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HOMESTEAD EXEMPTION AND PROPERTY HELD IN TRUST

When property is owned by a trust, a homestead exemption can be granted, but there are strict requirements that must be met for the applicant to qualify:

- **The applicant must have beneficial or equitable title to real property for life.**¹ In other words, the applicant(s) must be the beneficiary of the trust, with interest in REAL property, not PERSONAL property.²
- **The applicant must have the present possessory interest in the property.**³ Simply, the applicant must have the right to live there, and only the person(s) who has the present possessory interest is entitled to homestead exemption.
- **The deed that transfers the property into the trust must be recorded.**⁴

If the recorded deed addresses these requirements, it is not necessary for the Pinellas County Property Appraiser's office to review the trust document. If the deed does not address these requirements, the trust must be reviewed to determine if the applicant is qualified for homestead exemption. Another method to qualify a person for homestead exemption is for the grantor or beneficiary to reserve or retain a life estate on the face of the deed.

Below is **sample** language that could be included on a deed that would allow a trust beneficiary to qualify for homestead exemption in Pinellas County. Please consult with your attorney or estate planning professional for advice before including this or similar language on the deed that funds your trust.

Grantor(s) reserves the right to reside upon any real property placed in this trust as his or her permanent residence during his or her lifetime. It is the intent of this provision to retain for the grantor(s) the requisite beneficial interest and possessory right in and to such real property for life, and to create "equitable title to real estate."

Any questions regarding the qualification of trust beneficiaries or trustees for homestead exemption may be directed to the Exemptions Department at (727) 464-3207.

***PLEASE CONSULT YOUR ATTORNEY OR ESTATE PLANNING PROFESSIONAL.
THIS INFORMATION DOES NOT CONSTITUTE LEGAL ADVICE***

¹ Fla. Stat. § 196.031(1); Fla. Stat. § 196.041(2); Fla. Att'y Gen. Op. 2008-44

² Fla. Att'y Gen. Op. 1994-50; Fla. Dept. Revenue Prop. Tax Oversight OPN 94-0024

³ Fla. Stat. §196.041; Fla. Att'y Gen. Op. 1990-70

⁴ Fla. Admin. Code 12D-7008

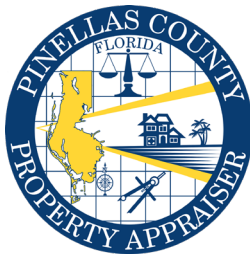
COUNTY COURTHOUSE
315 Court Street - 2nd Floor
Clearwater, FL 33756

NORTH COUNTY
29269 US Highway 19 N
Clearwater, FL 33761

MID COUNTY
Temporarily
Closed

SOUTH COUNTY
2500 34th Street N – 2nd Floor
St. Petersburg, FL 33713

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HOMESTEAD EXEMPTION AND PROPERTY HELD IN LAND TRUST

To qualify for homestead exemption, the following requirements must be met:

- **The applicant must have beneficial or equitable title to real property.**¹ In other words, the applicant(s) must hold an interest in REAL property, not PERSONAL property.²
- **The applicant must have the present possessory interest in the property.**³ Simply, the applicant must have the right to live there, and only the person(s) who has the present possessory interest is entitled to homestead exemption.
- **The deed that transfers the property into the trust must be recorded.**⁴

When property is owned by a **land trust** pursuant to the provisions of the Florida Land Trust Act⁵ the legal and equitable title is granted to the trustee, and the beneficiary retains an interest in personal property only. The beneficiary has no interest in real property. As an interest in personal property is not sufficient to support a homestead exemption claim, a beneficiary under a land trust typically does not qualify for homestead exemption.⁶

A *trustee* of a Florida Land Trust, with interest in real property, would be entitled to claim homestead exemption, so long as the trustee resides on the property as their permanent residence.⁷

The trustee in a land trust is granted legal and equitable title only if they retain the power and authority to protect, conserve, sell, lease, encumber or “otherwise to manage and dispose of the real property.”⁸ If the recorded deed addresses these requirements, it is not necessary for the Pinellas County Property Appraiser’s office to review the land trust document. If the deed does not address these requirements, the trust must be reviewed to determine if the applicant is qualified for homestead exemption.

Any questions regarding the qualification of trust beneficiaries or trustees for homestead exemption may be directed to the Exemptions Department at (727) 464-3207.

***PLEASE CONSULT YOUR ATTORNEY OR ESTATE PLANNING PROFESSIONAL.
THIS INFORMATION DOES NOT CONSTITUTE LEGAL ADVICE.***

¹ Fla. Stat. § 196.031(1)(a); Fla. Att’y Gen. Op. 2008-44.

² Fla. Att’y Gen. Op. 1994-50; Fla. Dept. Revenue Prop. Tax Oversight OPN 94-0024.

³ Fla. Stat. §196.041; Fla. Att’y Gen. Op. 1990-70.

⁴ Fla. Admin. Code 12D-7008.

⁵ Fla. Stat. § 689.071.

⁶ Fla. Att’y Gen. Op. 1994-50.

⁷ Fla. Att’y Gen. Op. 2008-44.

⁸ Fla. Att’y Gen. Op. 2008-44; Fla. Stat. § 689.071(2)-(3).

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