Octus Estate

Estate planning resource for Central Florida

Central Florida Lady Bird deed guide

A plain-language reference and working checklist for Florida enhanced life estate deeds, from gathering the facts, to signing and recording, to what heirs do later.

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Educational reference only, not legal advice or a deed form. A Florida Lady Bird deed (also called an enhanced life estate deed) can be a useful way to pass a particular parcel outside probate, but it is not a substitute for individualized Florida estate-planning and title advice. Homestead, marriage, minor children, title, mortgages, Medicaid, taxes, liens, and beneficiary circumstances can all change the analysis.

How it works for a married couple

The couple signs the deed, keeps a joint enhanced life estate, and names the children as remainder beneficiaries.

First spouse dies

The life estate continues in the surviving spouse by survivorship. Nothing passes to the children yet, and there is no probate. Title is usually cleaned up by recording a certified death certificate, often with an affidavit.

Surviving spouse lives in the home

The survivor still holds the enhanced life estate and can sell, refinance, or change the remainder beneficiaries alone. The children hold only an expectancy and can't block anything.

Surviving spouse dies

The remainder vests in the children automatically, by the deed itself and outside probate. Recording the death certificate (usually with an affidavit) updates the public record so title shows the children as owners.

Life tenant	Remainder beneficiaries
The surviving spouse	The children

1 Pre-drafting intake checklist

Gathering these facts before any deed is prepared or signed keeps the drafting accurate and surfaces problems early.

Property and title

- [ ] County where the real property is located
- [ ] Street address and parcel/folio number
- [ ] Certified or recorded copy of the current deed
- [ ] Full legal description copied exactly from the current vesting deed or title commitment
- [ ] Current owners' names exactly as shown on title
- [ ] How title is held: sole owner, tenants in common, joint tenancy, tenancy by the entirety, trustee, LLC, or estate
- [ ] Any existing mortgage, HELOC, reverse mortgage, lien, judgment, HOA/condominium claim, or title issue identified
- [ ] Property confirmed as residential homestead, non-homestead residential, rental, vacant land, or commercial

Owner and family facts

- [ ] Each owner's legal name, mailing address, marital status, and capacity
- [ ] Whether any owner is married, separated, divorced, or widowed
- [ ] Whether the property is the owner's Florida homestead
- [ ] Whether the owner has a spouse and/or minor child
- [ ] Whether a spouse needs to join the deed because of ownership or homestead rights
- [ ] Existing will, trust, power of attorney, prenuptial/postnuptial agreement, and prior deeds reviewed

Beneficiary design

- [ ] Primary remainder beneficiary or beneficiaries identified by full legal name and mailing address
- [ ] Percentage shares specified
- [ ] Contingent beneficiaries or substitute-taker rules selected in case a beneficiary dies first
- [ ] A plan for any beneficiary who is a minor, has special needs, has creditor, divorce, or bankruptcy concerns, or receives public benefits
- [ ] Consequences of direct co-ownership among multiple beneficiaries considered

When attorney and title-company review is especially valuable

Florida attorney and title-company review before going further is especially valuable when any of these apply:

- [ ] Married owner or Florida homestead
- [ ] Minor child of an owner
- [ ] Blended family, unequal distributions, or stepchildren
- [ ] Multiple current owners or intended beneficiaries
- [ ] Trust-owned or LLC-owned property, a probate estate, or unclear title
- [ ] Mortgage, reverse mortgage, lien, creditor claim, Medicaid planning issue, or expected refinance or sale
- [ ] A beneficiary who needs asset protection or special-needs planning

2 The six core deed components

Florida does not publish an official statutory Lady Bird deed form or an official list of required clauses. These six components are a practical drafting-and-recording checklist; the exact language is tailored by a Florida lawyer.

