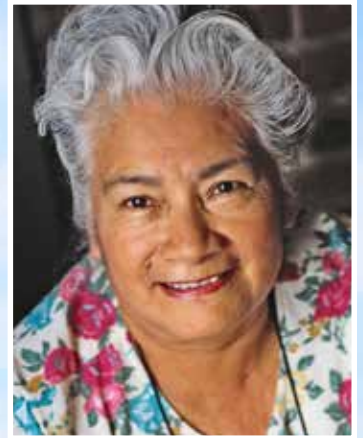
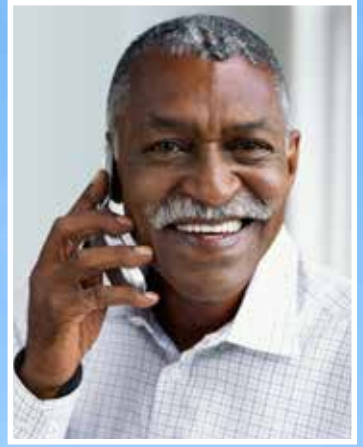


# Older Floridians Handbook



Laws &  
Programs  
Affecting  
Older  
Floridians

6th Edition



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# Older Floridians Handbook

LAWS AND PROGRAMS  
AFFECTING OLDER FLORIDIANS

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*Sixth Edition*

*A Publication of the Florida Justice Institute, Inc.  
with assistance from Carlton Fields, P.A. and  
the Florida Department of Elder Affairs*

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# Preface

This sixth edition of the *Older Floridians Handbook* was edited and revised by attorneys at the law firm of Carlton Fields and the Florida Justice Institute. The Florida Justice Institute first published the Handbook in 1980. The Institute continues to update this publication as frequently as funds permit.

Primary funding for this edition was provided by the Florida Department of Elder Affairs. We are most appreciative of its support and the assistance of Sarah Halsell, State Legal Services Developer at the Department. Carlton Fields has provided free office space and other support services to the Institute and this project. The Institute has been fortunate to work collaboratively with Carlton Fields on this and other pro bono matters. We thank in particular those leaders at Carlton Fields who are largely responsible for the firm's relationship with the Institute, Ben Reid and Gary Sasso. The Institute is primarily funded by the Interest on Trust Accounts (IOTA) program administered by The Florida Bar Foundation. The Florida Bar Foundation's continued financial support of the Institute is deeply appreciated, and for that we thank the Foundation's officers, staff, and boards of directors.

We extend our gratitude to those attorneys at Carlton Fields who have helped make this edition possible. The associates from Carlton Fields that made the most recent contributions were: Naomi M. Berry, Blaise Gamba, Matthew Kohen, Jeffrey Rood, and Jordan Ziegler. Earlier contributions were made by Arianne Plasencia, Michel Ringleheim, and Sharaine Sibblies. The shareholder at Carlton Fields who supervised the associates was Marsha Madorsky.

The cover's photographs, design, and typesetting are courtesy of the Graphic Arts Department at the Florida Department of Elder Affairs. We are very appreciative of the final review of portions of the Handbook

by Mary Haberland, Managing Attorney of Bay Area Legal Services' Florida Senior Legal Helpline, Ellen Cheek, Carol Moody, Managing Attorney of Bay Area Legal Service's Senior Advocacy Unit, Jennifer Cohen-Deihl, Sue-Helen Motley; Jeffrey Hearne, Advocacy Director – Tenants' Rights Project, Legal Services of Greater Miami, and Shoshanna Ehrlich, Project Specialist, Center for Elder Rights Advocacy.

The Handbook is available on the Internet at [www.floridajusticeinstitute.org](http://www.floridajusticeinstitute.org). Tax deductible donations to the Florida Justice Institute, Inc., are deeply appreciated so we can continue to republish the Handbook. Donations can be made online or sent to the Florida Justice Institute at the address below.

The attorneys and staff at the Florida Justice Institute that contributed to this effort were Randall Berg (Editor), Dante Trevisani, Stephanie Moore, Carlieny Gutierrez-Carrillo, and Jessica Pla. The student editors while interning at the Institute were Maui Moore (2012-2013) and Claire Wheeler (2015).

The Florida Justice Institute welcomes comments and suggestions for future editions.

Sixth Edition ..... Spring 2016

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Florida Justice Institute, Inc.  
3750 Miami Tower  
100 S.E. Second Street  
Miami, FL 33131-2309  
305-358-2081  
RBerg@FloridaJusticeInstitute.org

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# Introduction

This booklet is intended to be an easy reference source and guide for older Floridians. It contains useful legal and program information on topics of special interest to persons age 60 and older, but by no means is it limited in value only to older adults. Persons of all ages should find this booklet informative and helpful.

The material provided is based on the laws and practices of the State of Florida and its agencies, and in some cases, the laws and practices of the federal government. This Handbook cannot answer every question, nor can it replace the advice and counsel of an attorney when needed. Rather, it provides information of a general nature and answers to some of the more common questions that older Floridians often have.

This Handbook deals with laws and programs which often change. Consequently, dollar amounts and other details may change, usually on a yearly basis – particularly, figures used to determine eligibility for various programs and the amounts of benefits the programs provide.

For more advice, or when the Handbook directs you to a particular agency, please refer to the back of this Handbook where you will find a compilation of agencies and organizations that deal with programs and problems that affect older Floridians.

The Florida Justice Institute, Inc., and Carlton Fields make no express or implied warranties or guarantees concerning the contents of this publication. Laws and regulations frequently change. Coverage is as of the date of publication. If needed, you are strongly encouraged to seek the services of a lawyer. A list of places to contact when you need the services of a lawyer but do not know how to find one or cannot afford one is provided in the Reference and Referral Information section toward the end of the Handbook. You are also encouraged to use the useful website for free legal services for those who financially qualify at *[www.floridalawhelp.org](http://www.floridalawhelp.org)*.

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# The Basics of Social Security and Supplemental Security Income

## Introduction to Social Security

Most workers in the United States are accustomed to seeing “FICA” deductions from their paychecks. “FICA” stands for Federal Insurance Contributions Act. FICA is the law that established the Social Security Program in 1935. Social Security provides income for eligible workers and their families when the worker retires, becomes severely disabled, or dies. Here are some basic facts you should know about Social Security.

## General Eligibility

To receive Social Security benefits, you must have worked in a job that is covered by Social Security. According to the Social Security Administration, nine out of ten jobs in the United States are covered. You also must have accumulated enough quarters of coverage. Currently for 2016, a worker earns one quarter of coverage for every \$1,260 in wages – but that number changes nearly every year. A worker may earn no more than four quarters each year.

The number of quarters needed to become eligible for benefits depends on a worker’s age (or whether the worker is disabled), and the type of benefits sought. To be fully insured, you need 40 credits, or ten years of coverage.

You have the right to request a statement of your record from the Social Security Ad-

ministration (SSA). In fact, it is advisable to check periodically to make sure you have been credited with the correct number of quarters. To view your quarters, you will need to set up an account online. Although the SSA used to accept requests by mail via Form SSA-7004, that service has been suspended. Therefore, the only way to view your quarters right now is to set up an online account.

Go online to [www.ssa.gov](http://www.ssa.gov). Click on “Sign In/Up.” Follow the instructions and fill out your information. If you are unable to set up an account or experience a problem, visit your local SSA office or call 1-800-772-1213.

The contact information for the national SSA is as follows:

Social Security Administration  
Office of Public Inquiries  
1100 West High Rise  
6401 Security Blvd.  
Baltimore, Maryland 21235  
Phone #: 1-800-772-1213  
(TTY 1-800-325-0778)  
Website: [www.ssa.gov](http://www.ssa.gov)

Full retirement age (also called “normal retirement age”) had been 65 for many years. However, beginning with people born in 1938 or later, that age gradually increases until it reaches 67 for people born after 1959.



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Social Security retirement benefits depend on a worker's age at retirement and the benefit may be reduced or increased based on your age at retirement. For example, a worker may retire early at age 62 and receive benefits; however, the worker may receive benefits reduced by as much as 30 percent. On the other hand, a worker may delay receiving benefits after reaching the full retirement age and receive an extra percentage or credit for each year receipt of benefits is delayed until the age of 70. After you reach the age of 70, your income will have no effect on the amount of benefits you receive. This credit also applies to survivors' benefits.

Deciding when to start taking your Social Security benefits is a complicated matter. It depends on many factors including when you need the money and whether you want to keep working. When you start collecting benefits can also affect how much a spouse is getting if they are collecting on your earnings record. It is a good idea to talk with the Social Security Administration about these issues. There is also additional information available at [www.ssa.gov/oact/quickcalc/early\\_late.html](http://www.ssa.gov/oact/quickcalc/early_late.html).

If a close family member has died, you may be entitled to Social Security. Benefits, including a special one-time death benefit, may be available if the person who has died has earned sufficient quarters of coverage at death. Eligible family members may include surviving unmarried children under 18 (or 19, if attending elementary or secondary school full time), a widow or widower, and dependent parents age 62 or older. Importantly, your children can obtain benefits at any age if they were disabled before age 22 and remain disabled. Even a surviving divorced spouse may be eligible under certain circumstances as well as stepchildren, grandchildren, step grandchildren, or adopted children. For more information you should contact the Social Security Administration office nearest you or visit its website.

## **Disability Determinations**

To be eligible for disability benefits, a person under the age of 65 must be considered disabled as defined under the Social Security laws. Also, a person must have worked long enough to have reached insured status at the time the disability began.

A person is considered disabled if the person is unable to engage in any substantial gainful employment due to a physical or mental impairment that is (1) expected to result in death, or (2) has lasted, or is expected to last, for at least 12 months. A job that pays \$900 or more a month is considered "substantial" employment. A person is considered insured if the person has earned the number of quarters required for his age group, and (unless blind) has earned them recently enough. Generally, you need 40 credits, 20 of which were earned in the last 10 years ending with the year you become disabled. However, younger workers may qualify with fewer credits.

For more information regarding disability benefits, contact the Social Security Administration at 1-800-772-1213 or visit [www.ssa.gov](http://www.ssa.gov). You can also apply for benefits at [www.ssa.gov](http://www.ssa.gov).

To locate the Social Security Office nearest you, visit [www.ssa.gov/locator](http://www.ssa.gov/locator) or call 1-800-772-1213.

**NOTE:** Persons who are blind or have low vision should contact their local Social Security Office to learn about special benefits for the blind.

## **How Much to Expect at Retirement**

The amount of your monthly Social Security checks will depend on your average yearly earnings. The exact amount cannot be figured until you apply for benefits. To obtain an estimate of your benefit amount, call or visit any Social Security office. (See the Reference and Referral Information section of this Handbook for locations.) The estimated average monthly benefit of an individual re-

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tired worker in 2016 is \$1,341. The estimated average monthly benefit of a married couple is \$2,212. If cost of living has increased, your benefits may also increase in succeeding years.

### **Working After Retirement**

If you are at full retirement age or older (age 65-67 depending on when you were born), your Social Security benefits will not be affected if you decide to keep working and earn additional money. However, if you take Social Security before your full retirement age and continue to work, your earnings may affect your benefits.

#### ***What if I take social security early, but keep working? How much of my salary will be taken?***

You may earn up to \$15,720 per year (\$1,310 per month) without affecting your benefits for 2016. For every \$2 you earn above \$15,720, the Social Security Administration will withhold \$1. This rule applies until the year you reach full retirement age. On January 1st of the year you will reach full retirement age, the rule changes. In the year you reach your full retirement age, \$1 will be deducted from each \$3 you earn above \$41,880 (for 2016) until the month you reach the full retirement age. Starting with the month you reach full retirement age, you will receive your benefits with no limit on your earnings.

No one pays federal income tax on more than 85 percent of his or her Social Security benefits. However, your Social Security benefits may be subject to federal income tax if your total income as an individual and your combined income is:

- between \$25,000 and \$34,000, you may have to pay income tax on up to 50 percent of your benefits; or
- more than \$34,000, you may have to pay income tax on up to 85 percent of your benefits.

If you file a joint return, and you and your spouse have a combined income that is:

- between \$32,000 and \$44,000, you may have to pay income tax on up to 50 percent of your benefits.
- more than \$44,000, you may have to pay income tax on up to 85 percent of your benefits.

For more information, call the IRS at 1-800-829-3676 or visit [www.ssa.gov](http://www.ssa.gov).

### **Representative Payee**

You can designate a person to receive your Social Security checks if you are not able to manage your own affairs. That person is known as a “representative payee.” The representative payee can use the Social Security money only for your basic or personal needs including food, shelter, and uncovered medical needs.

The representative payee is usually a spouse or parent (in the case of children receiving benefits), but may be a relative, friend, or legal guardian. The institutional administrator at a nursing home or assisted living facility can also be designated as a representative payee.

The process to appoint a representative payee typically begins when a friend or relative notifies the Social Security office that an individual is incapable of handling his or her own affairs. A doctor’s statement to that effect also must be provided. The Social Security Administration then determines whether or not the individual is capable of receiving his or her checks. NOTE: A power of attorney is not effective for Social Security purposes. A representative payee must be appointed through the Social Security Administration’s process.

You have the right to challenge the appointment of a representative payee. For more details, call 1-800-772-1213, visit the Social Security office nearest you, or visit its website at [www.ssa.gov/payee](http://www.ssa.gov/payee). To locate the Social

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Security Office nearest you, visit [www.ssa.gov/locator](http://www.ssa.gov/locator), or call 1-800-772-1213.

## Supplemental Security Income (SSI)

### Introduction

If you have little or no income and few assets, you may be eligible to receive additional monthly cash benefits through the Supplemental Security Income (SSI) program. SSI is a national program designed to assist persons in need of financial assistance who are 65 years of age or older, blind, or disabled. It is administered by the Social Security Administration, but is based on financial need, not employment.

### Eligibility Requirements

To qualify for SSI, you must apply at a Social Security Administration office. You must be able to prove that you are at least 65 years of age or, if younger, that you are either blind or disabled. You also must prove that you are a United States citizen, or that you are a “qualified” immigrant according to the SSI program rules and that you meet all income and asset requirements.

In 1996, the SSI program changed its eligibility rules to apply to non-citizens. If your SSI benefits have been terminated because of your immigration status or you just want to verify that you are a “qualified” immigrant, you should speak with a lawyer who specializes in immigration or Social Security law.

For purposes of SSI eligibility, you will qualify as blind if you have central visual acuity of 20/200 or less in your better eye with the use of a corrective lens or if you have visual field restriction of 20 degrees or less.

You will qualify as disabled if you are any of the following:

- unable to engage in any gainful employment due to a physical or mental impairment; and

- the impairment has lasted or is expected to last for at least 12 months, or is expected to result in death.

