

This is called a “Tenancy in Common” -- meaning each owns entirely separate, proportional interests in the property -- and is always presumed by law to be the form of ownership unless the language “as joint tenants with right of survivorship” is in the deed.

If you have an ownership interest in the property and the property is your permanent residence it is very important you apply for the Homestead Exemption. The Homestead Exemption and related SOH protection save the average Broward homeowner over a thousand dollars a year in taxes. With SOH, your property’s assessed value can increase by no more than 3% per year -- regardless of how much it climbs in actual value. Florida law protects a legal spouse in the event their spouse dies and the title passes to a survivor who never directly filed for homestead exemption. There is no comparable protection for domestic partners or other co-owners.

Property owned as **JTRS** receives the full benefit of the SOH protection and this benefit generally continues uninterrupted upon the death of an owner where both owners have successfully filed for the Homestead Exemption on the property. Unless both of you file, the survivor may not be protected from massive tax hikes if one co-owner dies.

**We recommend you consult with your own attorney to best protect your rights under Florida law.**

If we can be of any assistance on questions relating to Homestead Exemption or Save Our Homes please visit the “Homesteads & Other Exemptions” section of our website, call 954-357-6035, or email [kbrown@bcpa.net](mailto:kbrown@bcpa.net).



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## The Perfect Home The Perfect Family Protect Them Both and Save



## THE PERFECT HOME. THE PERFECT FAMILY. BE SURE TO PROTECT THEM BOTH.

As of January 6, 2015, Florida began recognizing LGBT marriages performed in other jurisdictions and issuing marriage licenses for LGBT marriages to be performed in Florida. This is a tremendous step forward for equality. Now all married couples can own real property as Tenants by the Entireties (TBTE).

TBTE applies only to married couples. Domestic partners do not qualify. TBTE status is automatic when the Grantees of a deed are identified as a married couple and gives each spouse overlapping 100% interests in their Homestead Property Tax Exemption, full exemption coverage (when one spouse receives the Homestead Exemption), and rights of survivorship (inheritance) for the surviving spouse.

The creation of a tenancy by the entireties is not automatic as a result of marriage. A new deed changing the ownership type of a couple to a married couple must be recorded in Public Records. Be sure to consult with your attorney and get her/his assistance before making changes to the ownership of your property.

Even if you choose not to execute a new deed amending your marital status, we recommend you provide our office with a copy of your marriage license so we may notate your marital status and extend to you all exemptions available to married couples such as widow/er's and surviving spouse benefits.

Under Florida law, married couples are only permitted one Homestead Exemption/permanent residency based property tax exemption. **Prior to January 6, 2015**, LGBT couples married outside of Florida could maintain two permanent residency based property tax exemptions because their legal status was not recognized in Florida. **Now, LGBT married couples (as any married couple) cannot claim more than one Florida Homestead Exemption and cannot claim a Florida Homestead Exemption if either person is claiming a permanent residency based property tax exemption anywhere in the world.**

Since recognition of LGBT marriages in Florida took place **after** January 1, 2015, beginning with the **2016 tax year** LGBT married couples will be subject to a loss of their Florida Homestead Exemption, back assessment liens,

including 50% penalties and 15% interest per year, if they are found to be claiming a Florida Homestead Exemption and another permanent residency based exemption anywhere else.

Florida law requires a Homestead Exemption recipient/applicant to notify the Property Appraiser of any change in circumstance which affects her/his eligibility for exemption. To avoid any of these costly consequences, married couples should determine which Homestead Exemption/permanent residency based exemptions to surrender and which one to keep as soon as possible then notify the Property Appraiser's Office of their decision.

Unmarried LGBT couples, did you know even if you leave your home to your partner in a valid will -- if you have not taken other steps in advance to protect your partner, he or she could receive a tax bill the year after you pass for an amount much higher than you paid if you enjoyed the valuable Save Our Homes (SOH) tax cap protection of the Homestead Exemption? In many instances, bereaved partners receive huge tax bills, sadly forcing them to sell their homes.

However, with proper planning, most of the benefits afforded to married couples can be made available to domestic partners and other categories of owners. A lawyer with experience in real estate and estate planning could assist you in making sure your wishes are carried out.

If it is the intent of one co-owner to inherit the interest of the other co-owner upon his/her death, the deed must specify this intent. This ownership type is generally called a "Joint Tenancy with Rights of Survivorship" (or "JTRS"). Both partners own overlapping 100% interests in the property much like a married couple, therefore if one partner dies the property does not need to be probated. JTRS is frequently used by parents who wish to leave property to grown children.

A JTRS is generally not best for couples who do not wish to inherit from each other, but instead wish to leave their interest in the property to their estate to be distributed according to the terms of their will.