Core component	What it establishes	How to verify it
1. Proper parties	Correct legal identity of every current owner/grantor, their capacity and marital status, and the correct identity of every named future beneficiary	Match every name against the existing deed and government identification; verify vesting with a title search
2. Conveyance and legal description	A written conveyance of the exact real property, using the complete legal description, not only the address or parcel number	Compare word for word with the vesting deed or title commitment
3. Lifetime reservation	The present owner keeps possession and use for life	Confirm the owner remains the lifetime holder and that the transfer is timed to death, not an immediate outright transfer
4. Enhanced powers	The owner expressly keeps broad lifetime power to sell, convey, mortgage, lease, encumber, revoke, or otherwise dispose of the property without beneficiary consent, and to keep the proceeds	The attorney confirms the clause creates an enhanced life estate rather than a conventional life estate
5. Remainder and contingencies	Who receives the property at death, in what percentages, and what happens if a named beneficiary dies first	Survivorship, descendants, substitute beneficiaries, or another contingency plan is stated clearly

Core component	What it establishes	How to verify it
6. Execution and recording information	Proper signatures, two subscribing witnesses, acknowledgment/notarization, printed names and addresses, preparer information, grantee addresses, and clerk space	Use a county recording checklist and inspect the original before submission

Statutory execution and recording baseline

Section 689.01, Florida Statutes, requires a written conveyance of a freehold interest to be signed in the presence of two subscribing witnesses.

Section 695.26, Florida Statutes, sets the information needed for recording, including printed, stamped, or typewritten names and mailing addresses for signers and witnesses, the preparer's name and address, the grantee's name and address for most deeds, and blank space reserved for the clerk at the upper right of each page.

Notarization is generally used so the instrument can be recorded and relied on in the land records. Counties generally don't correct missing information after submission, so the original is worth checking carefully first.

3 Central Florida recording workflow

The deed is recorded in the Official Records of the county where the land is physically located. If a parcel lies in more than one county, title counsel can advise on the right recording approach.

Before signing

- [ ] 1. **Identify the recording county:** the county where the land is physically located.
- [ ] 2. **Pull the current vesting deed and title information.** Confirm ownership, legal description, exceptions, mortgages, liens, and homestead facts.
- [ ] 3. **Decide the beneficiary plan,** including backup treatment if a named beneficiary dies before the owner.
- [ ] 4. **Coordinate the estate plan.** Review the proposed deed alongside the will, trust, powers of attorney, and beneficiary designations.
- [ ] 5. **Get legal, tax, and title review,** especially for Florida homestead, married owners, minor children, Medicaid planning, and properties with mortgages or co-owners.
- [ ] 6. **Prepare a recording-ready original.** Preserve the clerk's blank space and include all printed names, required mailing addresses, the legal description, and preparer and grantee information.

At the signing appointment

- [ ] 1. Confirm every grantor's identity and capacity.
- [ ] 2. The grantor signs while two subscribing witnesses are present, following the signing format selected by counsel.
- [ ] 3. The notary completes the acknowledgment.
- [ ] 4. Witness names and mailing addresses are legible beneath the signatures or as required in the execution block.
- [ ] 5. Inspect the original before leaving: signature pages, dates, acknowledgments, the legal description attachment, and page numbering are all complete.

Submitting for recording

- [ ] 1. File the original with the county Official Records office or an approved e-recording service.
- [ ] 2. Pay the recording charges and any applicable documentary stamp tax.
- [ ] 3. Get a receipt or recording confirmation.
- [ ] 4. After indexing, get a certified or recorded copy showing the instrument number or book and page.

- [ ] 5. Check the public index to confirm the grantor, beneficiary names, legal description, and recording reference were indexed correctly.
- [ ] 6. Store the recorded deed with the will or trust, and let the named personal representative or successor trustee know where it is kept.