For 2016 income and asset eligibility requirements, you will be eligible if you are an individual with assets of \$2,000 or less and have a monthly income of less than \$733. A couple may have assets of \$3,000 and a monthly income of \$1,100 or less. If your actual income and assets exceed these levels, you may still be eligible for SSI benefits after asset and income adjustment for assets that are not counted.

These are some of the assets that will not be counted:

- the home in which you live and the land it is on, regardless of value;
- one vehicle, regardless of value, if it is used for transportation for you or a member of your household;
- life insurance policies, if their total face value on any one person is \$1,500 or less (if it is more than \$1,500, only the cash surrender value counts);
- household goods and personal effects;
- a burial account worth up to \$1,500 and burial places for your immediate family;
- grants, scholarships, fellowships, or gifts set aside to pay educational expenses for nine months after receipt;
- retroactive SSI or Social Security benefits for up to nine months after you receive them.

The following income, as well as other sources of income, will also not affect SSI eligibility or payments:

- the first \$20 per month from sources other than employment (such as Social Security checks, pensions, annuities, gifts, etc.);

- the first \$65 per month in earnings from a job and only half of any earnings in excess of \$65;
- the value of Supplemental Nutrition Assistance Program (SNAP) received;
- food or shelter you received from a private nonprofit organization; or
- home energy assistance.

In 2016, the maximum SSI monthly payment is \$733 to individuals and \$1,100 to couples, but the amounts will vary depending on how much other income is available. Benefits to an individual or couple living in someone else's household or receiving a small income may be reduced. Your SSI payment may increase every January in which the cost of living has increased 3 percent or more during the previous year. Even if you are only eligible to receive \$15 per month, do not pass up the opportunity to receive SSI benefits.

SSI can mean more than cash help. In Florida, if you receive SSI payments, you automatically also get medical assistance (Medicaid). Medicaid may cover charges not covered by Medicare. For example it may pay for a doctor, hospital, home health care, home and community based services, nursing home, hospice, transportation, dental and visual, community behavioral health, and other types of services. The Florida Medicaid program pays the cost of prescription drugs for those who qualify for this coverage. However, if you are covered by both Medicaid and Medicare, your prescription drug coverage will be provided under the Medicare Part D Prescription Drug benefit. Medicare Part D is an insurance benefit to help people with Medicare pay for prescription drugs and is provided through Medicare approved private health plans. For more information contact Medicare at 1-800-633-4227 or TTY 1-877-486-2048. Ask about the Medicare Part D plans for Florida Medicaid beneficiaries.

## Right to Appeal

If you apply for Social Security benefits or SSI, or if you are receiving either or both, and you do not agree with a determination made by the Social Security Administration, you may challenge that decision with an appeal. The types of decisions that are appealed usually relate to application denials or reduction or termination of benefits. Generally, there are four levels of appeal: (1) Reconsideration; (2) Hearing by an administrative law judge; (3) Review by the Appeals Council; and (4) Review by a Federal Court. Here are the required steps:

- You must ask in writing or online for reconsideration within 60 days of receiving notice in writing by completing a Form SSA-561 (Request for Reconsideration) or a Form SSA-789 (Request for Reconsideration – Disability Cessation) from the Social Security Administration of any determination concerning your benefits. The forms are on the web at [www.ssa.gov](http://www.ssa.gov). The Social Security Administration considers that you received the notice five days after the date on the notice.
- If you disagree with the results of the reconsideration, you may ask for a hearing before an administrative law judge. You must make your request in writing within 60 days on Form HA-501 from the date you receive notice of the result of the reconsideration.
- If you disagree with the results of the hearing before the administrative law judge, you may request a review by the Social Security's Appeals Council in Washington, D.C. You must do so in writing within 60 days of receiving notice of the results of your hearing on a Form HA-520. The form can be completed online. The Council can refuse to review your case.
- If the Council refuses to review your case or you disagree with its decision, you may bring a civil lawsuit in the United States

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District Court in your area within 60 days of notice of the Appeals Council's decision.

- For Social Security benefits to continue during the appeal of the decision, you must tell the Social Security Administration within 10 days of the date you receive notice of the reduction or termination of benefits. Benefits may only be requested to be continued pending appeal where it was “determine[d] that you are not entitled to benefits because the physical or mental impairments(s) on the basis of which such benefits were payable is found to have ceased, not to have existed, or to no longer be disabling. § 404.1597(a), C.F.R.
- **NOTE:** If your appeal is denied, you may have to pay back any money you were not eligible to receive.

Forms are available from Social Security offices and online at [www.ssa.gov](http://www.ssa.gov). There is a very helpful video online on how to appeal a decision. For more information, call the Social Security Administration at 1-800-772-1213 (TTY 800-325-0778, M-F, 7 a.m. to 7 p.m.

To locate the Social Security Office nearest you visit, [www.ssa.gov/locator](http://www.ssa.gov/locator), or call 1-800-772-1213.

The advice of an attorney is important at all stages in the appellate process. You may qualify for the free services of an attorney depending on your income and assets. If you do not qualify or you cannot pay your attorney before the appeal, and if you win, the court may allow your attorney up to 25 percent of your award. If you are unable to afford an attorney, contact your local Legal Services office. If they are unable to assist you, contact The Florida Bar's Lawyer Referral Service or the local bar association lawyer referral service in your area for the county in which you reside. (See Reference and Referral Information section of this Handbook for locations and phone numbers.)

## Optional State Supplementation (OSS)

You may also be eligible for income assistance from the State of Florida through Optional State Supplements (OSS) if you:

- either receive federal Supplemental Security Income (SSI) or the Florida Department of Children and Families determines you or eligible; and
- reside in an Assisted Living Facility (ALF) that accepts state clients, mental health residential treatment facility, an adult family care home, or another specialized living arrangement.

The State will supplement your income to cover room, board, and other services provided by the ALF or other authorized facility. This supplementation will be combined with your SSI or disability benefits, and will not exceed an amount set by the State (for example, during 2015, the combined benefits could not exceed \$811.40 for a single person in most facilities, and up to \$1,622.80 for couples residing in the same care facility. If the residential care facility is for mental health, the income limits are slightly higher, \$918.00 and \$1,836.00 for an individual and couple, respectively.) If you qualify the State will also make available \$54 per month for personal needs. Additional amounts may be provided for residents of facilities which provide limited mental health services. A third party may contribute to the cost of care without affecting your eligibility as long as payments are made directly to the facility on behalf of the resident and not directly to the OSS recipient. For more information, contact your local Department of Children and Families, Adult Services Program Office, or visit [www.myflfamilies.com](http://www.myflfamilies.com) and search for “temporary cash assistance.”

# Supplemental Nutrition Assistance Program

## Introduction

The federal Supplemental Nutrition Assistance Program (SNAP, formerly known as “food stamps”) guarantees an adequate diet to the nation’s population. If you are living on a fixed income, like millions of other older Americans, you may be facing difficulties in covering your nutritional needs. SNAP will increase your purchasing power and enable you to obtain a more balanced diet.

The SNAP program issues benefits, **free of charge**, to eligible households. In Florida your benefits are deposited into a food assistance (SNAP) account each month. These benefits are placed on your Electronic Benefits Transfer (EBT) ACCESS card. This is how you receive your cash and food assistance (SNAP) benefits. In Florida, the program is administered by the Florida Department of Children and Families (DCF).

## Eligibility Requirements

Eligibility is determined by your household’s income, resources, and immigration status. If you live by yourself, or if you purchase and prepare your food **separately** from your housemates, you are a single household and **your** income and resources **alone** will determine whether you get SNAP. Otherwise, the income of all members of a household (i.e., all persons living together for whom food is purchased in common and meals are prepared together) will be counted together.

If you are age 60 or older, or disabled, your household may qualify if the value of your household’s money and property does not exceed \$3,250. Your household’s net monthly income must also fall within the limits set by law. Those limits are laid out below, and the numbers are current through September 30, 2016. However, it should be noted these numbers may be larger than the normal benefits awarded:

HOUSEHOLD MEMBERS	** HOUSEHOLD NET INCOME	MAXIMUM AMOUNT MONTHLY BENEFIT
1	\$981	\$194
2	\$1,328	\$357
3	\$1,675	\$511
4	\$2,021	\$649
5	\$2,368	\$771
6	\$2,715	\$925
7	\$3,061	\$1,022
8	\$3,408	\$1,169
Additional Members	\$347 <i>per member</i>	\$146 <i>per member</i>

*\*\* Monthly income limits are those for an entire household, which includes an elderly person who cannot purchase and prepare food separately.*

Certain deductions (i.e., expenses subtracted from the household’s gross income when determining the amount of benefits for the month) can be taken including a 20 percent deduction from earned income, a standard deduction of \$149-\$160 depending on household size, certain medical expenses, etc.

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Contact the Department of Children and Families (DCF) office nearest you for further information, or visit [www.myflorida.com/accessflorida](http://www.myflorida.com/accessflorida).

## How to Apply

Applications for SNAP benefits are made through the Automated Community Connection to Economic Self Sufficiency (ACCESS) system. This system is operated by the Florida Department of Children and Families. You must apply at [www.myflorida.com/accessflorida](http://www.myflorida.com/accessflorida) or at a community partner sites. You can find your local community partner by searching online at [www.dcf.state.fl.us/access/CPSLookup/search.aspx](http://www.dcf.state.fl.us/access/CPSLookup/search.aspx). Even if you don't have all the information you need, you should fill out everything you can and file it immediately; if you are found to be eligible, you may receive benefits from the date of filing. So do not delay applying.

If the Supplemental Nutrition Assistance office determines that you are eligible, you will receive a notice and a Food Assistance I.D. card within 30 days from filing the application. If you need help immediately and cannot wait until your application is processed, you should inform the office. You will receive the card within five days from the application date if you are eligible for "expedited services." You may be eligible for "expedited services" if your combined gross income and resources are less than your combined shelter and utility expenses.

## Right to a Hearing

If your application is denied, or if you feel that you were not issued the correct amount

of assistance, you should notify the Nutrition Assistance office at once. If you are still dissatisfied with the results, you have the right to a fair hearing. You may request a hearing through the office in writing, in person, or by telephone. At the hearing you can explain why you disagree with the action taken. You may want to take a relative, friend, or attorney with you to help. If a favorable decision is made you will receive retroactive relief for any missed benefits. (For information on how to obtain an attorney if you cannot afford one, see the Reference and Referral Information section of this Handbook. Most legal services programs in Florida have attorneys who work on public benefits such as SNAP, and if you qualify for their services, can be very helpful.)

## SUNCAP Program

The SUNCAP Program is a special Food Assistance Program for individuals who receive Supplemental Security Income (SSI.) You may be eligible to receive food assistance benefits through the SUNCAP Program without any additional application, paperwork, or interviews.

## A Final Word

Remember, the purpose of the program is to guarantee an adequately nutritious diet. You need not be penniless to qualify. If you are having problems stretching your food dollars, do not hesitate to contact your local Supplemental Nutrition Assistance Program office to apply.

# Veterans' Benefits

Those persons (and their dependents) who have served or are currently on active duty service in the United States Armed Forces, the National Reserves, or the National Guard may be eligible for a wide range of benefits provided by the Veterans Administration (VA.) To be eligible, a discharge that was not dishonorable is required. Although some benefits are available to all veterans, others are available only to veterans who have served during specific periods. If you are a veteran or veteran's dependent and wish to obtain more information, write, call, or visit a Veterans Benefits Counselor at your nearest VA office, or Veterans Service Office. Call 1-800-827-1000 or visit [www.va.gov](http://www.va.gov) to find the location of the VA office nearest you.

The following is a list of some of the benefits for which either you and/or your dependents may be eligible:

- disability benefits ranging from \$127 to \$2,769 monthly (or more for certain severe disabilities or if you have dependents);
- clothing allowance if a service-connected disability requiring special appliances (including a wheelchair) is determined to wear out or tear clothing;
- pension;
- hospitalization and outpatient medical treatment;
- medical care for dependents or survivors of a totally and permanently disabled veteran (disabled due to his or her service, or who died as a result of the service);
- nursing home care;
- home care for permanently disabled veterans;
- alcohol and drug treatment;
- prosthetic appliances and aids and services for the blind;
- educational assistance for the veteran and his or her dependents;
- vocational rehabilitation (disability requirements do apply);
- VA guaranteed loans for homes, condominiums, and mobile homes (also available to surviving spouses);
- payment to remodel or help pay for homes already specifically adapted for use of a wheelchair;
- life insurance;
- mortgage life insurance for homes specially adapted for use of a wheelchair (up to \$200,000);
- death benefits for survivors of a disabled veteran (including parents in some cases);



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- presidential memorial certificates;
  - reemployment rights, job-finding assistance, employment in the federal government, and unemployment compensation;
  - burial flags, burial in national cemeteries, a headstone or a grave marker; and
  - reimbursement for burial expenses only if the veteran dies in a VA medical facility or

is receiving VA benefits at the time of his or her death.

In addition to the VA itself, each county has a Veterans' Service Office. Veterans' Service Offices act as advocates for veterans and are often very knowledgeable about how to work with the VA to obtain benefits for a veteran and/or his or her dependents or survivors.

# Retirement Income

### **Pension and Retirement Plans**

Pension and retirement plans are common in many types of employment. You should check with former employers to find out if there were any pension programs in existence during the time of your employment, and if you now are eligible to receive benefits. You definitely should inquire if you contributed to a retirement plan and are not receiving any benefits. If you cannot locate your former employer to check on possible pensions, the Pension Rights Project might be able to help. While there is no Pension Rights Project in Florida, there may be one in the state where you worked prior to moving to Florida. You can contact the Project at [www.pension-rights.org/find-help](http://www.pension-rights.org/find-help).

If you believe that you are entitled to receive benefits and your former employer disagrees, you are entitled to receive a denial in writing, explaining the reasons in plain language.

If you have been denied pension rights or proper requests for further information, or if the fund is being mishandled by the people administering it, you can report it to the United States Department of Labor and/or file suit in federal court. The court may award all or a portion of the costs and expenses, including reasonable attorney's fees, to the party prevailing in court. If you wish to report to the Department of Labor, you should check in the white pages of your local telephone directory under United States Government,

Department of Labor, or on the national website at [www.dol.gov](http://www.dol.gov) for the office nearest you

Additional information on retirement plan protections and the Employee Retirement Income Security Act (ERISA) are found at [www.dol.gov](http://www.dol.gov). Search for "ERISA."

To file a lawsuit, you should seek legal advice from an attorney. You may be able to obtain an attorney referral from the National Pension Lawyers Network (NPLN) on a pro bono (free) or low-fee basis. NPLN attorneys address the full range of retirement benefits and include specialists in divorce, and claims for benefits in private, nonprofit, and public pension plans. There is an attorney Request Referral form to fill out at [www.pension-rights.org/help/npln](http://www.pension-rights.org/help/npln), or call 1-888-420-6550.

