

Florida Lady Bird Deed

Preparation checklist — what to gather, and what Florida law requires on the face of the deed

A lady bird deed — formally an **enhanced life estate deed** — passes one parcel of Florida real estate to named beneficiaries at death, while the owner keeps the right to sell, mortgage, lease or revoke during life without anyone else signing. **No Florida statute creates it.** It comes from common law, and is recognised in title practice through Uniform Title Standards 6.10–6.12, adopted by The Florida Bar's Real Property, Probate and Trust Law Section in 2020.

***This is a checklist, not a deed form.** It exists because the blank templates in circulation cannot ask you the questions on page 2 — and those are the questions that decide whether the deed works.*

A. Documents and facts to gather

- ☐ The **current recorded deed** — the one that put the property into your name. Not the tax bill.
- ☐ The **legal description**, copied from that deed character for character, including plat book and page.
- ☐ The **parcel identification number** (Miami-Dade calls it a folio number) from the property appraiser.
- ☐ The **county** where the land sits. The deed records there, not where you live.
- ☐ Full legal name of **every current owner**, spelled exactly as it appears on the current deed.
- ☐ Post-office address of every current owner.
- ☐ Your **marital status**, and your spouse's full name if married.
- ☐ Whether the property is your **homestead**.
- ☐ Whether you have a **minor child**.
- ☐ Full legal name and post-office address of **each beneficiary**.
- ☐ What **share** each beneficiary takes, if more than one.
- ☐ Who takes a share if a **beneficiary dies before you**. Most templates leave this blank.
- ☐ Whether any beneficiary is a minor, receives needs-based benefits, or is in a divorce or bankruptcy.
- ☐ Any **mortgage, lien, reverse mortgage or HELOC** on the property, with the current balance.
- ☐ Any existing **survey**, and the closing package if the property was bought through a title company.

B. What must appear on the face of the deed

Since **1 January 2024**, section 695.26, Florida Statutes has required all of the following before a clerk will record the instrument. Almost every template printed before that date omits several of them, and this is now among the most common reasons a deed is rejected at the counter.

Preparer	Name and post-office address of the natural person who prepared the instrument.
Grantor	Name legibly printed beneath the signature, plus post-office address.
Grantee	Name and post-office address of each grantee beneficiary.
Witnesses	Two subscribing witnesses under § 689.01 — names printed and post-office addresses beneath each signature.
Notary	Acknowledgment under § 695.03, with the notary's name printed beneath the signature.
Blank space	A 3-inch by 3-inch blank square at the top right of page one, and 1-inch by 3-inch at the top right of every page after it.

Meeting every item above gets the deed recorded. It does not make the conveyance effective — the clerk does not evaluate whether your deed accomplishes what you intend.

C. The defects that actually break these deeds

Missing enhanced powers	Without express language reserving the right to sell, mortgage, lease, convey and revoke during life without the beneficiary's joinder or consent , it is an ordinary life estate deed. The beneficiary then holds a present vested interest: you cannot sell or refinance without their signature, and their creditors, divorce and bankruptcy can reach it.
Wrong legal description	A street address identifies where to send mail, not a parcel. A description shortened from the tax roll creates a defect that surfaces when the family tries to sell and a title underwriter declines to insure.
Homestead restriction ignored	Article X, section 4(c) of the Florida Constitution restricts homestead twice: it may not be devised where the owner is survived by a spouse or minor child (except to the spouse where there is no minor child), and a married owner may alienate homestead only with the spouse joining the deed.
No alternate beneficiary	If a beneficiary dies before you and no substitute is named, that share can fall back into the estate — and probate happens anyway, which is the outcome the deed was signed to prevent.
Name mismatch	If the property came in as "Robert J. Smith" and the new deed is signed "Bob Smith," a title examiner years later has to prove they are one person. Carry the old form forward.
Never recorded	Under § 695.01 an unrecorded conveyance is not good against creditors or a later purchaser for value without notice. A signed deed in a drawer is a problem; a deed in the official records is not.
Treated as the whole plan	A lady bird deed passes one described parcel . It does not touch bank accounts, investments, vehicles or a second property.

D. Stop — do not sign a downloaded form if any of these are true

☐ You are **married** and the property is homestead — your spouse must join the deed.

- ☐ You have a **minor child**. A minor cannot consent, waive or join anything. There is no signature that fixes this.
- ☐ There is a **mortgage** on the property (see the tax note below).
- ☐ There is **more than one owner**, or a former spouse anywhere in the chain of title.
- ☐ A beneficiary receives **SSI, Medicaid or other needs-based benefits** — an outright remainder can cost them eligibility.
- ☐ You want to name a **trust** as beneficiary.
- ☐ The property was last conveyed by a **quit claim deed**, or the current deed reads oddly.

E. What it costs to record

Recording	Set by § 28.24 and collected in full at the counter: \$10.00 for page one, \$8.50 each page after, and \$1.00 per name indexed beyond the first four. A two-page deed records for \$18.50 . Beware the widely repeated claim that recording costs \$5.00 — that is one component in isolation.
Documentary stamp tax	Florida's Department of Revenue advised in Technical Assistance Advisement 20B4-004 that an enhanced life estate deed transfers no present beneficial interest and so is not subject to the tax. Two limits matter: under § 213.22 an advisement binds only the taxpayer who requested it, and § 201.02 counts a mortgage balance as consideration whether or not it is assumed. A mortgaged property is the one case worth confirming before recording.
Homestead	The exemption and the Save Our Homes cap are generally undisturbed, because § 196.031 grants the exemption to whoever holds “the legal title or beneficial title in equity” and lives there. No Florida court has decided this squarely.

Would rather not do this yourself? Lorenzo Law prepares and records the deed for a flat **\$675**, recording included, quoted after the title review and before any drafting begins. Bring the three documents at the top of section A and the title question is usually answered in the first meeting.

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