After the owner dies: the heirs' workflow

The beneficiary usually doesn't need a probate case just to receive this property. The practical title-cleanup sequence:

- [ ] 1. Get the owner's certified death certificate, usually a short-form certificate that omits confidential cause-of-death information.
- [ ] 2. Locate the recorded Lady Bird deed and confirm each beneficiary's identity and survivorship status.
- [ ] 3. Consult a Florida title professional or estate-planning attorney before selling, refinancing, or dividing the property.
- [ ] 4. Record the death certificate and any appropriate supporting affidavit or documentation in the county Official Records, as advised by the title company or attorney.
- [ ] 5. Get an updated title search and title-insurance commitment before a sale or refinance.
- [ ] 6. Resolve property taxes, liens, HOA/condo charges, insurance, occupancy, and any title underwriting requirements.
- [ ] 7. If several beneficiaries take title, put a written plan in place for possession, expenses, sale, or later conveyance. Inheriting together creates co-ownership, not a management structure.

4 County reference

Each county's official Clerk/Comptroller or Official Records site is the place to confirm current fees, e-recording vendors, delivery instructions, and document standards before filing. General fee quotes can go out of date, since charges and local procedures change.

Statewide note: Recording requirements under section 695.26, including printed witness names and mailing addresses, apply in every county. Deeds that don't meet them may be rejected.

County	Recording office	Worth confirming before filing
Brevard	Clerk of the Circuit Court & Comptroller, Official Records	Fees, e-recording, and location or mailing method
Citrus	Clerk of the Circuit Court & Comptroller, Official Records	Fees, e-recording, and location or mailing method
DeSoto	Clerk of the Circuit Court & Comptroller, Official Records	Fees, e-recording, and location or mailing method
Hardee	Clerk of the Circuit Court & Comptroller, Official Records	Fees, e-recording, and location or mailing method
Hernando	Clerk of the Circuit Court & Comptroller, Official Records	Fees, e-recording, and location or mailing method
Highlands	Clerk of the Circuit Court & Comptroller, Official Records	Fees, e-recording, and location or mailing method
Hillsborough	Clerk of the Circuit Court & Comptroller, Official Records	Fees, e-recording, and location or mailing method
Indian River	Clerk of the Circuit Court & Comptroller, Official Records	Fees, e-recording, and location or mailing method
Lake	Clerk of the Circuit Court & Comptroller, Official Records	Fees, e-recording, and location or mailing method
Manatee	Clerk of the Circuit Court & Comptroller, Official Records	Fees, e-recording, and location or mailing method
Marion	Clerk of the Circuit Court & Comptroller, Official Records	Fees, e-recording, and location or mailing method
Orange	Orange County Comptroller, Official Records	Recording fees and e-recording procedures on the Comptroller's own site rather than a third-party form site

County	Recording office	Worth confirming before filing
Osceola	Clerk of the Circuit Court & County Comptroller, Official Records	Fees, e-recording, and location or mailing method
Pasco	Clerk of the Circuit Court & Comptroller, Official Records	Fees, e-recording, and location or mailing method
Pinellas	Clerk of the Circuit Court & Comptroller, Official Records	Fees, e-recording, and location or mailing method
Polk	Clerk of the Circuit Court & Comptroller, Official Records	Fees, e-recording, and location or mailing method
Sarasota	Clerk of the Circuit Court & County Comptroller, Official Records	Fees, e-recording, and location or mailing method
Seminole	Clerk of the Circuit Court & Comptroller, Official Records	Fees, e-recording, and location or mailing method
Sumter	Clerk of the Circuit Court & Comptroller, Official Records	Fees, e-recording, and location or mailing method
Volusia	Clerk of the Circuit Court & Comptroller, Official Records	Fees, e-recording, and location or mailing method

5 Lady Bird deed vs. revocable living trust

Both can pass Florida real estate outside probate. They differ in reach, flexibility, and ongoing management.