### **Individual Retirement Accounts (IRAs)**

A savings program which is a significant supplement to retirement income is the Individual Retirement Account (IRA.) By legislation, each individual worker and non-working spouse may establish a private retirement fund. An individual worker may contribute up to \$5,500 a year to a tax deferred retirement account or \$6,500 if you were age 50 or older by the end of 2013. A married couple may contribute up to \$5,000 each for a total of \$10,000 even if one spouse had little or no income. A married couple may contribute as much as \$12,000 a year if both spouses are over age 50. Taxes are deferred until the money is withdrawn. A worker may contribute

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to an IRA up to the age of 70 1/2. One must begin to withdraw from the IRA and thus pay taxes by April 1st of the year following the year that one turns 70.

In 1997, Congress created a new type of individual retirement account, commonly referred to as the Roth IRA. The Roth IRA differs from a traditional IRA in the following ways: (1) the contributions are not tax deductible, however, (2) when the owner does withdraw money from the Roth IRA, the distributions are tax free (as long as the account has been opened for five years and the money is withdrawn after age 59 1/2) and (3) the owner of the Roth IRA is not required to withdraw any money from the Roth IRA during his or her lifetime. Assets currently kept in a tradition-

al IRA can be rolled over into a Roth IRA; however, it is strongly recommended that you consult with a financial planner to discuss whether this option is financially beneficial to you.

Changes in the tax code limit or eliminate the IRA deduction for workers who are covered by employer-sponsored pension and retirement plans. It pays to shop around for an IRA so that the plan you adopt will meet your needs. For example, some IRAs are insured up to \$100,000 by the Federal Deposit Insurance Corporation (FDIC), while others are not. Consult your banker, plan manager, or financial advisor for further information.

# Tax Relief

### Real Property Tax

Property tax expenses can hit hard if you are retired or unable to work and live on a fixed income. To alleviate the property tax burden, Florida grants its homeowners relief under a homestead exemption provision. This exemption is available to any person who holds legal title to real property in Florida and uses the property as his or her permanent residence. Currently, the homestead exemption allows the homeowner to subtract up to \$50,000 from the assessed value of the home for non-school taxes, while school district taxes are limited to a \$25,000 deduction. For example, if the home is assessed at \$100,000, the owner pays taxes only on \$50,000 once the homestead deduction has been claimed for non-school taxes, and pays taxes on \$75,000 for school district taxes. The homestead tax exemption also caps the rate at which the assessed value of the real property may be increased each year to the lesser of 3 percent or the rate of inflation. (See Housing Section of this Handbook for further information.)

Other exemptions available include a \$500 tax exemption for disabled persons, veterans, and widows or widowers as long as they remain unmarried, a \$5,000 veteran's disability exemption, and additional senior citizen exemptions in certain counties and cities. Real property owned by a quadriplegic is exempt from all property taxes. Real property owned by a paraplegic, hemiplegic, a person who is legally blind, or a person dependent on a wheelchair for mobility is exempt from

property tax if certain income requirements are met.

Application for homestead exemptions for next year's taxes must be made at the Property Appraiser's Office of your county prior to the March 1 deadline, though there are now good-cause exceptions to that deadline. The applicant must have resided in the home before January 1 of that year. If a new deed has been filed on your property, you will lose your homestead exemption unless you reapply in person. Filing a new deed can include adding or removing a name from the deed, without a sale of the property. Each taxpayer wishing to apply for an exemption should contact the county property appraiser's office. The property appraiser's offices have detailed information concerning eligibility and the necessary documents and forms required to apply for each exemption.

If you have any questions on how to obtain these exemptions, you should call your property appraiser's office listed in the white pages of your telephone directory under your county's name. A list of property appraisers' offices throughout Florida can also be found at [dor.myflorida.com/dor/property/appraisers.html](http://dor.myflorida.com/dor/property/appraisers.html).

### Homestead Property Tax Deferral

Florida's unique Homestead Property Tax Deferral Act permits the real estate tax on a residence that qualifies under the homestead exemption statute to be deferred. You may

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defer a portion or all of your property taxes and any non *ad valorem* assessment (special assessments and service charges that are not based upon the value of the property and millage.) Your property will not be foreclosed upon as long as all legal requirements are met and no other tax certificates are unpaid. The deferred taxes are treated as a lien against your homestead.

All taxes deferred plus interest become due and payable to the county if the following occurs:

- You sell your home;
- Homeowners' and fire insurance are not maintained;
- Change of property use occurs and it is not eligible for homestead exemption; or
- You die without a surviving spouse. (Providing all conditions are met, a surviving spouse can continue to defer taxes.)

### **Eligibility Requirements**

- Age 65 or older with an adjusted gross household income of no more than \$28,448 (for 2015.) (All taxes may be deferred.)
- If your total household income exceeds these limits and you are age 65 or older, taxes that are more than 3 percent of your household income may be deferred. Social Security income is not included as part of household income.
- If you are under age 65, you may also qualify for the deferment plan if your taxes exceed 5 percent of your household income. If your income is less than \$10,000, you may defer all taxes.
- You must provide proof of eligibility for homestead exemption by documenting fire and homeowners' insurance on the property and by submitting the most recent income tax return.

- The total of these deferrals cannot exceed 85 percent of the home's assessed value, and your outstanding mortgage cannot exceed 70 percent.

A decision of the tax collector denying an application for tax deferral may be appealed to the Property Appraisal Adjustment Board (PAAB) within 20 days of the notice of disapproval. Contact the local PAAB for information regarding the appeal process.

You may obtain a tax-deferral application from the County Tax Collector's office after November 1. The application must be submitted on or before January 31 of the following year.

The Homestead Property Tax Deferral Act does not prevent collection of personal property taxes which become a lien against the homestead, nor does it defer payment of special assessments. It does not affect any provision of any mortgage or any instrument requiring a person to pay *ad valorem* taxes. On the other hand, the fact that a mortgage holder chooses to pay the taxes when the borrower qualifies for tax deferral does not give him a right to foreclose.

While the Homestead Property Tax Deferral Act offers older Floridians relief from property taxes, it is somewhat complicated and should be thoroughly studied and understood before the application is undertaken. For more information, call the tax collector's office of your county.

### **Income Tax**

There is no state income tax in Florida.

For assistance in preparing your federal income tax forms, you may call the Internal Revenue Service (IRS) at 1-800-829-1040 or visit [www.irs.gov](http://www.irs.gov). You may also request income tax information from the AARP by writing to AARP, 601 E. Street N.W., Washington, D.C. 20049, calling 1-888-687-2277, or visiting [www.aarp.org](http://www.aarp.org).

Everyone is entitled to a personal exemption regardless of age. The 2016 personal exemption is \$4,050.

In addition to the personal exemption, if you are 65 or older, you are eligible for additional deductions on your federal income taxes. Whether you want to take advantage of these deductions will depend on your personal fi-

ancial circumstances. As of 2015 (income taxes for the 2014 calendar year), if you and/or your spouse are over age 65 and file a joint return, you and/or your spouse are each entitled to an additional deduction. The extent of the deduction depends on the type of tax return filed. For taxes filed for calendar year 2015, the standard deduction is as follows:

### Standard Deduction Chart for Most People\*

IF YOUR FILING STATUS IS...	YOUR STANDARD DEDUCTION IS:
Single or married filing separately	\$ 6,200
Married filing jointly or qualifying widow(er) with dependent child	12,400
Head of household	9,100

\* Do not use this chart if you were born before January 2, 1950, are blind, or if someone else can claim you (or your spouse if filing jointly) as a dependent.

### Standard Deduction Chart for People Born Before January 2, 1950, or Who Are Blind\*\*

Check the correct number of boxes below. Then go to the chart.		
You: Born before January 2, 1950 <input type="checkbox"/> Blind <input type="checkbox"/>		
Your spouse, if claiming spouse's exemption: Born before January 2, 1950 <input type="checkbox"/> Blind <input type="checkbox"/>		
Write total number of boxes checked: ____		
IF your filing status is...	AND the number of boxes checked is...	THEN your standard deduction is...
Single	1	\$ 7,750
	2	9,300
Married filing jointly or qualifying widow(er) with dependent child	1	\$13,600
	2	14,800
	3	16,000
	4	17,200
Married filing separately	1	\$ 7,400
	2	8,600
	3	9,800
	4	11,000
Head of household	1	\$10,650
	2	12,200

\*\* If you are not blind and were born after January 2, 1950, do not use this chart. Furthermore, do not use this chart if someone else can claim you (or your spouse if filing jointly) as a dependent, regardless of age or visual impairment.

**Standard Deduction Worksheet for Dependents. Use this worksheet only if someone else can claim you (or your spouse if filing jointly) as a dependent.**

Check the correct number of boxes below. Then go to the worksheet.			
You: Born before January 2, 1950 <input type="checkbox"/> Blind <input type="checkbox"/>			
Your spouse, if claiming spouse's exemption: Born before January 2, 1950 <input type="checkbox"/> Blind <input type="checkbox"/>			
Total number of boxes checked: _____			
1.	Enter your earned income*. If none, enter -0-.	1.	
2.	Additional amount.	2.	<b>\$350</b>
3.	Add lines 1 and 2.	3.	
4.	Minimum standard deduction.	4.	<b>\$1,000</b>
5.	Enter the larger of line 3 or line 4.	5.	
6.	Enter the amount shown below for your filing status. <ul style="list-style-type: none"> <li>• Single or married filing separately—\$6,200</li> <li>• Married filing jointly—\$12,400</li> <li>• Head of household—\$9,100</li> </ul>	6.	
7.	Standard deduction.		
a.	Enter the smaller of line 5 or line 6. If born after January 1, 1950, and not blind, stop here. This is your standard deduction. Otherwise, go on to line 7b.	7a.	
b.	If born before January 2, 1950, or blind, multiply \$1,550 (\$1,200 if married) by the number in the box above.	7b.	
c.	Add lines 7a and 7b. This is your standard deduction for 2014.	7c.	

\* Earned income includes wages, salaries, tips, professional fees, and other compensation received for personal services you performed. It also includes any taxable scholarship or fellowship grant.

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In addition to the standard deductions, certain elderly (age 65 or older) or disabled taxpayers can take a credit when filing a Form 1040 or Form 1040A. This credit will depend on your income. Please speak to a tax advisor for more information or visit [www.irs.gov](http://www.irs.gov).

In the Taxpayer Relief Act of 1997, Congress made changes regarding the tax implications of the sale of a primary residence. Under the new rules, a couple can exclude up to \$500,000 of taxable gain on the sale of their home and a single person can exclude up to \$250,000. In order to qualify for this tax exemption, you must have owned the home for a minimum of two out of the last five years prior to the sale, have used the home as your primary residence for two out of the last five years, and, finally, you cannot have sold another primary residence within two years of the date that you intend to sell your current home.

Like most income, your Social Security benefits may be taxable. How much of your Social Security benefits are taxable depends on your total income and marital status. Generally, if Social Security benefits are your only income,

your benefits are not taxable. If you received income from other sources, your benefits will not be taxable unless your income was more than the base amount for your filing status. If married and filing jointly, the base amount is \$32,000. If you are single, a head of household, a qualifying widow with a dependent, or married and filing separately, then the base amount is \$25,000.

Even if a couple has not paid federal income tax for years because Social Security was the only income, a spouse's death could change that. Most notably, there may be large distributions from the decedent's retirement fund or other assets that would generate an "IRS Form 1099." The surviving spouse should be aware that an income tax liability may be generated from these distributions. Save all 1099s that arrive in the mail to take to a tax preparer, or call AARP for a nearby free tax preparation site during tax filing season.

Unemployment compensation benefits are always taxable. For further information on federal income tax benefits for older Floridians, contact the IRS at 1-800-829-104) or at its website, [www.irs.gov](http://www.irs.gov).



# Reverse Mortgage

Another way to ease the financial pressures of retirement is a reverse mortgage. A reverse mortgage works much like a standard mortgage loan, only in reverse. By placing a reverse mortgage on your home, a senior (62 or older) and a younger (under 62) spouse of a senior can receive monthly payments for a fixed period or as long as the senior or surviving spouse live in the home. Seniors can also establish a personal line of credit using a similar financial vehicle. To be eligible for an FHA-insured reverse mortgage, you must own your home and be 62 years of age or older or the spouse of a senior. The amount of benefits you receive will depend on your age and the age of your spouse, the type reverse mortgage program you choose, the value of your home, current interest rates, and for some products, where you live. Cash from a reverse mortgage may be obtained in a lump sum, a monthly payment, or a line of credit, depending on the lender's program.

A reverse mortgage is different from a "home equity loan." A home equity loan requires monthly loan payments, and a reverse mortgage does not. However, a reverse mortgage does require that the borrower stay current with property taxes, required property insurance, which can include wind and flood insurance, and homeowners and condominium association assessments and fees. Failure to stay current on those payments is a mortgage default that can lead to foreclosure. Beginning with reverse mortgage case numbers assigned on or after April 27, 2015, a financial assessment is performed prior to approval for a

reverse mortgage. Credit history and ability to afford mandatory property charges are considered in the assessment. A mandatory set aside for property charges, based on life expectancy, can now be required for reverse mortgage loan approval.

Generally (see discussion of surviving spouses below), the reverse mortgage becomes due and payable when the borrower no longer occupies the home as a principal residence (i.e., the borrower sells, moves out permanently, or passes away.) At that time, the balance of borrowed funds is due and payable, and all additional equity in the property belongs to the owners or their beneficiaries. If the borrower sells the property and the loan balance is more than the property is worth, the lender will take the proceeds from the sale as full payment on the loan, and will pursue FHA insurance to cover any remaining balance. If the reverse mortgage becomes due and payable upon the death of the last surviving borrower and the property is conveyed by will or operation of law, the lender will take the lesser of the loan balance or 95 percent of the current appraised value as full payment on the loan. Reverse mortgages do have disadvantages. First, reverse mortgages deplete the equity in your home. Second, eligibility for some government benefits may be affected by obtaining a reverse mortgage including, but not limited to Social Security, Medicaid, Supplemental Security Income, and Supplemental Nutrition Assistance. Keeping money in a reverse mortgage line of credit will not count as an asset for Medicaid eligibility as this would be considered a loan and not a

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resource for Medicaid spend-down. However, transferring the money to an investment or to a bank account would represent an asset and would trigger a spend-down requirement, i.e., it may affect your Medicaid Eligibility. It is important to check with the appropriate government agency providing benefits to determine whether the reverse mortgage will affect eligibility. Although you have the right to change your mind about getting a reverse mortgage up to three days after the loan is closed, it is important to thoroughly research all consequences of getting a reverse mortgage.

