

LAKEFRONT PROPERTY IN FLORIDA

If you buy lakefront property, you'll pay a premium for the privilege of living on one of Florida's many beautiful lakes. In addition to having a scenic view and the right to use the lake for recreation, you will be subject to the rights of others to use the same lake. What do you really get when you buy lakefront property?

Your deed may include property extending into the lake, but you may not own the lake bed. When Florida became a state in 1845, it became the owner of all land under the ordinary high water line of lakes which were "navigable" (that is, susceptible for use in commerce by customary mode of trade and travel). This has posed a problem for many lakefront owners. First, it's almost impossible to determine where the ordinary high water line on any given lake was in 1845. Second, it's tough to determine which lakes were "navigable" at that time. For these reasons, it's safe to assume that the state owns the beds of all large lakes in Florida, and that your property line really only extends to the water line.

If the description of the property in your deed doesn't include the lake, make sure it states that the land extends to the ordinary high water line. That way you are certain to be considered a lakefront owner, with rights to use the lake for recreation and other purposes that go along with ownership of lakefront property. If the description doesn't go all the way to the water line, there may be a gap between your property line and the lake, which means that you won't be considered a lakefront owner so as to enjoy the use of the lake.

Even if the state doesn't own the lake bed, it can assert regulatory control over the building of structures such as seawalls, docks and boathouses, as well as the clearing of aquatic vegetation, under various environmental laws designed to protect Florida's wildlife and plant ecosystems. The state's regulatory power includes the lake bed and environmentally sensitive wetlands adjoining the lake. So if you intend to do any clearing or building in the lake, you'll need to get a permit. If you're buying lakefront property, don't assume you can get a permit for whatever you want to do. If you have particular plans you should check with the Florida Department of Environmental Protection about permits in advance, or make your purchase contract subject to the availability of permits.

In addition to the rights of the state, the public may have rights to use the lake. If the state owns the lake bed, members of the public have the right to use the lake for boating, fishing and other recreational purposes (although they don't have the right to cross over your property to get to it). Even if it's a private lake and the state doesn't own the lake bed, other owners of property on the lake have the same recreational rights, as well as the right to use the lake for irrigation and other traditional purposes, although no one can use the lake in a manner which unreasonably interferes with the rights of other lakefront owners.

Nowadays it's common for homeowners in residential subdivisions to be granted access to a lake by the developer through a common area that borders on the lake, even though most lots in the subdivision don't adjoin the lake. This is permissible as long as the developer owns both

the common area and the other lots at the time the subdivision is created, although if the use by the other homeowners unreasonably interferes with the rights of lakefront owners, they can assert that their rights are being infringed and seek limits on the use of the lake by non-adjointing owners.

Lakefront property tends to hold its value and will likely become more expensive in the future. When you're paying a premium for your property, it only makes sense to make sure you're getting what you pay for.