Question	Lady Bird deed	Revocable living trust
What it covers	Usually one identified parcel of real estate	Can hold multiple real estate parcels and other funded assets
Control while competent	Owner keeps broad control only if enhanced powers are correctly drafted	Grantor typically serves as trustee and can amend or revoke while competent
Probate avoidance	For the specifically deeded property, if the deed is valid and remains effective	For assets properly titled in the trust or otherwise coordinated with it
Incapacity management	Limited; it does not itself appoint a manager for the owner	Successor trustee can manage trust assets under stated incapacity provisions
Privacy	Deed and named beneficiaries appear in public official records	Trust terms are generally private, though real estate deeds remain public
Multiple beneficiaries	Often produces direct co-ownership at death	Trustee can sell, hold, distribute proceeds, or manage property under instructions
Beneficiary protection	Little or none after direct distribution	Can include continuing trusts and spendthrift or protective provisions
Flexibility for contingencies	Possible, but deed provisions can become complex	Usually better for successor, age, special-needs, and blended-family provisions
Complexity and upfront cost	Generally lower for a simple one-property plan	Usually higher, and requires proper funding and ongoing maintenance
Main legal risk	Florida homestead, title, or execution problems; unclear enhanced-powers language; beneficiary creditor or co-owner issues	Assets not funded into the trust; trustee selection and administration; the plan may still need a pour-over will and coordinated beneficiary designations

A Lady Bird deed may be worth discussing when

There is one uncomplicated parcel, clean title, a straightforward adult-beneficiary plan, and no need for detailed incapacity or beneficiary-protection provisions.

A revocable trust may be worth discussing when

There are multiple properties or assets, beneficiary-protection needs, blended-family concerns, minors, special-needs issues, rentals, a desire for privacy and ongoing management, or a need for a clear incapacity plan.

6 Risk checklist

If any item below applies, professional review before signing or recording is especially valuable.

- [ ] The property is Florida homestead and the owner is married.
- [ ] The owner has a minor child, or there is uncertainty about descendants and family rights.
- [ ] A spouse is not on title, is unavailable, or will not join the transaction.
- [ ] Ownership is not sole ownership, or the title includes a deceased owner.
- [ ] The deed uses generic life-estate wording but does not clearly reserve enhanced lifetime powers.
- [ ] The legal description differs from the current recorded deed.
- [ ] The property is subject to a reverse mortgage, conventional mortgage, HELOC, lien, judgment, HOA/condo issue, or pending sale or refinance.
- [ ] A beneficiary may die before the owner, is a minor, has special needs, has creditor exposure, is divorcing, is in bankruptcy, or receives means-tested benefits.
- [ ] Multiple beneficiaries could disagree about use, sale, expenses, or occupancy.
- [ ] The plan is meant to address Medicaid eligibility, estate recovery, tax basis, creditor protection, or asset protection.
- [ ] The owner may become incapacitated and need someone to manage the property before death.
- [ ] The plan assumes a Lady Bird deed controls assets other than the described real property.

7 File-maintenance sheet

Kept with the recorded deed, this sheet makes it easy for family and advisors to find everything later. The printed version leaves room to fill it in by hand.

Item	Record
Property county	
Property address	
Parcel/folio number	
Recorded deed instrument number	
Book/page, if applicable	
Recording date	
Current owner/life tenant	
Primary beneficiary or beneficiaries	
Contingent beneficiary plan	
Attorney and telephone	
Title company and telephone	
Location of original/recorded copy	
Location of will/trust	
Review date	

Legal sources to verify

- **Section 689.01, Florida Statutes:** deed execution and the two-subscribing-witness requirement.
- **Section 695.26, Florida Statutes:** recording requirements for instruments affecting real property, including information for signers, witnesses, the preparer, grantees, and reserved clerk space.
- **County Clerk/Comptroller Official Records resources:** local recording fees, submission methods, e-recording availability, document standards, and public-records indexing.

> A recorded deed avoids probate for the described real property only if it is valid, enforceable, and consistent with Florida homestead and title law. A recording clerk's acceptance is not a legal opinion, a title guarantee, or confirmation that the intended estate plan will work.