The law regarding FHA-insured reverse mortgages and non-borrowing surviving spouses changed significantly in 2014 and 2015 as a result of litigation and changes in HUD regulations. Effective with reverse mortgage case numbers issued on or after August 4, 2014, for couples who were married at the time of the reverse mortgage loan, the mortgage cannot be called due and payable based on death, until the death of both spouses. For reverse mortgages with case numbers issued prior to August 4, 2014, if a spouse was not included as a borrower on the reverse mortgage, that spouse faces possible foreclosure upon the death of the borrowing spouse if

he or she cannot redeem the property for 95 percent of its appraised value. Significantly, HUD now allows mortgage lenders to assign those mortgage loans to HUD, allowing the surviving spouses to remain on the property. The surviving spouse needs to be aware that there are very short time frames for notifying the lender or servicer that the spouse is choosing this option and for complying with the requirements for assignment, including property title requirements.

Because this area has undergone so much change in recent years, anyone affected by a reverse mortgage should confirm that the above information is correct and has not changed since the publication of this handbook. For more information on reverse mortgages, visit [www.fanniemae.com](http://www.fanniemae.com) or call 1-800-732-6643. Also, for a guide on reverse mortgages, visit [www.aarp.org](http://www.aarp.org) and search for “reverse mortgage.” You may also write to the following address:

AARP  
Consumer Affairs Section  
601 E Street, N.W.  
Washington, D.C. 20049

# Disaster Relief

If disaster strikes in your area and you incur any losses, you may be eligible for disaster relief. There are various federal, state, and local assistance programs designed to aid disaster victims. Below are some of the kinds of help which may be available in your area:

- SNAP (food stamps) benefits;
- Emergency aid (such as clothing, food, medical assistance, shelter, clean-up help, transportation, and furniture);
- Temporary housing (if you cannot stay in your home);
- Unemployment assistance (if you become unemployed as a result of the disaster);
- Job placement;
- Disaster and emergency loans (to rebuild/repair/replace your home, your business, or your personal property);
- Tax refunds; and
- Grants to meet serious needs caused by the disaster (i.e., medical and dental expenses, replacement of personal property, funeral expenses, and more.)

### To Obtain Relief

If a major disaster or emergency results from a hurricane, tornado, storm, flood, high water, wind driven water, tidal wave, earthquake, vol-

canic eruption, landslide, mud slide, drought, fire, explosion, or other catastrophe in your area, and is so declared by the President, disaster assistance centers will be set up to help you apply for available relief. Information on where to apply for relief will be made available by local authorities, local offices of the Red Cross and the Salvation Army, as well as the media.

### Flood Insurance

The Federal Insurance and Mitigation Administration has a National Flood Insurance Program designed to help persons whose homes or businesses are located in specially designated flood hazard areas. If you are in a flood zone, the Flood Insurance Program will subsidize part of your insurance premiums against losses from flood related damage. If you do not live in a designated flood zone, you may still purchase flood insurance, but your premiums will not be subsidized through this program.

Flood insurance is sold through regular insurance agencies that participate in the program. For additional information, contact your insurance agent or the Federal Insurance and Mitigation Administration, toll free: 1-800-621-3362 or TTY 1-800-462-7585 for disaster relief.

# Medicare, HMOs, and Hospitals

The Affordable Care Act (ACA) was signed into law on March 23, 2010. As of January 1, 2014, all Americans are required to obtain health care coverage through their employer, an individual health plan, or programs such as Medicare and Medicaid, unless they meet an exemption.

### What Is Medicare?

Medicare is a federal health insurance program that is available to most persons age 65 or older, certain disabled persons under 65, and anyone with end-stage renal disease (ESRD), regardless of age. It is administered by the Social Security Administration. Medicare provides basic protection, but it does not cover all your medical expenses. Eligibility for Medicare is not based on financial need. If you meet the requirements set by Congress, you are eligible for coverage regardless of your wealth or income.

There are four parts of Medicare:

**Hospital Insurance** (also called Medicare “Part A”) is financed mostly by part of the payroll (FICA) tax.

**Medical Insurance** (also called Medicare “Part B”) is financed by monthly premiums paid by persons who choose to enroll.

**Medicare Advantage** (also called Medicare “Part C”) replaced what was Medicare + Choice in 2006 and operates to give a beneficiary an alternative to receiving Medicare benefits under the traditional Parts A and

B, through coordinated care plans such as HMOs, preferred provider organization plans, fee-for-service plans, or medical savings plans.

**Prescription Drug Benefit** (also called Medicare “Part D”) is a voluntary program, offered only through private plans under contract with the Centers for Medicare and Medicaid Services (CMS), and funded through enrollee premiums (25 percent) and general revenues (75 percent.) To be eligible for Part D, one must be entitled to Part A benefits and enrolled in Part B.

### Eligibility

#### PART A: HOSPITAL INSURANCE

If you are 65 or older, you are eligible if the following applies to you:

- You receive Social Security or Railroad Retirement Act benefits; or
- You don't receive Social Security or Railroad Retirement Act benefits, but you have worked long enough to be eligible for them; or
- You would be entitled to Social Security benefits based on your spouse's (or divorced spouse's) work record, and your spouse is at least 62 (your spouse does not have to apply for benefits in order for you to be eligible based on your spouse's work); or

- You have worked long enough for federal, state, or local government to be insured through Medicare.

If you are under 65, you are eligible if the following applies to you:

- You have been receiving Social Security or Railroad Retirement Act Disability benefits for 24 months; or
- You have been receiving Social Security disability benefits and have amyotrophic lateral sclerosis (“ALS”); or
- You have worked long enough in federal, state, or local government, and you meet the requirements of the Social Security disability program; or
- If you receive a disability annuity from the Railroad Retirement Board, you may be eligible for hospital insurance after you serve a waiting period. (Contact your Railroad Retirement Office for further details.)

### FAMILY MEMBERS WHO MAY GET MEDICARE

Under certain conditions, your spouse, ex-spouse, widow or widower, or a dependent parent may be eligible for hospital insurance when he or she turns 65, based on your work record. Also, disabled widows and widowers under 65, disabled divorced widows or widowers under 65, and disabled children may be eligible for Medicare.

### IF YOU HAVE KIDNEY FAILURE

You are eligible for hospital insurance at any age if you receive maintenance dialysis or a kidney transplant, have filed an application for Medicare, and:

- You are insured or are getting monthly benefits under Social Security or the Railroad Retirement Act, or
- You have worked long enough in government to be eligible for Medicare, or

- You are the spouse or dependent child of a person who has worked the required amount of time under Social Security, the Railroad Retirement Act, or as a government employee; or are getting Social Security of Railroad Retirement Act benefits.

In addition, your spouse or children may be eligible, based on your work record, if they receive maintenance dialysis or a kidney transplant, even if no one else in the family is receiving Medicare Benefits.

### PART B: MEDICARE MEDICAL INSURANCE

In general, an individual is eligible for enrollment in Part B if he or she

- (1) Is eligible to receive benefits under Part A, or
- (2) Is 65, a U.S. citizen, or alien permanent resident of at least five years.

In fact, anyone entitled to Part A benefits is automatically enrolled and covered for Part B benefits unless they indicate that they do not want such coverage.

## Signing-up for Medicare

### *Hospital Insurance (Part “A”)*

Some people have to apply for hospital insurance. For others, it starts automatically.

- If you are already getting social security or railroad retirement act checks starting from the first month when you turn 65, you will be automatically enrolled. You will receive a package in the mail two to three months before you turn 65 containing your Medicare card, information, and a sign-up form for the medical insurance part of Medicare (Part B.) If you keep the sign up card, you will automatically be enrolled in Part B and will pay the Part B premiums. Follow the instructions that come with the card to avoid signing up for Part B. Enrollees from Puerto Rico must sign up for Part B.

- If you plan to retire at 65, contact Social Security three months before your 65th birthday to sign up for Medicare and for Social Security benefits. You can also apply for Part A and Part B online at [www.socialsecurity.gov/retirement](http://www.socialsecurity.gov/retirement).
- If you are about to turn 65, but you don't plan to retire, you are still eligible for Medicare hospital insurance. You should contact Social Security three months before your 65th birthday to sign up.
- If you are a government employee or retiree who is eligible for Medicare, you should contact Social Security three months before your 65th birthday to apply.
- If you are disabled and under 65, you will automatically receive the Medicare enrollment package about three months before you become eligible for Medicare. You become eligible after you have been entitled to disability benefits for 24 months.
- If you are a disabled widow or widower between 50 and 65 but have not applied for disability benefits because you are already getting another kind of Social Security benefit, you may be eligible for Part A insurance. Contact Social Security.
- If you are a government employee and you become disabled before 65, you may be eligible for Medicare based on your work in government. Generally, there is a 29-month waiting period before hospital insurance benefits can begin. Contact Social Security.
- If you are 65 but don't qualify for Medicare hospital insurance because you don't meet any of the circumstances described above, it is still possible to purchase the coverage.

If you choose to purchase Part A, you will be charged a premium that is based on the number of quarters of Medicare-covered employment you have accumulated. Additionally, if you purchase coverage under Part A you will be required to purchase coverage under Part

B as well. These premiums are based on your income level. (If you are an alien, you must be a lawfully-admitted permanent resident and have lived in the U.S. for at least five years before you can purchase Medicare.) If interested, you should contact Social Security for more detailed premium information, or visit [www.medicare.gov/eligibilitypremiumcalc](http://www.medicare.gov/eligibilitypremiumcalc).

- If you are under 65 and used to be entitled to Social Security Disability Insurance benefits and Medicare but you lost those benefits solely because you were working, and if you are still disabled, you can buy Medicare coverage in the same way as described above for those age 65 or over, but you do not have to enroll in Medicare medical insurance (Part B.)
- If you, your spouse, or your dependent child has permanent kidney failure, contact Social Security to see if you are eligible for Medicare.

### **Medical Insurance (Part B)**

Unlike Medicare hospital insurance, you have to pay a monthly premium for Medicare medical insurance. These premiums are based on your income level. The premium is deducted from your Social Security benefit. For premium information, visit: [www.medicare.gov](http://www.medicare.gov), or contact Social Security.

### **Enrolling if You Are Receiving Social Security or Railroad Retirement Act Benefits**

The “enrollment package” that is mailed to you two or three months before you become eligible for Medicare tells you that you’ll be automatically enrolled in both parts of Medicare. Because there is a monthly premium for medical insurance (Part B), you have the option to turn it down. (You would still receive hospital insurance under Part A). Complete instructions are given in the enrollment packet.

### **Enrolling in Other Situations**

You need to contact Social Security to apply for medical insurance if you:

- Plan to continue working past 65; or
- Had medical insurance coverage in the past, but dropped the coverage; or
- Turned down medical insurance when you became entitled to hospital insurance; or
- Are 65 but are not eligible for hospital insurance; or
- Are eligible for Medicare based on government employment; or
- Have permanent kidney failure; or
- Are a disabled widow or widower between 50 and 65 and are not getting disability benefits; or
- Live in Puerto Rico or outside the United States.

### ***When Should You Sign Up?***

Initially, you have only a specific period of time to decide whether you want medical insurance coverage. If you choose not to enroll in Medicare Part B, you may reconsider and enroll during any General Enrollment period, but there may be financial consequences.

### ***Initial Enrollment Period***

When you are about to become eligible for Part B insurance, you have seven (7) months to sign up, beginning three (3) months before the month you first become eligible and ending three months after that month. You should sign up as soon as possible to avoid delay.

### ***General Enrollment Period***

If you don't sign up during the initial enrollment period, but later change your mind, you are given another chance to sign up each year. This general enrollment period runs from January 1 through March 31 of each year. Your insurance coverage won't start until the following July. Your monthly premium will be 10 percent higher for twice the number of years you could have been enrolled, but chose

not to be (except in special cases, such as if you are covered by an employer's or spouse's plan.)

## **What Does Medicare Cover?**

### ***Medicare Part A: Hospital Insurance***

Medicare hospital insurance helps pay for inpatient hospital care, inpatient care in a skilled nursing facility, certain home health care, and hospice care.

### **"BENEFIT PERIOD" OR "SPELL OF ILLNESS"**

"Benefit period" and "Spell of Illness" are terms used to explain what Medicare covers. A benefit period starts the day you enter a hospital or skilled nursing facility. It ends when you have been out of the hospital (or other facility) for 60 days in a row. There is no limit to the number of benefit periods you can have for hospital and skilled nursing facility care. Special limits do apply to hospice care, however.

### **INPATIENT HOSPITAL CARE**

If you require inpatient care, hospital insurance helps pay for up to 90 days in any Medicare-participating hospital during each benefit period. Hospital insurance pays for all covered services for the first 60 days, except the initial hospital deductible (\$1,288 as of 2016), which you pay at the beginning of the 60 days. For days 61 through 90, hospital insurance pays for all "covered services" except for the co-insurance amount (\$322 per day of each benefit period as of 2016), which you also pay. Inpatient mental health care in a psychiatric hospital is limited to 190 days in a lifetime.

If you are out of the hospital for at least 60 consecutive days, and then go back in, you will start a new benefit period. This means that your 90 days of coverage will start all over again, with the same rules as above (for example, you will have to pay the initial hospital deductible again.)

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If you require more than 90 days of inpatient care during any benefit period, you can decide to use some or all of your “reserve days.” Reserve days are an extra 60 hospital days you can elect to use if you have a long illness and have to stay in the hospital for more than 90 days, or if you are forced to re-enter the hospital fewer than 60 days since you last left. You have only 60 reserve days in your lifetime, and you decide when you want to use them. Since reserve days are not renewable, if you do not want to use them (for example, some other insurance may cover the extra days) you must notify the hospital in writing ahead of time. For each reserve day you use, hospital insurance pays for all “covered services” except for a daily coinsurance amount, which you are required to pay.

Here are examples of what Medicare hospital insurance pays for when you are in a hospital: semi-private room and all meals; regular nursing services; anesthesia services and operating and recovery room costs; intensive care and coronary care; drugs that are administered in the hospital, as well as a limited “take home” supply if medically necessary to carry you over until you can obtain a steady supply; lab tests and X-rays; medical supplies and appliances; rehabilitation services, such as physical therapy; and preparatory services related to kidney transplant surgery.

### SKILLED NURSING FACILITY CARE

If you need inpatient skilled nursing or rehabilitation services after a hospital stay and you meet certain other conditions, hospital insurance helps pay for up to 100 days in a Medicare-participating skilled nursing facility in each benefit period.

Currently, hospital insurance (Part “A”) pays for all covered services for the first 20 days. For the next 80 days, it pays for all covered services except for a daily coinsurance amount (\$161 as of 2016), which you are required to pay. For any days following, you are required to pay all costs.

