

**THE PERFECT HOME...
THE PERFECT PARTNER...**



Broward County Property Appraiser's Office
115 S. Andrews Avenue, Room 111
Fort Lauderdale, Florida 33301
954-357-6830 • Fax: 954-357-8474

www.bcpa.net



**...PROTECT THEM BOTH
— AND SAVE MONEY — WITH
FLORIDA'S HOMESTEAD LAW.**

THE PERFECT HOME. THE PERFECT PARTNER.

BE SURE TO PROTECT THEM BOTH.

Florida law does not grant any legal recognition to the rights of same-sex couples. Not even to registered domestic partners. Fortunately, you can still take a few steps to enjoy virtually the same rights and financial protections under the law.

Did you know that -- 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 get hit with a tax bill the next year for an amount possibly 3, 4 or 5 times higher than you had paid if you had enjoyed the valuable Save Our Homes (SOH) tax cap protection of the Homestead Exemption? In many instances, bereaved partners get hit with huge tax bills, sadly forcing them to sell their homes.

That's why there are several considerations that should be noted by members of the GLBT community -- and any other unmarried persons who own property jointly. Florida law treats legally married couples (i.e., husbands and wives) differently than other categories of owners. They can apply for Homestead on behalf of their spouses. When they own property together, it generally creates a "Tenancy by the Entirety" extending full legal protections to both. Special provisions of law apply to them during their ownership, upon transfer of the property between spouses, upon dissolution of their marriage, or the death of one of the spouses.

Unfortunately, most of these protections are not provided to other joint owners of property. This is true even if the partners have registered as "domestic partners" under Broward County law or the law of any other jurisdiction. A marriage between persons of the same-sex performed in any other jurisdiction is not recognized in Florida.

However, with proper planning, most of these benefits 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 that your wishes are carried out despite the hurdles in current Florida law. Every situation is slightly different, and a lawyer can give you advice best customized to your financial needs and plans.

If it is the intent that one co-owner will inherit the interest of the other co-owner upon his/her death, the deed should specifically state that fact. This is generally called a "**Joint Tenancy with Rights of Survivorship**" (or "JTRS"). This means both partners own overlapping 100% interests in the property -- much like a husband and wife. This avoids the probate process and is frequently used others such as 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. This is called a "Tenancy in Common" -- meaning you each own 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" are in the deed.

It is very important that all persons with an ownership interest in the property who reside on the property file individually for homestead exemption. The Homestead Exemption and the related SOH protection save the average Broward homeowner nearly \$2,000 each 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 that 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 that is owned as JTRS receives the full benefit of the SOH protection and that benefit generally continues uninterrupted upon the death of an owner **where both owners have successfully filed Homestead on the property**. Unless both of you file, the survivor may not be protected from massive tax hikes once they own the home.

We recommend you consult with your own attorney on these issues 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 feel free to call BCPA General Counsel Ron Gunzburger at 954.357.6934 or email him at ron@bcpa.net.