

In the January/February 2004 issue of FMO News, one of the questions posed to FMO Legal Counsel Justin Joseph in his *legalease* column addressed homesteading a manufactured home located on leased land to protect it from forced sale. Mr. Joseph explained that Florida Statute 222 and Article 10 Section 4 of the Constitution of Florida allows a manufactured home owner to protect his home from forced sale in any legal action.

Some people have requested that the FMO provide a generic form so that they can register with their county's Clerk of the Courts. Thanks to Mr. Joseph for getting this form to us. The excerpts from the FMO News may provide some additional insight.

Saving Your Home From Forced Sale

This is the reason for filing the FMO

Q: I understand there is a provision in Florida Law that permits a person who owns a mobile/manufactured home or leased land to claim that home as a homestead. This is to protect that home, as I understand it, from forced sale in any legal action. I understand that without this declaration your mobile/manufactured home is considered a vehicle. How do I go about getting my home declared as homestead?

A: *A mobile home located on land owned by the owner of the mobile home is considered real property for all purposes of homestead, whether it be from exemption from forced sale or for a \$25,000.00 reduction in their property taxes. A mobile home that is located on land rented from another person, such as yours, is entitled to a homestead exemption from forced sale under Florida Statute §222.05 and Article 10 Section 4 of the Constitution of Florida. However, the mobile home owner in that situation is not entitled to any type of tax exemption, as the mobile home owner is not the owner of the real property. A mobile home that is located on property owned by another and which has not been registered with the County under Florida Statute §222.05 is treated as a motor vehicle and does not have the protection from forced sale in any legal action. I would call the Clerk of Courts and ask to speak with someone in charge of homestead exemptions and insist on pointing out the statute to them requesting action be taken.*

But Not A Loophole to Save Park

Q: In a rental park, my neighbors and I have filed our mobile homes DESIGNATION HOMESTEAD and are recorded in the Lee County Circuit Court according to Florida Statute §222.01. How could our Homestead Exemption be applied if our park were to be sold? Could this possibly be a small loophole to protect or save senior affordable housing in Florida? Does this have any merit to become a test case?

A: *The only use of Florida Statute §222.01 designation on your home is to protect it from forced sale to satisfy a creditor and has no bearing on the status of the home involved in a Park undergoing land use change and/or sale. The idea being that no creditor of the homeowner is seeking to seize the home for a debt of the homeowner. In a land use change and/or sale situation, no creditor is involved and the homeowner is free to take his or her property and leave.*

FOLLOW UP TO LAST ISSUE QUESTION ON HOMESTEAD:

There have been several requests for further information about making a request for homestead exemption from forced sale because the clerks from certain courts are not advising manufactured home owners how to accomplish this. Florida Statute §222.01(1) states that all that is required is for an individual to "make a statement, in writing, containing a description of the . . . mobile home . . . claimed to be exempt and declaring that the . . . mobile home . . . is the homestead of the party on whose behalf such claim is being made. Such statement shall be signed by the person making it and shall be recorded in the Circuit Court."

**DECLARATION OF HOMESTEAD - MANUFACTURED HOME
(FLORIDA STATUTES 222.02)**

I, _____, the Owner and Title Holder of the Manufactured Home described in the attached Title Certificate (attached hereto as "Exhibit A"), and further described as follows:

Manufactured by: _____
Model Name: _____
Manufactured in (Year): _____
Identification Number: _____
Title Number: _____

declare that the above manufactured home is located on leased property (a copy of the lease is attached hereto as Exhibit "B") in the community known as _____, located in _____ County, Florida and that I permanently reside in that Manufactured Home as my residence and homestead within the meaning of Article 10 Section 4 of the Constitution of Florida, thus exempting the same from levy or forced sale.

Property Address (Print)

Owner

Signature

Print

The foregoing instrument was acknowledged before me this ____ day of _____, ~~2005~~²⁰⁰⁷ by _____, who is personally known to me or who has produced _____ (type of identification) as identification and who did take an oath.

