

Bill Furst

Sarasota County Property Appraiser



Bill's Notes: Residency and Portability

Main Office / Mailing Address:
2001 Adams Lane
Sarasota, FL 34237

Venice Office:
4000 S. Tamiami Trail, Ste. 115

Phone: 941.861.8200
Fax: 941.861.8260

PA@SC-PA.com
www.SC-PA.com

What is required to be a Permanent Resident? Do you have a neighbor who is away from their home most of the year and you wonder if they have a legal homestead exemption? Did you recently relocate to Florida and have questions about the residency requirements here because they may be different from the state where you lived before? We frequently receive questions about this important subject and hope the following information provides a clear understanding of what it means to have permanent residency. The legal language from the Florida legislature defines a Permanent Residence as the following:

"Permanent Residence" means that place where a person has his or her true, fixed and permanent home and principal establishment to which, whenever absent, he or she has the intention of returning. A person may have only one permanent residence at a time..... §196.012(18) F.S. (Emphasis added)

What Are The Rules About Residing On Your Property?

Florida law states that in order for you to be eligible for a Homestead Exemption, for the current tax year, you must meet the following three requirements:

1. It is your present intent to make the property your permanent residence,
2. You have legal or equitable title to the property on January 1.
3. You reside on the property on January 1 and in good faith make it your permanent residence.

The law does not require you to reside at your property a minimum number of days every year, in order to be a permanent resident.

The Florida Attorney General has interpreted the law to mean that you do not have to "physically occupy" the property on January 1st in order to be eligible for a Homestead Exemption during the current tax year, as long as the other residency factors are met. (Go to our website at www.SC-PA.com to view residency factors.)

Therefore, if you have a second residence where you vacation, or you travel most of the year, or you are temporarily hospitalized or in a convalescence facility, you do not rent the property, and are not physically occupying your home on January 1st, you may continue to be eligible for a homestead exemption as long as you have legal title to the property, your intent is to return to this residence and you continue to meet the residency requirements.

Did you know the rental of a homestead property may cost you your exemption?

It is illegal for a person or a married couple to claim more than one "residency based exemption" within the United States, unless you have been approved as a Separate Family Unit (SFU). Pursuant to Sections 193.155(9) and 196.161 of the Florida Statutes, property owners who benefit from improperly exempted tax savings will have a tax lien placed against their properties, be taxed for up to 10 prior years (as applicable), be required to pay a sizable penalty (50% of the unpaid taxes for each year), and pay interest at a rate of 15% per year.

Fraudulent exemptions steal from our law enforcement, our schools, our medical services and you!

Serving Our Community with Pride and Accountability

Questions

Do I have to sell my previous homestead before I qualify for Portability?

No. The previous homestead must have been abandoned by all homesteaders, but there is no requirement that the property be sold.

What is the deadline for filing for Portability?

A homeowner must establish a new homestead within two assessment years of abandoning a previous homestead, NOT two years from the date of sale or the date you moved from your previous homestead. If you received your last homestead exemption in 2008 you must be approved for your new homestead by January 1st of either 2009 or 2010 in order to qualify for portability.

What does "upsizing" mean?

When the Market Value of your new homestead is the same as or greater than the Market Value of your previous homestead you can transfer up to \$500,000 in Save Our Homes Cap value.

Assuming you sold condo "A" and purchased condo "B" in 2008, the 2009 Market Value of the new condo is more than the 2008 Market Value of the old condo so you can take your entire tax savings of \$451,794 from the old condo to the new condo making the new condo taxable value \$787,206.

<u>Condo A</u>		<u>Condo B</u>	
<u>2008 Values</u>	<i>(as of 1/1/2008)</i>	<u>2009 Values</u>	<i>(as of 1/1/2009)</i>
Just (Market) Value:	\$1,059,700	Just (Market) Value:	\$1,289,500
Land Value:	\$ 0	Land Value:	\$ 0
Improvement Value:	\$1,059,700	Improvement Value:	\$1,289,500
<u>'Save Our Homes' Cap:</u>	\$ 451,794	<u>'Save Our Homes' Cap:</u>	\$ 0
Assessed Value:	\$ 607,906	Assessed Value:	\$1,289,500
Homestead:	Yes	Homestead:	Yes
Exemptions:	\$ 50,000	Exemptions:	\$ 50,500
Total Taxable:	\$ 557,906	Total Taxable:	\$1,239,000

What does "downsizing" mean?

When the Market Value of your new homestead is less than the Market Value of your previous homestead, your portability will be calculated using the ratio of the Market Value to the Assessed Value of the previous homestead.

In the above example, your Save Our Homes cap is 42.6% of your Just Value (\$451,794/\$1,059,700) so if the 2009 Just Value of the new homestead is less than \$1,059,700 your Save Our Homes cap on the new property will be 42.6% of the 2009 Just Value, provided you purchased a new property in 2008. If you waited until 2009 to purchase, you would use the 2010 Just Value which is not yet determined.

What if my spouse and I divorce? Who gets the Portability?

- ❖ If the spouse leaving the homestead (the grantor), deeds their interest in the property to the spouse remaining in the property (the grantee), there is no portability available to the grantor.
- ❖ If both former spouses retain ownership as joint tenants with right of survivorship the resident spouse retains the portability.
- ❖ If both former spouses remain in title after the Dissolution of Marriage is recorded, by statute they become *tenants in common*, (§689.15 F.S.). If one person remained in the homestead, the property would be reassessed on the following January 1st showing only 50% of the value subject to homestead and Save Our Homes. The former spouse who left the property would be entitled to transfer 50% of the Save Our Homes Cap to a new homestead.

If my co-owner and I abandon our previous homestead and move to a new homestead owned solely by me can we transfer all of our Save Our Homes Cap?

No. Because both of you are not in title to the new property, only you are eligible for a homestead exemption on the new property. You would only be allowed to transfer your share of the previous Save Our Homes Cap, in this case 50%. To transfer 100% of the Cap to the new property, all homesteaded owners of the previous homestead must be entitled to the new homestead.

In 2009, there were 1,983 non-homestead properties benefiting from Amendment One, limiting their Assessed Value to no more than a 10% increase. However, the schools are exempt from this law, which means the school tax is based on Just (Market) Value. In Sarasota County, the school tax comprises 60.4% of the total tax bill.