

Why We Don't Prepare Lady Bird Deeds

In short: Mazenko Law Firm does not prepare Lady Bird deeds, also called **enhanced life estate deeds**. In our experience, they create more problems than they solve for families. We recommend a properly funded **Revocable Living Trust** instead.

The Problems We See

- 1. Homestead conflicts.** Florida protects a surviving spouse and minor children. A deed leaving your home to someone else can be challenged or overridden, and if your spouse doesn't sign, the deed may be invalid.
- 3. No real backup plan.** If a beneficiary dies before you, that share may pass through their estate, requiring probate and possibly going to people you never chose.
- 5. Forced co-ownership.** Several beneficiaries inherit the house together and must agree on everything. One owner can ask a court to force a sale, which is expensive and divides families.
- 7. No help if you're incapacitated.** The deed names no one to manage the property. Your Agent's authority is limited to what your Power of Attorney allows, and a guardianship may still be needed.
- 9. Mortgage and tax surprises.** Recording a deed on mortgaged property may trigger documentary stamp tax, and your lender may need to be notified.
- 11. Easily outdated.** A later Will or Trust doesn't change the deed. After a divorce, death, or family change, it stays in place until a new deed is signed and recorded.
- 2. Drafting traps.** There is no official Florida form. A missing clause, a wrong legal description, or a signing error can cloud title or require your beneficiaries' signatures before you can sell or mortgage your own home.
- 4. No protection for beneficiaries.** Everything passes outright. A minor's share over \$15,000 generally requires a court guardianship. A beneficiary with special needs can lose government benefits. Creditors, divorce, and bankruptcy can reach the property.
- 6. Unequal results.** The house passes outside your Will or Trust, so final bills, debts, and expenses may fall on your other heirs. Shares you meant to be equal often aren't.
- 8. Trouble selling or borrowing.** Lenders and title insurers may demand extra documents or beneficiaries' signatures, or require the deed to be undone before a sale, refinance, or reverse mortgage.
- 10. It doesn't follow you.** If you sell or move, the plan ends. It doesn't cover the sale proceeds or a replacement home, and it can't be used for property outside Florida.
- 12. Fragile assumptions.** Lady Bird deeds are often recommended for Medicaid reasons, but those rules can change, and the deed itself can be contested for lack of capacity or undue influence.

What We Recommend Instead

A properly funded **Revocable Living Trust** keeps your whole plan in one place:

- Covers all of your assets, not just one property, and continues if you sell and buy a new home
- Names backup beneficiaries so your wishes are followed if someone dies before you
- Lets your Successor Trustee manage everything if you become incapacitated
- Can hold inheritances in continuing trusts for minors, beneficiaries with special needs, and those facing creditors or divorce
- Can be updated in one document as your family changes

Already Have a Lady Bird Deed?

Bring us a copy. We'll review it with your other documents and, if appropriate, help you move the property into your Trust.