These are examples of what Medicare pays for when you are in a skilled nursing facility: semi-private room and all meals; regular nursing services; dietary counseling; rehabilitation services, such as physical therapy; and drugs, medical supplies, and medical appliances.

**NOTE:** Medicare does not pay for “custodial care” (care that could be given by someone who is not medically skilled, for example to help with dressing, walking, or eating).

### HOSPICE CARE

A hospice is a facility or program that provides pain relief and other support services for the terminally ill. Medicare hospital insurance can help pay for hospice care for terminally ill beneficiaries if the care is provided by a Medicare-certified hospice and certain other conditions are met. Under the Original Medicare Plan in 2013, you pay a copayment of up to \$5 for outpatient prescription drugs and you may need to pay 5 percent of the Medicare-approved amount for inpatient respite care (short-term care given by another caregiver so the usual caregiver can rest).

Special “benefit periods” apply to hospice care. Hospital insurance can pay for a maximum of two 90-day periods followed by an unlimited number of 60-day periods.

These are examples of what Medicare hospital insurance covers when you need hospice care: doctor’s services and nursing services; medical appliances and supplies, including outpatient drugs for relief of pain; physical and speech therapy; home health aide and homemaker services; medical social services; counseling; and respite care (short-term inpatient care to give temporary relief to the person who normally assists with home care of the patient). Hospital insurance pays almost all of the cost of outpatient drugs and inpatient respite care, with a limit of a 5-day stay for each respite care visit.

Note: In the event a patient exhausts available Part “A” benefits or receives a denial of services from the Peer Review Organization (PRO),



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Part “B” may pay for some of the ancillary services received.

## **Part “B”: Medical Insurance Benefits**

If you pay the monthly premiums for Medicare medical insurance, it helps pay for your doctor’s services and certain other medical services and supplies that are not covered by the hospital insurance part of Medicare.

### **DEDUCTIBLE**

Each year, before Medicare medical insurance begins paying for covered services, you must meet the annual medical insurance “deductible.” (A deductible is the amount a beneficiary must pay before Medicare begins paying.) After you meet the deductible, Medicare will generally pay 80 percent of the approved charges (reasonable charges) for covered services during the rest of the year. You are required to pay the remaining 20 percent (the coinsurance amount) and any non-approved charges. The deductible amount for 2016 is \$166. For the current deductible amount, visit: [www.medicare.gov](http://www.medicare.gov), or contact Social Security.

### **PHYSICIAN’S SERVICES**

Medicare medical insurance covers many services you receive from a physician. These are examples of physician’s services covered by Medicare Part “B”: medical and surgical services, including anesthesia; diagnostic tests that are a part of your treatment; X-rays; radiology and pathology services by doctors while you are a hospital inpatient or outpatient; treatment of mental illness (payments for outpatient treatment are limited to 50 percent of approved charge, instead of 80 percent); services of your doctor’s office nurse; and drugs that cannot be self-administered (although prescription drugs may be covered under a Medicare Advantage Program plan [Part “C”] and the prescription drug benefit [Part “D”]); blood transfusions; and other medical supplies.

However, a large number of items and services are excluded entirely from Medicare Part “B,”

including those which are not “reasonable or necessary” in the view of the Medicare intermediary. Also excluded are routine physical checkups (except for one initial examination, the “Welcome to Medicare” visit which must be provided within six months of eligibility for Part “B”), and most dental care. Furthermore, any item or service which could reasonably be expected to be covered by workers’ compensation, an insurance liability policy, or other group health plan is excluded until the other entity has reached the end of its liability.

### **HOME HEALTH CARE**

If you are confined to your home and meet certain other conditions, Medicare medical insurance can pay the full approved cost of home health visits from a Medicare-participating home health agency (not 24 hours per day).

Here are some examples of what Medicare medical insurance, Part “B,” pays when you need home health care: part-time skilled nursing care; physical, occupational, or speech therapy; part-time home health aides; medical social services; and medical supplies and durable medical equipment. Medicare Part “B” does not cover drugs and biologics (except osteoporosis drugs); meals or homemaker services; transfusions; or prosthetics.

### **OTHER SERVICES**

Examples of other services which may be covered by Medicare medical insurance are outpatient hospital services you receive for diagnosis and treatment of an illness, including care in an emergency room or outpatient clinic of a hospital; home dialysis equipment and support services; outpatient physical therapy and pathology; and radiation treatments.

The deductible and coinsurance amounts you must pay under Medicare medical insurance (Part “B”) are separate and distinct from those required under Medicare hospital insurance (Part “A”).

The reasonable charge (approved charge) is the amount Medicare considers to be the

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value of the services rendered. This amount may be, and in fact often is, less than the amount charged in many communities for the services. This means that in addition to the 20 percent coinsurance amount, you may be required to pay the excess beyond what Medicare considers to be a reasonable charge if there has been no “assignment” of benefits.

## ASSIGNMENT

Unlike Part “A,” under which the supplier of services is always paid directly by Medicare, Part B allows payments to be made either directly to the supplier or to you. Under Part “B,” when payments are made directly to the supplier of services, it is called an assignment of benefits. If the supplier of services (for example, your doctor, outpatient facility, etc.) agrees to an assignment, they also agree that the total charge for any covered expenses will be the reasonable charge as determined by Medicare. In plain terms, the supplier agrees that they will not seek any additional payment from you, apart from the Part B deductible, if you haven’t met it yet, and the 20 percent co-payment amount. Under this method, even if the supplier’s actual charges exceed the reasonable charges as determined by Medicare, you can be charged only for non-covered services or for any deductible and coinsurance due. Generally speaking, if you can choose between having payments made directly to you or assigning them directly to the supplier, it will be to your advantage to choose assignment. Remember that if there is no assignment the doctor can bill you for up to 15 percent of the Medicare approved rate.

To obtain a list of doctors who have agreed to accept assignments (“participating physicians” or PAR), contact your Social Security office or your local senior service center. In addition, be sure to check with the doctor’s office to see whether the office takes Medicare assignment.

Another possibility now exists for the private contracting for medical services. Doctors can enter into private contracts with their patients to provide Medicare-covered services at rates set up by the doctor. In return, the doctors

agree to give up submitting claims to Medicare for any of their patients for a two-year period. You, the patient, will be responsible for full payment of the bill. But a doctor who has opted out of Medicare can refer a patient for Medicare-covered medically necessary services, provided the physician who has opted out is not being paid by Medicare.

**CAUTION:** When a physician or other health care service provider agrees to accept assignment from a private insurance carrier, they are doing nothing more than agreeing to bill your insurance carrier for you. You remain responsible for any charges not reimbursed by the insurance company.

## What Medicare Does Not Cover

Examples of what Medicare does not pay for are “custodial care” (care that could be given safely and reasonably by a person who is not medically skilled and which is given mainly to help the patient with daily living, such as help with walking, bathing, and dressing; even if you are getting care from a participating home health agency, Medicare does not cover the cost of care if it is primarily custodial care); services payable by other government programs; most nursing home care; care you get outside the U.S. (but under certain conditions, care in Canada or Mexico might be covered); routine dental care and dentures; routine checkups and the tests directly related to these checkups (except that some Pap smears and mammograms are covered); some immunization shots (flu shots, pneumonia shots, and hepatitis B shots are covered); routine foot care; medical tests for, and the cost of, eyeglasses or hearing aids; personal comfort items, such as a phone or TV in your room; acupuncture; most chiropractic services; Christian Science practitioners’ services; most cosmetic surgery; self-administered injections; meals delivered to your home; full-time at-home nursing care; private duty nurses; services for which you have no obligation to pay; and services which are not “reasonable or necessary.” This list is not exhaustive; you should contact your Social Security office whenever questions arise, or

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visit [www.medicare.gov](http://www.medicare.gov) and search for “what Medicare does not cover.”

## Submitting Your Claims for Payment

If you receive services covered under Part “A” or “B,” you do not have to submit any claims to Medicare. The institution involved will submit the claim, and Medicare will pay its share directly. You will be billed by the institution for any deductible and co-insurance due, as well as for any non-covered expenses. Some providers will require you to pay the deductible or coinsurance amounts due at the time services are rendered. Many of the expenses not covered by Medicare may be covered by your supplemental insurance policy, if you have purchased one. You will receive a notice explaining what Medicare has paid. The only time you can submit your own claim is for Durable Medical Equipment, such as diabetic supplies, canes, crutches, and wheelchairs.

Generally, claims must be submitted within one full calendar year following the year in which the services were provided. For example, if you see your doctor on March 22, 2013, the claim must be submitted by December 31, 2014.

If you have questions, you should telephone the 1-800-MEDICARE Helpline (1-800-633-4227), which has a speech-automated system, and is available 24 hours a day, including weekends, or visit [www.medicare.gov](http://www.medicare.gov).

## Administration and Appeals of Medicare Determinations

You have the right to ask for a review if you feel Medicare should have paid more, or should have paid for a service it determined was not covered. The Medicare program is administered for the Social Security Administration by an intermediary, First Coast Service Options. If the intermediary makes a decision you disagree with, you have a limited number of days to file a request for redetermination with the intermediary. Carefully check the notice you receive regarding the decision on your claim; it will outline time and procedure

requirements. Any Social Security office can help you file for a review or an appeal. If you disagree with the redetermination decision and if the necessary requirements are met, you may request reconsideration by the Qualified Independent Contractor (QIC). Throughout this appeals process there are requirements and/or deadlines that may need to be satisfied before advancing to the next step, and therefore, you may wish to have the help of an attorney.

Depending on your income and property, you may qualify for a Legal Aid or Legal Services attorney to assist you in this process. If not, and you are disputing a disability determination, the National Organization of Social Security Claimant’s Representation will refer you to member lawyers in your area who specialize in Social Security disability disputes. These lawyers may take your case on a contingency fee basis. For free referral information, visit [floridalawhelp.org](http://floridalawhelp.org).

## Impact of Other Health Insurance

If you have a private insurance plan, get in touch with your insurance agent to see how your private plan fits—or “integrates”—with Medicare medical insurance. There may be instances where a covered service will not qualify for Medicare reimbursement because it is covered by another insurance plan you own.

If you have health insurance from an employer group health plan, there are some special rules you should know about. Contact your employer group health plan representative or Social Security for details.

If you have health care protection from the Veterans Administration (VA) or CHAMPUS or CHAMPVA Program, contact the VA, Department of Defense, or a military health benefits advisor for information before you decide whether or not to enroll in Medicare medical Part “B” insurance.

If you have health care protection from the Indian Health Service, a federal employee

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health plan, or a state medical assistance program, you should contact the people in those offices to help you decide whether it is to your advantage to have Medicare medical insurance.

## Supplemental Health Insurance Protection

Medicare will not pay for all of your medical expenses. As such you may want to purchase insurance to supplement Medicare. If so, please shop carefully.

A Medicare Supplement Insurance (Medigap) policy, sold by private companies, can help pay some of the health care costs that Medicare does not cover, like copayments, coinsurance, and deductibles. Some Medigap policies also offer coverage for services that Medicare doesn't cover, like medical care when you travel outside the U.S. If you have Medicare and you buy a Medigap policy, Medicare will pay its share of the Medicare-approved amount for covered health care costs. Then your Medigap policy pays its share. A Medigap policy is different from a Medicare Advantage Plan. Those plans are ways to get Medicare benefits, while a Medigap policy only supplements your original Medicare benefits. See [www.medicare.gov](http://www.medicare.gov) and search for "Medigap" for more information.

It is crucial to comparison shop. The website [www.medicare.gov](http://www.medicare.gov) lets you compare plans in your area.

## Part "C": Medicare Advantage Plans

If you are eligible for Medicare Part A and enrolled under Part "B," you can choose to receive your benefits through the original Medicare fee-for-service program (under Parts "A" and "B"), or through a Medicare Advantage Plan. A Medicare Advantage Plan is a type of Medicare health plan offered by a private company that contracts with Medicare to provide you with all your Part A and Part B benefits. Medicare Advantage Plans include Health Maintenance Organizations (HMOs), Preferred Provider Organizations (PPOs),

private fee-for-service plans, and other types of plans. Most Medicare advantage plans offer prescription drug coverage. You can compare plans in your area at [www.medicare.gov](http://www.medicare.gov).

## Options Under Medicare Advantage

A Medicare Advantage Plan may be one of several types:

- **Health Maintenance Organization Plans (HMO).** In most HMO plans you can only go to doctors, other health care providers, or hospitals on the plan's list, except in an emergency. You may also need to get a referral from your primary care doctor before seeing other physicians.
- **Preferred Provider Organization Plans (PPO).** A Medicare PPO Plan is a type of Medicare Advantage Plan offered by a private insurance company. In a PPO plan you pay less if you use doctors, hospitals, and other health care providers that belong to the plan's network. You pay more if you use doctors, hospitals, and providers outside of the network.
- **HMOs with Point of Service Plans.** These are HMO plans that may allow you to get some services out of network for a higher copayment or coinsurance.
- **Medical Savings Account Plans (MSA)** combine a High-Deductible Medicare Advantage plan with a contribution to a Medical Savings Account.
- **Private Fee-for-Service Plans (PFFS)** are similar to Original Medicare in that you can generally go to any doctor or hospital as long as they agree to treat you and accept the plan's terms and conditions. The plan determines how much it will pay the providers and how much you must pay when you get care.

## Eligibility

If you are eligible for Medicare Part "A" (unless your eligibility is based on end-stage renal

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disease) and enrolled in Medicare Part “B,” you may elect to receive your benefits through the traditional Medicare program (Parts “A” and “B”), or you may choose to enroll in a Medicare Part “C” Advantage Plan by filing the appropriate form with the Medicare Advantage organization. Contact your Social Security office for more details, or visit: [www.medicare.gov](http://www.medicare.gov).

## Benefits

If you choose to enroll in a Medicare Advantage plan, you will continue to receive all the benefits you would receive under the original Medicare (Part “A” and “B”), subject to the rules of your provider. Some Advantage plans have no or only small monthly premiums, apart from your Part B monthly payment. Most include prescription drug coverage. People who have an Advantage Plan do not buy a Medicare Supplemental Insurance Plan (Medigap). However, Medicare Advantage plans vary greatly in costs, including premiums, deductibles, copayments, and coinsurance amounts. Also, many plans restrict you to a network of doctors. Some allow you to see out-of-network doctors for a higher copayment or coinsurance. This is a complicated process.

Once you sign up with a Medicare Advantage Plan, coverage starts on January 1 (or the month when you turned 65). You can switch plans or go to original Medicare during the yearly enrollment period (October 15 - December 7). You can also disenroll from your Medicare Advantage Plan and go back to Original Medicare during the Medicare Disenrollment period, January 1 – February 14, but you may not be able to qualify for an affordable Medigap policy once your one-time initial Medigap open enrollment period ends.

