Checklist for:

**Homestead Determination in Formal Administration**

| Estate of: |
| --- |
| | File #: |  | Date: | |  | | --- | --- | --- | --- | --- | | Attorney: |  | |  |  | |

| Docket# | Item# | Date |  |
| --- | --- | --- | --- |
|  |  |  | Date of the decedent’s death [5.405(b)(1)] and County of decedent’s domicile at the time of death [5.405(b)(2)] |
|  |  |  | List of surviving spouse & lineal heirs and addresses, incl dob if minors [5.405(b)(3)] |
|  |  |  | Legal description of property [5.405(b)(4)] |
|  |  |  | Statement: Property inside or outside of a municipality [Fla. Const. Art. X, §4(a)(1)] AND Acreage is within constitutional requirements [Fla. Const. Art. X §4(a)(1)] |
|  |  |  | Verified petition by interested person – look to see if the nature of the petitioner’s interest is obvious or not [731.104, 5.020(e), 5.405(b)] |
|  |  |  | If testate, homestead devised as authorized by law [Fla. Const. Art. X §4(a)(1)] If not devised as authorized by law, descent determined under intestacy [732.401] |
|  |  |  | Court has jurisdiction over parties [“Homestead Made Easy – Part 3a, Rohan Kelly, Fla. Bar Journal, Jul/Aug 1995, pp 56, 57, either consents filed or formal notice given] [733.212(1)(d), 5.040] |
|  |  |  | Three months have passed after publication of notice to creditors [733.2121(1), 733.702(1)] OR claims are barred [733.710] |
|  |  |  | Statement regarding creditors filed [5.241(e)] |
|  |  |  | Notice to benies and creditors [5.041, 731.202(2), 731.201(20)], including Notice to AHCA if applicable (dec > 55 years old) [733.2121(3)(d), 5.241(a)] |
|  |  |  | Notice to Creditors OR Inventory to DOR [733.2121(3)(e)] |
|  |  |  | Inventory [733.604, 5.340(a)] |
|  |  |  | Non-tax Affidavit OR FL and Federal Tax Closing Letters filed [198.26, 198.32] |
|  |  |  | If testate, Will does not direct sale – becomes non-exempt [*Price* 513 So.2d 767; *Knadle* 686 So. 2d 631] |
|  |  |  | Order correctly describes the real property and determines whether any of the real property constituted protected homestead [5.405(c)] |
|  |  |  | Order correctly identifies benies’ name(s) and each respective benie’s interest in homestead property [5.405(c)] |

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| Comments: |
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