STATE OF _____

Notary Public

COUNTY OF _____

Notary Print Name

DECLARATION OF DOMICILE

To the Clerk, _____ County, Department of Finance and Administrative Services, County Records
Division

This is my Declaration of Domicile in the State of Florida that I am filing this day in accordance and in conformity with Section 222.17, Florida Statutes

FOR DOMICILES OF THE STATE OF FLORIDA

I hereby declare that I reside in and maintain a place of abode at:

(number and street) (city) (state) (zip)

which place of abode I recognize and intend to maintain as my permanent home, and if I maintain another place or places of abode in some other state or states, I hereby declare that my above-described residence and abode in the State of Florida constitutes my predominant and principal home, and I intend to continue it permanently as such. I am, at the time of the making of this declaration, a bona fide resident of the State of Florida residing at:

(number and street) (city) (state) (zip)

I formerly resided at:

(number and street) (city) (state) (zip)

and the place or places where I maintain another or other place or places of abode are as follows:
(List here street address, city, county and state of any other place or places of abode.)

(number and street) (city) (state) (zip)

(Signature)

(Signature)

(Print Name)

(Print Name)

Sworn to and subscribed before me this _____ day of _____, _____

- Affiant(s) is (are) personally known to me; or
- Affiant(s) provided Florida driver's license(s) as proof of identity; or
- Affiant(s) provided _____ as proof of identity.

(Notary Public Signature)

(Typed or printed name of Notary Public)

All information must be legible.

The Declaration of Domicile form must be notarized. You may use a Notary Public of your choice. Please note that all persons to be acknowledged on the document must be present at the time of notarization.

1. Husband and wife, domestic partners, or those who co-habitat may sign the same form.
2. Do not sign your names(s) on the form until you are physically present in front of the Notary Public.
3. Have your identification available. You need to have a current government issued picture identification in order for this office to notarize your signature, such as a driver's license, a state identification card, or a current passport photo.
4. On the first blank line of the form, following "I hereby declare that I reside in and maintain a place of abode at", put your current address.
5. On the second blank line of the form, following "I am, at the time of the making of this declaration, a bona fide resident of the State of Florida residing at" put your current address again.
6. On the third blank line of the form, following "I formerly resided at:", put the address of the place you lived before you moved to your current address. This can be anywhere—another city, state, or country.
7. **STOP AFTER COMPLETING THE THIRD BLANK LINE.** Do not finish the form until all parties who need to sign the form are present before a Notary Public.

If you present your document in person at the recording office, it will be given back to you immediately after the recording process is complete. If you mail the document to the recording office, please be sure to include a self-addressed envelope for the return of the document after processing.

These are filing instructions

The Homestead declaration requires also a "Declaration of Domicile" to verify that you ARE a Florida resident. Both papers need to be notarized, and include a copy of the Title (2 Titles if you have a double-wide home) and a copy of the Lease Agreement with the Park.

They must be recorded at the Broward County Government Center -- County Records Division, 115 South Andrews Avenue--Room 114, Ft. Lauderdale, FL33301. Their telephone number: 954-357-7283. They are open from 7:30 a.m. to 5:00 p.m. Monday-Friday. The charge is \$10.00 for the Declaration of Domicile page, \$10.00 for the Declaration of Homestead , and \$8.50 for each page of Title and Lease Agreement. You may pay with cash, check (be sure you put your telephone number on it), or Discover card. If paying by check, make it out to "BOCC". You must show your Florida ID. (They make a copy of all the documents, and return the originals to you along with a full page, detailed receipt.) NOTE: The owner need not be present in order to record the documents--as long as the paperwork is complete and the payment is correct, and a Florida ID (or a copy of one) is provided.

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This registration can be done by mail, but you must

include a self-addressed stamped envelope. Be sure you put enough postage on it. Include a copy of your Florida Drivers License or Florida ID. Send your documents to: County Records Division
115 South Andrews Ave.--Room 114
Ft. Lauderdale, FL 33301

Any questions or if you need help filling out the papers, you may call

Jan Klafka -- 954-725-5881
Pat Green -- 954-481-8580
Cynthia Dellacava -- 954-419-9413
Edith McDaniel -- 954-698-1032