## Part “D”: Medicare Prescription Drug Coverage

Medicare offers optional prescription drug coverage for Medicare beneficiaries enrolled in Part “A” and Part “B.” This coverage can help lower your prescription drug costs, protect you against higher drug costs in the future, and give you greater access to preventative

drugs. This coverage is available to all Medicare recipients regardless of income, illness, or prescription drug use status. Although this coverage is optional, if you do not have an alternative prescription drug coverage, you should strongly consider enrolling, even if you do not currently take prescription drugs, since you may need this coverage as you get older. Visit [www.medicare.gov/part-d/index.html](http://www.medicare.gov/part-d/index.html) for background information to familiarize yourself with Medicare Part “D.”

## How Does It Work?

Each Part “D” drug plan is run by a private company that must meet minimum standards set by the federal government. You choose the Part “D” plan that best fits your personal needs. Because each plan will vary in coverage and price, make sure that any plan you are interested in covers the medications that you take.

Coverage for Part “D” plans begins on January 1 and you are committed to the plan you choose for a minimum of one year. If you are dissatisfied with your plan, you can switch plans for the following year during the open enrollment period (October 15 – December 7).

You can search plans by state at [www.medicare.gov/find-a-plan](http://www.medicare.gov/find-a-plan). This website also allows you to find and compare drug plans that suit your needs, and even enroll in a plan online.

## How Much Will It Cost?

If you join a Medicare drug plan with standard coverage, you usually pay a monthly premium plus some out-of-pocket expenses. Your premium will vary depending on the plan you choose. For more information about costs, visit [www.medicare.gov/part-d/costs/part-d-costs.html](http://www.medicare.gov/part-d/costs/part-d-costs.html), or contact your Social Security office.

## When Should You Enroll?

Generally, you should enroll as soon as you are eligible if you do not have other creditable prescription drug coverage, such as through an employer or through a Medicare Advantage Plan. If you choose not to enroll during

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your initial enrollment period, you may be penalized by having to pay a higher premium if you decide to enroll later.

Your initial enrollment period is a 7-month long period that begins three months before you turn 65, includes the month you turn 65, and ends three months after you turn 65. The Disability Initial Enrollment Period is three (3) months before your 25th month of disability through three (3) months after.

### **Penalty for Late Enrollment**

If you do not sign up during your initial enrollment period, you will be penalized if you choose to sign up later. This penalty is not severe, but will become gradually more severe the longer you wait if you eventually sign up. The purpose of this penalty is to spread out the cost of prescription drug medications among the individuals who will benefit from that coverage. Your monthly penalty will be 1 percent of the average cost of a prescription drug plan for every month you could have been enrolled, but were not. For more information and examples of how this works, visit [www.medicare.gov](http://www.medicare.gov) and search for “Part D penalty.”

### **Switching Medicare Prescription Drug Plans**

Coverage for each plan begins on January 1. You can choose to switch your current plan from October 15 through December 7 of every year. If you move or enter a nursing home, you can switch your plan at other times. If you have both Medicare and Medicaid, you can change plans at any time. Make sure to review your coverage each fall to see whether you want to continue with your plan or switch.

### **General Advice**

If you do not have alternative prescription drug coverage, you should sign up for Medicare Part “D” during the initial enrollment period when you become eligible. Even if you don’t need regular prescription drugs now, as you age chances are you may need them eventually, so you may want to consider enrolling in a minimal drug plan. The potential

penalty for signing up late will increase the longer you wait to enroll. Enrolling at the age of 67 might not result in a penalty of concern, but enrolling at the age of 75 might result in a penalty that affects your finances. Your required commitment to any plan is only one year; you may switch plans for the following year during the open enrollment period.

As with any other Medicare plan, always make sure you understand what you are signing up for.

For help:

- Visit the official Medicare website at [www.medicare.gov](http://www.medicare.gov);
- Read your Medicare handbook;
- Call the Medicare help-line at 1-800-MEDICARE (1-800-633-4227); and
- Call the Florida Legal Services Prescription Drug Helpline at 1-800-436-6001.

### **SHINE Program**

The DOEA sponsors the SHINE program. SHINE (Serving the Health Insurance Needs of Elders) is a free insurance counseling program designed to assist elders in sorting out their health-insurance problems. If you need assistance with Medicare, Medicaid, or other health-related insurance, a SHINE counselor can help. The SHINE program’s statewide network of volunteer counselors are also trained to assist elders with questions or issues they may have related to long-term care insurance and prescription assistance programs. For the phone number of a SHINE site near you, call the statewide SHINE number, 1-800-96-ELDER or 1-800-963-5337.

### **Fraud Hot Line**

A toll-free Hot Line has been installed by the Inspector General that you may use to report any evidence of fraud, waste, or abuse of the Medicare system. Call 1-800-447-8477 if you have reason to believe that a doctor, hospital, or other service provider is billing Medicare

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too much for services you did not receive or for services and supplies you did not need. If you prefer to send your complaint in letter form, write to the following address:

HHS Tips  
Fraud Hot Line  
P.O. Box 23489  
Washington, D.C. 20026

## Complaints

Complaints about health care facilities can be made to the Agency for Health Care Administration Consumer Hotline (1-888-419-3456). The Agency will also provide you with free publications concerning hospital, physician, and nursing home charges. Complaints about billing should be made to the Department of Agriculture and Consumer Affairs at 1-800-435-7352.

## For Further Information

If you have other questions about Medicare, please contact Social Security. You can do this by visiting, writing, or calling a Social Security office (1-800-772-1213). The telephone number of your local office is listed in your phone book under either “Social Security Administration,” “U.S. Government,” or both. Do not hesitate to ask any questions you may have. You can also get more information about Medicare and Medicaid at [www.medicare.gov](http://www.medicare.gov) and [www.cms.gov](http://www.cms.gov).

You can obtain a free copy of the following publications from any Social Security office:

- *Medicare and You* – A current guide to Medicare;
- *Understanding Benefits* – A brief overview of each of the Social Security programs;
- *Disability Benefits* – A guide to Social Security disability benefits;
- *Survivors Benefits* – A guide to Social Security survivors’ benefits;

- *Supplemental Security Income Program* – A guide to the SSI program; and
- *Guide to Health Insurance for People with Medicare*.

## Discharge Planning

Every hospital employs a social worker who will coordinate the discharge of any patient who requests such assistance. This social worker should be advised (before discharge) if you will need transportation to your home, assistance during recuperation, long-term care assistance, help in buying groceries, and other homemaking assistance.

The hospital and/or your doctor should inform you of these services. In the event they do not, you should take the initiative and notify your doctor and the hospital of your desire to have discharge assistance.

## Health Maintenance Organizations (HMOs)

Health Maintenance Organizations (HMOs) or Competitive Medical Plans (CMPs) are one way to cover your health care costs. When you join an HMO, you must sign over your Medicare benefits to the HMO. Beneficiaries then receive all Medicare covered hospital and medical insurance benefits through the plan. Your costs are known in advance and are generally limited to the fixed monthly premiums (if any) and minimal “co-payments.” Some HMOs/CMPs provide services beyond what Medicare covers, such as hearing aids, at no extra cost to you.

You should shop around carefully before choosing an HMO. Although you need not worry about losing Medicare coverage if you decide to withdraw from a plan, you may not be able to sign up for Medicare Supplement plan until the next sign up period should you leave your HMO. Talk to your primary care physician and find out if he or she belongs to an HMO network; if so, you might want to consider joining that HMO.

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Media attention has focused on the disadvantages of some HMOs, but there are several responsible organizations, which can help you in addressing your medical needs. The Consumer Helpline of the Department of Insurance can help you to determine which HMO is right for you. For more on Medicare coverage, call the Medicare Hotline at 1-800-633-4227.

### ***HMO Appeals***

You can appeal some Medicare HMO program decisions. Your HMO must provide you with a complete written explanation of your grievance and appeal rights. You also have the right to request an expedited appeal. You can make a verbal request for a reconsideration of an HMO determination, but you must follow up your request in writing.



# Medicaid

### Introduction

Medicaid is a federal/state partnership that provides health coverage to people with low incomes. In Florida, Medicaid is administered by the Agency for Health Care Administration (AHCA) with the Department of Children and Families acting as its enrolling agent, and helps eligible persons receive needed medical care they could not otherwise afford. The Medicaid program is not related to the Medicare program, though low income Medicare recipients may be eligible for both Medicare and Medicaid. Medicaid pays participating providers (doctors, hospitals, pharmacies, etc.) for many types of medical services.

### Eligibility

There are different Medicaid programs, and eligibility requirements vary. For example, “full” Medicaid is available only to those with the required low income. Medicaid with Medicaid premiums, or with nursing home expenses, may be available to those with somewhat higher incomes. Be sure to visit ACCESS Florida for more information.

To be eligible for Medicaid in Florida, you must meet the eligibility requirements for one of these categories:

- Federal Supplemental Security Income (SSI);
- Temporary Assistance to Needy Families (TANF)-related Medical Assistance, available only for families and children;

- Medicare Savings Program (MSP); SSI-related Medical Assistance, available only for the aged (65 or older), blind, or disabled (includes coverage for MEDS-AD, Medicaid for the aged and disabled with income which does not exceed 88 percent of the federal poverty level; Medically Needy; Hospice, Institutional Care Program or Medicaid for the aged and disabled to help pay for nursing home care; and Qualified Medicare Beneficiaries(QMB));
- Refugee Program (for eligible aliens);
- HCBS (Home and Community Based Services);
- You were entitled to receive both SSA and SSI benefits in some month after April 1977 but lost your SSI because of a cost of living increase in SSA benefits (Pickle Amendment);
- Is currently eligible for and receiving SSA benefits;
- Is currently ineligible for SSI; and,
- Receives income that would qualify him for SSI after deducting all SSA cost-of-living adjustments received since the last month in which he or she was eligible for both SSA and SSI benefits.

### Nursing Home Medicaid

Medicaid may also help pay for nursing home care, if you meet the eligibility requirements

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in regard to income, assets, and transfers of assets and care criteria. To qualify for this assistance in Florida, you (and possibly your spouse) must have income and assets below a stated threshold level. Medicaid pays the cost of the nursing home along with your share of cost payment which is determined by the Department of Children and Families. In general, however, you cannot transfer any assets for less than fair market value within 60 months before applying for Medicaid without risking a period of ineligibility. ICP Medicaid may be available to lower income individuals; however, there are even special rules for married couples which provide an allowance for the healthy spouse who remains at home. For more information on the current income and asset thresholds, contact an elder law attorney or the Department of Children and Families at 1-866-762-2237, or visit [www.myflfamilies.com](http://www.myflfamilies.com).

If your income exceeds the threshold level, you may still be eligible for Nursing Home Medicaid through the use of special trusts or other exceptions. Consult an attorney who is knowledgeable in elder law issues to see if you qualify.

Remember, Medicare will only cover a limited stay at a skilled nursing home. For all other nursing home stays, Medicaid, special nursing home insurance, or private funds are the only sources of payment.

If you think you may be eligible for TANF, SSI-related medical assistance, TANF-related Medicaid or Nursing Home Medicaid, contact your local Department of Children and Families office in person, by letter or telephone, or visit ACCESS Florida online. If you wish to apply for SSI, contact your local Social Security Administration office or call 1-800-772-1213. If you meet the eligibility requirements, you will be eligible to receive Medicaid benefits.

## **Medicaid Managed Care**

The Florida Medicaid program has implemented a new system through which Med-

icaid enrollees will receive services, called the Statewide Medicaid Managed Care (SMMC) Managed Medical Assistance program (MMA). In 2014, the state moved nearly all Medicaid beneficiaries and services into managed care. The new program has two separate components that make managed care enrollment mandatory: the MMA program and the Long-Term Care program.

Most Medicaid recipients must enroll in the MMA program. The program is comprised of Health Maintenance Organizations (HMOs), Provider Service Networks (PSNs), and the Children's Medical Services Network. If you were previously enrolled in the Medicaid Provider Access System (MediPass), as of August 2014 you were transitioned to the MMA program.

You are NOT required to enroll – although you may choose to – if you are eligible for refugee assistance or you are a Medicaid recipient who has other creditable health coverage (excluding Medicare); is a resident of a developmental disability center; is enrolled in the developmental disabilities home and community based services waiver or who is waiting for waiver services; or resides in a group home facility licensed under chapter 393.

The Long-term Care program (LTC) is comprised of two health plans: HMOs and PSNs. You are required to enroll in the LTC program if you are 65 years of age or older and need nursing facility level of care; enrolled in the Aged and Disabled Adult Waiver; enrolled in the Assisted Living Waiver; enrolled in the Nursing Home Diversion Waiver; enrolled in the Frail Elder Option; or enrolled in the Channeling Services Waiver.

You may enroll in an MMA or LTC plan online at [www.flmedicaidmanagedcare.com](http://www.flmedicaidmanagedcare.com). Once you choose a plan, if you change your mind, you have 90 days to change to another plan offered within your region. After this 90 day period, you may only change plans for “good cause.” Otherwise, you must wait 12 months, at which point you can change plans

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during an open enrollment period. Before choosing an MMA or LTC plan, you should work with a counselor to determine which plan best suits your needs and to learn about specialty plans designed for populations with distinct diagnoses. To speak with a counselor, contact 1-877-711-3662. You may also request an in-home visit from a counselor.

Florida now requires Medicaid recipients to join a managed care health plan. This means that people can no longer see any doctor they choose, but the program still provides substantial flexibility to suit an individual's health care needs.

If you are eligible for Medicaid, you have to choose between joining a Medicaid HMO, Medicaid Provider Access System (MediPass), Minority Physician Network (MPN), or Provider Service Network (PSN). In some counties, you can only choose between HMOs and PSNs. Both HMO and PSN plans will require you to select a doctor from a list of providers. This doctor will be the one you visit for routine medical care. You will also have to go to this doctor for referrals to specialists or to be admitted to a hospital, except in the case of an emergency.

There are several differences between the programs. If you choose a Medicaid HMO, you will not have to pay the nominal co-payment and will receive benefits that you would not receive under other Medicaid plans. However, your choice of health care providers will be limited to those in that HMO's network. If you join MediPass, you will be able to choose from among all doctors and hospitals that accept Medicaid. Furthermore, if you have a chronic illness or disability, you may choose a specialist to serve as your primary care doctor. With both MediPass and PSN plans, most adults will have to pay a \$1-3 co-payment when receiving services.

You have 30 days after you are determined eligible to choose a program. If you have not made a choice after that time, you will automatically be assigned to a program. If you feel

you have made the wrong choice, you may switch programs within 90 days after you receive your assignment. After 90 days, only plan changes made for "good cause" will be allowed during the balance of the 12-month period. After each 12 months, recipients will receive notice of an open enrollment period, during which they may change plans for the following year.

