Sec 4, and Rule 5.405</i>	YES	NO
<b>1.</b>	<b><i>Certified Death Certificate filed?</i></b>		
<b>2.</b>	<b><i>All Required Notices to Creditors, Beneficiaries and Interested Parties Given?</i></b>		
	Notice of Administration served as required by R.5.240 and/or waivers ____ & proofs filed ____?		
	Notice to Creditors served ____ on DOR ____ on AHCA age 55+ ____ F.S. 733.2121?		
	Proof of publication of Notice to Creditors filed. R.5.241 ____? or claims barred ____?		
	Verified diligent search Statement Regarding Creditors filed R.5.241 ____? or claims are barred ____?		
	Notice or consents & waivers to petition to determine homestead filed ____?		
<b>3.</b>	<b><i>Verified Inventory filed as required by F.S. 733.604?</i></b>		
	All proofs of service of inventory filed as required by R. 5.340 ?		
<b>4.</b>	<b><i>Taxes</i></b>		
	Affidavit of no FL tax due filed ____ F.S.198.32? or Non taxable certificate filed ____ F.S. 198.26?		
	Notice of Federal Tax Return filed and served ____? R. 5.395 Tax Return due date is ____?		
	Federal Estate Tax Closing Letter filed?		
<b>5.</b>	<b><i>Verified Petition to Determine Homestead complying with R. 5.405 filed?</i></b>		
	Decedent was a Florida resident?		
	Statement that decedent owned and resided on the property at death?		
	Legal description of homestead real property listed?		
	Statement that property is inside or outside of municipality with acreage? Fla. Const. Art X, Sec. 4?		
	Surviving Spouse and lineal heirs with dates of birth listed of minors, if any?		
	Statement that property descended to, or was validly devised?		
	Decedent's exemption from claims of decedent's creditors inured to spouse/heirs?		
<b>6.</b>	<b><i>Order Determining Homestead?</i></b>		
	Provide the legal description and that the property is the homestead of the decedent?		
	Find that the homestead property descended to or was validly devised?		
	Identify the persons entitled to decedent's exemption from decedent's creditor claims?		
	Define the interest of persons receiving the protected homestead?		

**I certify that I have personally reviewed the foregoing checklist and it is accurate.**

**Attorney for Estate** \_\_\_\_\_ **Date** \_\_\_\_\_

**I. Does the property of the decedent meet all four homestead criteria?**

Yes \_\_\_\_\_ No \_\_\_\_\_

For the property to be the homestead of the decedent all four criteria must be met.

1.  The property was owned by the decedent at death
2.  The decedent was a Florida resident
3.  The property was the resident of the decedent or her family
4.  Property meets the size and contiguous requirement of the Florida Constitution

No     Yes, inside municipality less than 1/2 acre  
 No     Yes, outside municipality less than 160 contiguous acres

**II. Was the decedent's homestead validly devised?**

No     Yes, If so, to whom \_\_\_\_\_, the decedent's \_\_\_\_\_

Intestate, and descends by intestacy to \_\_\_\_\_

**III. Does the decedent's exemption from forced sale by the decedent's creditors inure to anyone?**

No     Yes, If so, to whom, \_\_\_\_\_, the decedent's \_\_\_\_\_

**Florida Constitution Art X, Section 4. Homestead; exemptions. — See also F.S. 732.401, 732.4015**

**(a)** There shall be exempt from forced sale under process of any court, and no judgment, decree or execution shall be a lien thereon, except for the payment of taxes and assessments thereon, obligations contracted for the purchase, improvement or repair thereof, or obligations contracted for house, field or other labor performed on the realty, the following property owned by a natural person:

(1) a homestead, if located outside a municipality, to the extent of one hundred sixty acres of contiguous land and improvements thereon, which shall not be reduced without the owner's consent by reason of subsequent inclusion in a municipality; or if located within a municipality, to the extent of one-half acre of contiguous land, upon which the exemption shall be limited to the residence of the owner or the owner's family;

(2) personal property to the value of one thousand dollars.

**(b)** These exemptions shall inure to the surviving spouse or heirs of the owner.

**(c)** The homestead shall not be subject to devise if the owner is survived by spouse or minor child, except the homestead may be devised to the owner's spouse if there be no minor child. The owner of homestead real estate, joined by the spouse if married, may alienate the homestead by mortgage, sale or gift and, if married, may by deed transfer the title to an estate by the entirety with the spouse. If the owner or spouse is incompetent, the method of alienation or encumbrance shall be as provided by law.