

**RESTRICTIONS ON TRANSFERS OF FLORIDA HOMESTEAD PROPERTY**  
**(When Owned in Individual Name or Revocable Trust)**

By Charles D. Rubin, Esq.

[www.rubinonfloridahomestead.com](http://www.rubinonfloridahomestead.com) - [www.rubinontax.blogspot.com](http://www.rubinontax.blogspot.com) - [www.floridatx.com](http://www.floridatx.com)

Who is Living?		Permitted Lifetime Transfers	Permitted Transfers at Death	Effect if Invalid or No Transfer at Death
Spouse &	No Lineals	To anyone, if spouse joins in transfer	Only to spouse	To Spouse
Spouse &	Minor Child	To anyone, if spouse joins in transfer	None permitted	Life Estate in spouse, with remainder to lineal descendants <i>per stirpes</i>  Spouse may elect a 50% tenants in common interest with lineal descendants <i>per stirpes</i> [eff. 10/1/2010]
Spouse &	All Adult Lineal Descendants	To anyone, if spouse joins in transfer	Only to spouse	Life Estate in spouse, with remainder to lineal descendants <i>per stirpes</i>  Spouse may elect a 50% tenants in common interest with lineal descendants <i>per stirpes</i> [eff. 10/1/2010]
No Spouse &	Minor Child	Freely transferable to anyone	None permitted	To lineal descendants, <i>per stirpes</i>
No Spouse &	No Minor Children	Freely transferable to anyone	Freely transferable to anyone	To lineal descendants, <i>per stirpes</i> (or other intestate heirs if no lineal descendants)

**Shortcuts:**

- a. If survived by spouse or minor child, there are limitations on testamentary transfers.
- b. If married, there are limitations on *inter vivos* transfers.

**Notes:**

- a. If homestead owned by husband and wife as tenants by the entireties, homestead passes at death to surviving spouse.
- b. Assumes no marital agreements, waivers, or disclaimers.