## **Expenses Covered by Medicaid**

Generally, if you are eligible, Medicaid will cover the following, within established dollar limits, from providers who accept Medicaid payments: Adult Day Health Care (ADHC); physician services medically necessary for the treatment of an injury, illness, or disease; eyeglasses; hearing aids; dentures; prosthetics; prescription drugs; emergency ambulance services; in-patient and out-patient hospital services; periodic diagnosis and screening; laboratory and X-ray services; nursing home services; home health care services (skilled nursing care and intermediate nursing care); certain transportation services; chiropractic services; dialysis facility service; hospice care services; and other services. You will be responsible for a nominal co-payment at the time services are rendered, usually only a few dollars per visit. However, if you are enrolled in a Medicaid prepaid health plan or HMO, you won't have to pay the co-payment.

Medicaid may pay medical bills incurred 90 days prior to your application if (1) you meet the eligibility requirements for that time period; (2) there are medical expenses covered by Medicaid from that period which have not been paid in full; and (3) your provider is willing to bill Medicaid. You must make a request for this to be done.

**EXAMPLE:** Mrs. Smith, age 68, applies for Medical Assistance on June 8. From the first day of the third month before June 8 (March 1), Mrs. Smith has incurred medical bills amounting to \$88. Mrs. Smith meets all eligibility requirements currently and has met them during the March 1 – June 8 period.

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Mrs. Smith paid one of the bills (for \$30) incurred during that period. If the providers bill Medicaid for the remaining \$58 of expenses, Medicaid can pay the bills within the prescribed Medicaid limits.

No provider of medical services can be forced to accept payments from Medicaid. If your doctor will not accept Medicaid, you have two options—change doctors or pay with your own funds. Physicians must accept Medicare for any individual who is eligible for both Medicaid and Medicare unless the doctor has entered into a private contract and fee schedule with his patients as discussed in the chapter on Medicare in this handbook. If your doctor prescribes a drug that is not covered by Medicaid, ask if there is something else that can be prescribed that is covered, either as an alternative drug or the same drug under a different trade or generic drug name.

### **If You Are Denied Eligibility**

If you have a dispute with a managed care plan, you have the right to an appeal or a Medicaid fair hearing. An appeal is handled by the plan, while a fair hearing is a state-administered process.

If a plan reduces, suspends, refuses, or terminates a service, it must give you written notice. You have 30 days to make an appeal with the plan, or 90 days to request a hearing. If you choose to file an appeal and are unsatisfied with the plan's resolution, you can still request a fair hearing with the state as long as you make your request within 90 days of receiving notice of the plan's resolution of your appeal. For more information on filing an appeal, contact the state's fair hearings office at 1-850-488-1429.

If you previously had authorized services and the plan provides you notice of a change, you can keep your services from being reduced until a review is completed by challenging the change. Keep in mind that you must submit your challenge and request for continuation of services within 10 days after the plan sends notice of its threatened action, or within 10 days after the intended effective date of the threatened action, whichever is later. For more information on challenging the reduction, suspension, or termination of a previously authorized service, contact Florida Legal Services.

You have the right to appeal if you feel you have been unfairly denied Medicaid eligibility or the level of benefits that you receive is incorrect or unfair. The appeal may be made verbally or in writing to the local Department of Children and Families (“DCF”) office. If you do it verbally, follow up immediately with a confirmation letter and keep a copy.

You must request a hearing at DCF. This request must be made within 90 days from the date of the decision you disagree with. You may ask a friend, relative, or attorney to help with your appeal. Remember, you always have the right to reapply if your situation changes.

### **To Find out More**

For further information about how the Medicaid program can help you and whether you are eligible, call or visit the DCF office nearest you. It is best to visit ACCESS Florida online at [www.myflorida.com/accessflorida](http://www.myflorida.com/accessflorida) for additional information. The Elder Helpline, a service of the Department of Elder Affairs, may also be able to provide information about Medicaid eligibility and benefits and refer you to the appropriate local DCF office.

# Long-term Care Insurance

Long-term care insurance is an insurance product which helps pay for long-term care typically not covered by regular health insurance, Medicare, or Medicare Supplemental Insurance. Long-term care insurance is different from nursing home insurance. Nursing home insurance policies can cover either nursing home care or a combination of nursing home care plus custodial care. If a policy covers care in a nursing home plus one other coverage (such as home health care or adult care), the policy will often only pay benefits for one year or less.

Florida's Long-term Care Insurance Act requires that policies must meet the following minimum standards:

- The policy must cover at least one “lower level care” such as home health care or adult day care. The nursing home care includes skilled, intermediate, or custodial nursing home care. Home health care is care provided in your own home by a licensed home health agency. Adult day care occurs in a state licensed facility where you may spend your daytime hours participating in planned social activities.
- You may return any policy you have decided not to keep within 30 days for a full refund of any premium paid.
- All policies are guaranteed renewable and cannot be canceled unless you do not pay your premium.
- Your policy must state the conditions under which the company may raise your premiums.
- If a policy requires a “prior stay” in a hospital, the company cannot make the “prior stay” requirement longer than three days. A “prior stay” requirement specifies how long you must be hospitalized before benefits can begin.
- A company cannot exclude coverage for a pre-existing condition for more than six months after a policy is in effect. A pre-existing condition is an illness diagnosed or treated within six months before a policy is issued. If your company learns of an unreported pre-existing condition, it may either refuse to pay claims or cancel your policy.
- If a policy requires a “prior stay,” you must begin receiving nursing home or home health care services within 30 days after you are released from a hospital to be eligible for benefits. If you do not begin receiving care within the 30-day period, the policy will state whether you have to return to the hospital to begin the “prior stay” process over again.
- A company cannot issue a policy in which premium increases are calculated solely on the basis of age.
- All long-term care insurance policies are required to bear a stamp on the first page

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verifying that the policy meets the above requirements.

Before purchasing long-term care insurance, check to be certain the company is reliable. The Florida Department of Insurance has composed a guide which describes how long-term care insurance works and how it relates to other kinds of health care insurance. The

guide also contains a list of companies which sell long-term care insurance in Florida. You may obtain a copy of the Guide by calling the Florida Department of Financial Services Consumer Health Line toll free (1-800-342-2762) or visit [www.myfloridacfo.com/division/consumers](http://www.myfloridacfo.com/division/consumers). The Department can also tell you whether an insurance agent or company is licensed.

# Nursing Homes/ Long-Term Care Facilities

## Introduction

There are several types of long-term care facilities. Each type is staffed and equipped to deliver a different level of care. Assisted living facilities (ALFs) are discussed in the section of this Handbook entitled Housing.

Skilled Nursing Facilities (SNFs) provide skilled nursing care on a 24-hour basis. Skilled nursing care is comprehensive, planned medical care. It includes rehabilitative or restorative therapy, diet supervision, and trained observation. In general, SNFs are medical facilities that care for severely ill patients with long-term chronic illnesses. Nursing homes participating in Medicare and Medicaid must satisfy a common set of standards for certain services.

In skilled nursing facilities, nursing services must be supervised by a full-time registered nurse. In addition, the health care of each patient must be supervised by a physician, and a physician must be accessible to render emergency care.

The Intermediate Care Facility (ICF) is another type of long-term care facility. ICFs provide personal care and supervision for persons requiring assistance with activities such as dressing, bathing, diet, and self-administered medications, but who do not need continuous medical or nursing services. ICF services are covered by Medicaid but not Medicare.

The Agency for Health Care Administration (AHCA) licenses nursing homes and other

long-term care facilities. All such facilities must have a license to operate in Florida. Before AHCA will license a facility, it must meet certain minimum standards in the areas of construction, safety and fire protection, maintenance, and financial stability.

Nursing homes must meet the minimum requirements for certification under Medicare and Medicaid programs as skilled nursing and/or intermediate care facilities. To be certified, nursing homes must meet standards for housekeeping, staffing, diagnostic, dietary, and nursing procedures.

You should not rely exclusively on the fact that a nursing home is licensed or certified to determine the quality of care at that facility. Meeting state licensing standards and Medicare and Medicaid requirements only means that the facility has conformed to the basic minimum standards required by law.

## Choosing a Nursing Home

When selecting a nursing home or other long-term care facility, it is important to be cautious and objective. The needs and desires of the prospective resident should be of prime consideration. It is also helpful to maintain a healthy consumer skepticism while shopping. Choosing a facility that will suit the needs of the prospective resident deserves at least as much care and caution as the purchase of a house or the renting of an apartment.

Before beginning to look at facilities, you should consider the following:

- Take time to determine the medical and physical needs of the prospective resident. This information will provide some basic guidelines for making decisions. The prospective resident, the resident’s physician, and the resident’s family and friends should participate in this process.
- Give the most consideration to facilities located near those people who will be visiting most frequently. Visits are very important in maintaining a resident’s morale and well-being.

In your search for a nursing home or other long-term care facility, you may want to inquire into the following:

- Is it proprietary (profit-making) or not-for-profit?
- What level of care does it provide?
- Is it approved for Medicare and Medicaid patients?
- What are the basic charges?
- You should check with your area’s Long-Term Care Ombudsman Council. See, [www.ombudsman.myflorida.com](http://www.ombudsman.myflorida.com) for more information.
- You should look at the nursing home’s annual rating from AHCA. Nursing homes are rated on a one-to-five-star scale, with five being the highest. All facilities listed in this guide have met the requirements for being licensed as a nursing home. These ranks indicate only relative rankings within a region. All of the nursing homes in a particular region could perform better than the statewide average. Therefore, a low rank does not necessarily indicate a “low quality” facility. Similarly, all of the nursing homes in a particular region could perform lower than the statewide average. Therefore, receiving a high rank does not necessarily indicate a “high quality” facility. For more information on nursing home ratings, visit

[www.floridahealthfinder.gov](http://www.floridahealthfinder.gov) and search for “nursing home guide.”

- You also should obtain information about basic charges and services and the kinds of things (extras) that cost more for which the resident or family may be responsible, such as laundry. You should then schedule an appointment to meet the administrator or director of admissions of all homes in which you have an interest. It is advisable to go unannounced on a second visit for a closer look.
- The Agency for Health Care Administration publishes a guide which compares facilities on some of the above points. The guide is in your local library and can also be obtained from your local AHCA office, or most easily, online at [www.floridahealthfinder.gov/LandingPages/NursingHomeGuide.aspx](http://www.floridahealthfinder.gov/LandingPages/NursingHomeGuide.aspx).

**NOTE:** If the patient is a Medicaid recipient, it is illegal for the facility to request any additional payment from the family.

### **What to Look for and Ask About**

When inspecting the credentials of a nursing home it is important to ask the right questions. Here are some questions you may want to ask during your initial visit.

**NOTE: Many of these categories may not apply to ALFs. These have been bolded and noted with an asterisk (\*).**

- **LICENSURE:** The home is required to be licensed. Is the license in danger of being revoked? You can ask to see the most recent inspection report. **NOTE:** State law requires the most recent inspection report to be readily available to the public. You can also check inspection reports of Medicare/Medicaid approved nursing homes at the Social Security office in your area. The Agency for Health Care Administration also maintains copies of the inspection reports, and can be accessed online at



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[www.abca.myflorida.com/MCHQ/WebDmHelp](http://www.abca.myflorida.com/MCHQ/WebDmHelp). Furthermore, if any problem areas have been mentioned in the report, find out if they have been corrected.

- **NURSING SERVICES:**\* What level of care is provided? Does it meet the particular need of the prospective resident?
- **PHYSICIAN SERVICES:**\* Is there a staff physician or medical director who helps set policies and provides for emergency calls? What provision does the home have for medical follow-up by a family physician? Are the residents required to use the staff physician or may they elect to use only their own physicians?
- **ACTIVITIES PROGRAM:** Are there organized activities? What are they? Do they include activities outside the facility? Is there a regular schedule? What religious services are available?
- **REHABILITATION AND PHYSICAL THERAPY:**\* What facilities and staff are available for these services? Are they provided as a basic service or will the resident be charged extra? Will they meet the needs of the patient as prescribed by the family doctor?
- **VISITING HOURS:** When are they? Note that at a minimum, facilities are required to maintain 9 a.m. to 9 p.m. visiting hours. Can anyone, including young children and pets, visit? Are unannounced visits permitted?
- **IN-SERVICE EDUCATION:**\* Does the home have continuous in-service education programs for its staff? Residents need various types of rehabilitative services. The techniques used to deliver these services change, and all staff need to keep up-to-date on them.
- **DIETARY SERVICE:**\* Does the home serve attractive, nutritious meals that are planned by a registered dietician? Are special diets available? Ask to see a copy of the planned menus. Visit the home at a time when you can observe a meal, preferably a weekday meal.
- **SAFETY:** Is there an adequate fire safety system that at least includes smoke and heat detectors, and sprinklers or approved fire-resistant construction? There must be a plan posted for quick evacuation in case of fire, and the staff and residents should be trained in fire safety. In addition, are there hand rails in the hallways and grab bars next to bathtubs, showers, and toilets?
- **COSTS AND CHARGES:** What services are included in the basic daily charge of the nursing home? Get this information in writing from the administrator. What services are provided for an extra charge? Do these extra charges include all of the supply costs that are necessary for the services? Check specifically as to whether the nursing home or the patient pays for drugs and medicine. Remember that the higher the level of care, the higher the costs are likely to be.
- **DEPOSITS:** What is required in advance? How will the deposit be returned? (Medicare and Medicaid patients cannot be charged deposits.)
- **MEDICATIONS:**\* How will medications be obtained? Usually the nursing home will require you to let them obtain all medications. This is convenient and allows for quick emergency services. However, note that obtaining medications through the nursing home may be more costly. The patient may also wish to purchase his or her own medications. How does the patient's Medicare Part D prescription coverage work with the nursing home? If the choice is made to purchase one's own medications, a clear agreement with the home that allows its staff to supply emergency medication is necessary.

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- **THIRD PARTY PAYMENT:** What third party payments will the nursing home accept? Does it take Medicare and Medicaid patients? Will it allow one to shift to Medicaid or Medicare payment if, after being admitted as a private or Medicare patient, the person then becomes eligible for Medicare or Medicaid? Must the patient provide certain notice to the nursing home before this change? What is the nursing home's policy when a Medicare or private patient's resources run out? Are residents segregated within the home based on their method of payment? This may imply different treatment.

In general, nursing homes will look well-maintained and pleasant to the visitor. In order to get a feel for the institution from a resident's viewpoint, several key factors should be kept in mind: safety, cleanliness, pleasantness, morale, privacy, and respect.

