

PERSONAL REPRESENTATIVE'S PETITION TO
DETERMINE HOMESTEAD STATUS

Petitioner, as personal representative of this estate, alleges:

1. The decedent died on(date).....
2. At the time of death, the decedent resided on property located in Florida that was owned by the decedent and is described as together with improvements described as: (Referred to in this petition as "the Property.")

[alternative and exclusive paragraphs]

3. The Property is located in a municipality and is less than one-half acre of contiguous land.
3. The Property is located outside a municipality and is less than 160 acres of contiguous land.
4. The Property was the decedent's homestead.

[alternative and exclusive paragraphs]

5. The decedent was not survived by a minor child.
5. The decedent was survived by a minor child or children as described below.

[alternative and exclusive paragraphs]

6. The decedent was not survived by a spouse.
6. The decedent was survived by a spouse, but the spouse has validly waived homestead rights in a marital agreement. A copy of agreement is attached as Exhibit A.
6. The decedent was survived by a spouse.
7. The decedent was survived by the following persons who are heirs at law as provided by F.S. 732.102–732.108:

Name and Address	Relationship	Age/Minor's Birth Date
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[alternative and exclusive paragraphs]

8. The decedent's homestead was devised by Article of the decedent's will to
8. The decedent died intestate.

[alternative and exclusive paragraphs]

9. Title to the decedent's homestead passed pursuant to the provisions of the decedent's will to

9. The decedent's homestead was not subject to devise and descended pursuant to F.S. 732.401 as follows:

Name or Interest	Relationship	Share
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[alternative and exclusive paragraphs]

10. Petitioner believes that the decedent's homestead passed as alleged above to the surviving spouse or to a person who is, or to persons who are, heirs of the decedent and the decedent's exemption under Article X, §4, of the Florida Constitution has inured tothat/those..... person(s). The decedent's homestead is exempt from the claims of the decedent's creditors.

10. Petitioner believes that the decedent's homestead did not pass to the spouse or persons who are the heirs of the decedent and it is an asset in the hands of the personal representative for payment of creditors' claims and other proper purposes of administration.

11. In addition to persons identified above, the following persons, including creditors, may be interested in this petition, and their addresses and their possible interests are:

Name	Address	Interest (if known)
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12. All interested persons have either joined in this petition, consented to the relief requested, been served proper notice of this proceeding, or waived notice.

[alternative and exclusive paragraphs]

13. The personal representative believes that other assets of this estate are sufficient to satisfy the debts, taxes, claims, and expenses of administration in this estate.

13. The personal representative believes this estate has insufficient assets, other than the Property, to satisfy the debts, taxes, claims, and expenses of administration.

WHEREFORE, the personal representative requests that an order be entered determining that:

A. the Property was the homestead of the decedent;

[alternative and exclusive paragraphs]

B. the Property is subject to the claims of creditors of this estate;

B. the Property is not subject to the claims of creditors of this estate;

C. the Property passed to:

Name and Address	Relationship	Share or Interest
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[alternative and exclusive provisions]

pursuant to Article of the decedent's will.

pursuant to F.S. 732.401.

Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true, to the best of my knowledge and belief.

Petitioner

Attorney for Petitioner
.....(address and phone number).....
Florida Bar number.....

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ORDER DETERMINING HOMESTEAD STATUS

On the petition of the personal representative of this estate for an order determining the status of the decedent’s homestead, the court finds:

FINDINGS OF FACT

1. All interested persons have been served proper notice of this proceeding, or have waived notice thereof, or have consented in advance to the court’s determination.
2. The decedent died on(date).....
3. At the time of death, the decedent owned and resided on property that met the size and contiguity requirements stated in Article X, §4, of the Florida Constitution. That property is legally described as: together with improvements described as: (Referred to in this order as “the Property.”)

[alternative and exclusive paragraphs]

4. The decedent was not survived by a minor child.
4. The decedent was survived by a minor child.

[alternative and exclusive paragraphs]

5. The decedent was not survived by a spouse.
5. The decedent was survived by a spouse, but the spouse has validly waived homestead rights in a marital agreement, a copy of which was attached to the Petition as Exhibit A.
5. The decedent was survived by a spouse.

6. The decedent was survived by the following persons who are heirs at law as defined in F.S. 732.102–732.108:

Name and Address	Relationship	Age/Minor’s Birth Date
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[alternative and exclusive paragraphs]

- 7. The Property was devised by Article of the decedent’s will to
- 7. The decedent died intestate.

CONCLUSIONS OF LAW

Based on the foregoing, in applying the law to the facts, the court concludes:

- 1. The Property constituted the homestead of the decedent.

[alternative and exclusive paragraphs — use statutory language as appropriate]

- 2. The Property was not subject to devise and descended as provided in F.S. 732.401 as follows:
- 2. The Property was subject to devise and was devised by Article of the last will to

[alternative and exclusive paragraphs]

- 3. The decedent’s exemption from creditors’ claims has inured under Article X, §4(b), of the Florida Constitution toa person who is/persons who are.....the surviving spouse/an heir/heirs..... of the decedent and the Property is not subject to the claims of creditors of this estate and the personal representative is not entitled to possession of the Property.

- 3. Title to decedent’s homestead has passed toa person who is/persons who are..... not the surviving spouse oran heir/heirs..... of the decedent and the Property is an asset in the hands of the personal representative for payment of creditors’ claims and other proper purposes of administration and the personal representative is entitled to possession of the Property.

IT IS ADJUDGED that the Property as described above was the decedent’s homestead, that title to the Property passed, and the creditors’ rights as to such Property are as provided above under CONCLUSIONS OF LAW.

ORDERED at, Florida, on(date).....

Circuit Judge

A conformed copy of this order furnished to: