



Law Office of
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THE BENEFITS OF BECOMING A FLORIDA RESIDENT

BY:

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March 2018

As Florida Board Certified Real Estate Attorneys who handle hundreds of real estate related issues and closings each year, we are often asked the following two questions:

1. What are the benefits of becoming a Florida resident?
2. How do I become a Florida resident?

Benefits of Being a Florida Resident:

Besides the obvious answer as to the beautiful weather, relaxed lifestyle and real estate property appreciation (especially here in Southwest Florida), another answer to the first question is that many of our northern residents reside in states that have high state income taxes as well as a death tax on their estates.

Based upon economic times in some of these states, there is a movement to actually increase taxes. Contrast that to the many economic benefits of being a Florida resident:

1. Florida's state Constitution prohibits a state income tax

Florida is in the small minority of states that does not impose a state income tax. Further, since it is prohibited by the Florida state Constitution, it is highly unlikely that this prohibition will change. This can have a significant impact on those people still earning a living. Contrast this 0% Florida state income tax with a state like Pennsylvania that has a state tax of 3.07% and, in certain cities, also has a city income tax: We love Philadelphia, but Philadelphia residents pay a combined 6.97% in state and city income taxes. Residents of California pay a whopping 13% in state income tax alone.

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2. Florida's state Constitution prohibits estate tax levied by the state of Florida on Florida residents

Like the Constitutional prohibition on state income tax, Florida also has a provision in its constitution against levying estate/death tax on its residents. This is a significant factor in estate planning and can save families substantial amounts when comparing estate taxes for Florida vs Non-Florida decedents.

3. Florida has a specific and expansive Florida Statute on asset protection rights afforded to Florida residents.

Codified in the Florida statutes is Florida Statute 222 et. seq, which provides numerous asset protection rights. It allows Florida residents to have their home/homestead, 401ks, IRAs, retirement accounts, whole life insurance policies with cash surrender values, 529 plans for their children and grandchildren and a whole host of other assets to be protected against claims of creditors.

4. Florida also offers a specific Homestead tax protection on a person's home to prevent escalation real estate taxes.

As a result of the significant efforts by Lee County's Property Appraiser, Ken Wilkinson, the Florida Constitution was changed to provide the Save Our Homes Amendment. Essentially, this provides protection on increasing annual real estate taxes on your home/homestead to no more than the lower of 3% per year or the annual Consumer Price Index (CPI). This is in addition to the \$50,000 tax exemption from the value of the property being taxed if it is homestead property.

These reasons and many others lead to the second question:

How do I become a Florida Resident?

Our office has assisted numerous clients in obtaining Florida residency status to allow them to take advantage of many benefits available to Florida residents. The services we offer to our clients consist of the following steps and suggestions to becoming a Florida resident, some of which the client can perform on his/her own without incurring attorney fees:

1. Filing a Florida Declaration of Domicile as authorized by state statute;
2. Obtaining Florida driver's license;
3. Registering motor vehicles in Florida;
4. Registering to vote in Florida;
5. Notifying the tax collector of location of new Florida residency;
6. Applying for Florida homestead exemption on the real estate you purchase to take full advantage of the Homestead exemption;

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7. Creating or updating your will and/or estate planning documents to comply with Florida law.

The Law Office of Kevin F. Jursinski & Associates provides our clients with advice and counsels them on the applicable Florida statutes affecting their Florida residency which include:

- A. Method of Setting Apart Homestead and Exemption: Florida Statute 222.17 Manifesting and evidencing domicile in Florida
- B. Property Tax; homestead exemption Florida Statute 196.015 Permanent residency; factual determination by property appraiser.

The key to all of this is the understanding of Florida law on residency and domicile.

There is also often another area we counsel our clients on: Determining and differentiating Florida residency in situations where the client may own residential real estate in another state. It is important to identify in the application for Florida homestead that there is no homestead exemption existing or being applied for in another state.

From a legal standpoint, the home in the Florida where you live coupled with your intent for such home to be your permanent residence indefinitely is referred to as your "domicile."

There are factors that surface and need to be addressed if you own a residential property or properties in another state and spend time in that home. Many of our clients own homes in states outside Florida and spend time there on vacations, generally during Florida's hot and wet summer months. If time is spent in two or more states during the year, then it is important to choose Florida as your primary state of occupancy and clearly indicate your choice of domicile. The key again is knowing the law and applying it properly to your circumstances. We can provide assistance and counsel to you in evaluating your options.

In addition to assisting our clients with evaluating their Florida residency requirements, we also offer advice and services in how the Florida real estate can be titled, such as tenant by the entirety, which offers additional protection to Florida residents. We also provide counsel to our clients on the proper use of Florida Land Trusts to avoid personal liability arising under such ownership as well as achieving anonymity in holding such property. We provide advice to our clients to consider the use of a Florida Land Trust to avoid state of Florida filing fees and annual renewal fees that are charged if the title is held in Florida limited liability companies versus in a Florida Land Trust that has no such annual or renewal fees.

If you are considering purchasing real estate in Florida and becoming a Florida resident, please contact us at (239) 337-1147 or email us at Kevin@KFJLaw.com or Kara@KFJLaw.com for more information on how we can assist you.

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