Safety is a special concern for everyone, but it is even more important to those older persons who have limited motion, visual impairments, and other infirmities. Keep a look out for fire hazards, blocked fire doors, and unobserved smoking restrictions. Make sure that the possibility of a fall is guarded against by the presence of well-lighted stairways and passageways that are free of obstacles such as light cords, throw rugs, torn carpets, or cracked tiles.

Cleanliness should be a high priority for every nursing home. If a home smells of urine or heavy cover-up deodorant, watch out! Check window sills, counter tops and bedside tables for dirt and dust. These are signs that the home is in financial trouble and is skimping on housekeeping. Kitchens, nursing stations, lounges, and residents' bathrooms must be clean and nothing short of that should be tolerated.

Pleasantness is a factor to consider when looking at a nursing home. Flowers, pictures, seasonal decorations, and general orderliness are important in providing a happy and com-

fortable atmosphere for a full-time resident. Things such as drinking fountains, lounges, properly functioning televisions and radios, and easily accessible public telephones all contribute to making a resident's stay more pleasant.

The morale of the residents cannot be overlooked when considering a nursing home's overall pluses and minuses. Regularly scheduled activities can be a big morale booster for the nursing home resident. See if the staff has a positive attitude toward the residents and encourage such activities. Indifferent and grumpy staff members can create an atmosphere that hampers, if not destroys, good resident morale. Take a close look at the residents. See how they act and how they are dressed. Do they appear happy, interested, and involved with what is going on?

Privacy and respect are very important. When baths are given in bed, curtains should be drawn to protect the privacy of the resident. Residents should be addressed by their names and treated as adults, not as children. These actions show respect for the patients on the part of the staff, and by extension, the nursing home administration. Watch and talk to the staff to get clues as to their attitudes. Where appropriate, speak with the residents of the facility and obtain their viewpoint.

## **Nursing Care Financial Assistance**

As mentioned in the Medicare chapter, you can receive up to 100 days of care in a skilled nursing facility per period of illness (after three consecutive days in the hospital) if you qualify for Medicare benefits. This is provided under Medicare hospital insurance (Part "A"). There are deductibles and coinsurance amounts that must be paid. (See the Medicare chapter of this Handbook for more information.)

Medicaid also pays for care in some nursing home facilities. Specifically, Medicaid can assist with paying for skilled nursing and intermediate care facilities. A physician must certify the level of care needed, and the patient

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must be eligible for Medicaid benefits. (See the Medicaid chapter).

Some nursing homes are unwilling to accept Medicaid patients. This is because Florida Medicaid does not always pay the facility enough money to cover the costs of care. This fact becomes critical when a patient's Medicare coverage runs out and Medicaid becomes the only way to pay for nursing home care. Be certain that the nursing home will keep a patient even if Medicaid becomes the sole source of funding.

## Residents' Rights

While many nursing homes are excellent facilities providing quality care, residents must be protected from irresponsible institutions. People in nursing homes still have all the same rights guaranteed by the Constitution and state and federal laws. Furthermore, Florida Statutes specifically provide for the rights of people in nursing homes. Awareness of these rights will help insure protection and enforcement.

To be licensed in Florida, and to participate in Medicare and Medicaid, nursing homes must establish policies to protect patients' rights. These policies must contain safeguards in specific areas, such as handling of patient funds; use of physical and chemical restraints; confidentiality of patient records; participation by patients in medical-decision making; assurance of patients' ability to meet with friends and others privately; participation in religious activities; limitations on discharging patients; limitations on requiring patients to perform work for the facility; the right to present grievances without fear of reprisal; and the right to be fully informed of services not covered by Medicare, Medicaid, or other health insurance. For a complete list of residents' rights, see Section 400.022, Florida Statutes, or contact your local office of the Agency for Health Care Administration.

Nursing home residents and their families can use the same methods to enforce residents'

rights as any other citizen. In cases of assault, battery, or theft, criminal penalties can be sought. Because a nursing home undertakes to provide care and, in some cases, medical services to its residents, it can be liable in a damage suit for its failure to do so. Similarly, the home may be liable for injuries caused by employees to residents of the home. Furthermore, Chapter 400 of the Florida Statutes provides for specific remedies to address issues which arise in the nursing home context. You should report any physical abuse at the following toll free number: 1-800-96-ABUSE (1-800-962-2873).

Note that enforcement actions require a good deal of time and money. Consultation with an attorney is necessary. Before proceeding with any legal action, make use of any mechanism available that provides for a resident's problem or complaint to be heard. Most nursing homes maintain residents' councils or sounding boards for just this purpose. If there is no council or board, see if the residents or their family members can speak freely with the home administrator.

## ***Improper Discharge and Residents' Rights:***

Residents have the right to be transferred or discharged from a facility only for medical reasons, the welfare of other residents, or nonpayment of a bill. Residents also have a right to receive a thirty (30) day notice of discharge or relocation as well as the right to challenge such notice.

For more information on residents' rights, visit: [downloads.cms.gov/medicare/Your\\_Resident\\_Rights\\_and\\_Protections\\_section.pdf](https://www.cms.gov/medicare/Your_Resident_Rights_and_Protections_section.pdf).

**NOTE:** The State of Florida has a Long-Term Care Ombudsman Council that investigates residents' complaints; visit [ombudsman.my-florida.com](http://ombudsman.my-florida.com) or in case of emergency, call its TOLL-FREE NUMBER: 1-800-96-ABUSE.

# Institutionalization of the Mentally Ill

In Florida, you cannot be placed in a treatment facility for the mentally ill against your will unless certain conditions are met. Generally, you must meet the following criteria:

- Be mentally ill;
- Have refused voluntary treatment, or be unable to determine for yourself whether placement is necessary; and
- Be incapable of surviving alone, even with help of willing family or friends. There must be a real and substantial threat to your well-being; and
- Not have a less-restrictive alternative.

The involuntary placement process begins with the filing of a petition. To determine if commitment is warranted, a judge will order you to be examined by at least two mental health professionals. If the evaluators find that the conditions are met, their opinions will be submitted to the court along with a recommendation for placement. A hearing will then follow.

You have the right to representation by an attorney at the hearing and to examination by an independent mental health professional. If you cannot afford either, the court will provide them for you. You can be placed in a facility

against your will if and only if you meet the criteria for involuntary placement.

A court order for involuntary placement is only valid for six months. If, at the end of six months, the facility determines that you should continue treatment, a new court order must be obtained. Your case must be reheard every six months. At each of these hearings, you are guaranteed representation by counsel. If you no longer meet the criteria for involuntary placement, the administrator may discharge you, transfer you to voluntary status, or place you in the care of a less restrictive facility. You may of course be released before the court order expires if the facility determines you no longer meet the criteria.

If you enter a mental health facility on a voluntary basis, you have the right to be released at any time. Be certain you understand all of the ramifications of admission rules, and the release policies. Exercise caution and obtain advice from trusted confidants or an attorney before admission. Unfortunately, some mental health care facility administrators and mental health care professionals are more concerned about their profit margin than your health and well-being. You should know that even after a voluntary admission, the facility can seek a court order to have you involuntarily committed. If this happens to you, demand representation by an attorney.

# Ownership

### **General Information and Advice**

Whether you decide to purchase vacant land, an existing house, or a condo, there are many considerations to keep in mind. Consult a licensed real estate agent or broker specializing in the neighborhood you have chosen. Consult an attorney before signing a contract bid to purchase property. An attorney can help you negotiate the legal and financial pitfalls of the purchase contract. Generally, an attorney will charge hourly or flat fees, and a broker/agent will take a small percentage of the purchase price as commission.

When purchasing a home, your budget is of utmost concern. Most purchase contracts require a substantial down payment. Other costs may include closing fees, such as for inspections, title insurance, recording fees, and fees associated with mortgage financing. In addition, future increases in taxes and fees may put pressure on your long-term budget.

After you choose a property and your attorney has prepared the contract bid, your attorney or agent will submit your bid to the seller. Your attorney will make sure that your offer is contingent upon an acceptable home inspection and clear title. Your attorney will also make sure there are alternative strategies in place if inspections reveal unacceptable conditions.

If your property is governed by a homeowners' or condominium association, familiarize yourself with the rules and regulations before

deciding that you want to live there. The rules and regulations may limit the number of people allowed to live in the unit and/or the number of guests, place restrictions on your ability to lease, or even prohibit pets and children.

Once your bid to purchase is accepted, proceed with the inspections: a home inspection, a property appraisal, and a title insurance commitment. A home inspector will evaluate the condition of the property and its structural integrity, elements in need of replacement or repair, and estimate the life of the roof, driveway, and other features. An appraisal of the property's value is advisable, and required for mortgage financing. Your agent or loan officer can recommend reputable inspectors and appraisers. Your attorney will conduct the title investigation.

Title insurance safeguards your ownership rights against defects in the title, and assures that the property is lien-free, i.e., that there are no debts, taxes owed, etc. In addition, a diligent search should reveal violations of governmental regulations or unpaid municipal liens, confirm that the zoning code permits your intended use, and identify the property's flood classification.

Arrange separately to purchase homeowners' insurance, liability, and casualty insurance. These policies should insure the structure of your home itself, interior fixtures, and your personal belongings against disasters such

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as fire, windstorm, water, and flood. Solicit competitive bids for insurance.

If you are considering mortgage financing, beware of predatory lenders. To receive the fairest arrangement possible, solicit mortgage quotes from different lenders in order to compare short and long term costs, fees and interest rates. Once you have chosen a mortgage lender, ask a lawyer to review the fine lines of the mortgage agreement, provide you with advice, and close the transaction on your behalf. Your real estate attorney will generally be capable of handling the mortgage aspect as well.

## Traditional Forms of Ownership

Florida homeowners can purchase individual homes and lots, or properties such as condominiums (“condos”), cooperatives (“co-ops”), mobile homes, and time shares. A description of each is as follows:

- **Individual Homes or Properties.** This category includes traditional homes (single-family or town homes). They may be independent or part of a gated community, self-standing or connected, and with or without a homeowners’ association. Homeowners’ associations are governed by elected, volunteer community residents and have differing rules and regulations about living in the community and caring for your home. Before moving into a community, read and understand the rules.
- **Condominiums (Condos).** Condos may be apartments, town homes, or villas that form part of a planned community. The owner purchases a unit and a non-exclusive right to use common amenities owned by the association. Condo associations are governed by elected, volunteer community residents and have differing rules and regulations. Before moving into a community, read and understand the rules.
- **Cooperatives (Co-ops).** Co-ops are similar to condos. However, in a co-op an owner

purchases stock in a building’s corporation, rather than a specific parcel of land or section of a building. Condos are more prevalent in Florida than co-ops.

- **Mobile Homes.** Mobile home communities are popular in Florida for both permanent and seasonal residents. These communities may be age-restricted, or have no restrictions at all.
- **Timeshares.** Timeshare properties have multiple owners. Each owner has the right to use the property for a certain amount of time, typically for one or two-week increments per year. This type of property is vacation-oriented and is not suitable for a permanent residence.

## Other Types of Communities for the Elderly

- **Naturally Occurring Retirement Communities (NORCs).** A NORC assists residents to age in place. Essentially, it is a neighborhood where residents may have lived for a long period of time and age together as a community. The advantage of this type of community is that social services come into the community when needed, rather than residents having to seek outside assistance. Such communities are open to anyone who wants to live there.
- **Age 55 and Over Communities (formerly called Active Adult Communities).** The name says it all. Federal and state laws require that 80 percent of the households have a resident age 55 and older. Children under 18 are not allowed to live there permanently, though they may visit. There may be exceptions for younger caretakers, spouses or significant others living with an occupant who is 55 or over. If the qualifying resident who is older than age 55 passes away, the surviving resident who is under 55 may stay, in some instances, while other communities make no exceptions for a younger surviving spouse or significant other. Residents should be familiar with community rules.

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Note that in such communities, renting to anyone under 55 is usually prohibited.

## Florida's Homestead Exemption—What You Need to Know

Register with the appropriate county tax authority as soon as you move into your new permanent residence. The Florida Homestead Exemption provides the following three important benefits to homeowners:

- Reduces the property taxes on the home. The Florida Homestead Exemption reduces the property tax assessable value of a home by up to \$50,000. Additionally, the “Save Our Homes” program caps property tax assessments at 3 percent per year or the rate of inflation, whichever is less. These programs save you money on your property taxes, if you live in Florida full-time. Contact your local property appraiser for more information and instructions on how to apply immediately after purchasing your home.
- Protects the home from a forced sale before and at death. Florida has one of the most protective homestead exemptions in the United States. This benefit applies automatically upon setting up permanent residency in Florida. Almost any home can be protected from creditors, regardless of value. There are only a few limitations:
  1. The property must occupy less than 1/2 acre if within city limits, or 160 acres if outside city limits; and
  2. Some creditors can still force a sale of the property. These include the following:
    - a. The State of Florida, and its counties and municipalities, in order to collect past due property taxes;
    - b. The IRS, to collect past due federal income taxes;

- c. Parties to whom the property was pledged as collateral for a mortgage; and

- d. Workmen who are owed money for repairing or improving the property.

- Protects the home for a surviving spouse or minor child. The Florida Homestead Exemption also protects a spouse. Normally, spouses are protected automatically upon the establishment of a primary residence in Florida. A spouse is protected by the following:

1. Preventing a homeowner from selling homesteaded property without a spouse's approval. The approval of both spouses is required even if a property was purchased entirely from the funds of one spouse or is entirely in the name of one spouse; and

2. Prohibiting a spouse from passing the property upon death through a will, if the homeowner is survived by a spouse or minor child, except that the homestead may be devised to the owner's spouse if there is no minor child or children. If the property is left by will in violation of law or if there is no will, the spouse receives either (1) a life estate in the property with descendants, including any minor children, receiving the remainder interest in the property; or (2) an undivided one-half interest in the property as a tenant in common with the other descendants, including any minor child. Be aware that a spouse automatically obtains the life estate interest, but must take steps to assert an intention to take a one half interest. Those steps include filing a document in official records, as provided by statute, within six months after the property owner's death. In this case, the surviving spouse or minor child is permitted to live in the residence for his or her lifetime. The person named in the will receives ownership of the property

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only after the surviving spouse or minor child dies. However, the surviving spouse or minor child has to pay all expenses related to the property during his or her lifetime. If either the person named in the will or the person living at the property wishes to sell the property, both parties must agree. If the property is sold, each party will receive a portion of the proceeds based on the age of the person living at the property.

## Other Property Tax Exemptions

In addition to the Homestead Property Tax Exemption discussed above, there are other property tax exemptions that may be granted:

- **Additional Homestead Exemption for Persons 65 or Older.** Many counties and municipalities provide an additional \$25,000 Homestead Exemption to persons 65 or older whose gross adjusted income as defined by the IRS (which does not include nontaxable Social Security income) does not exceed an amount calculated each year in accordance with Florida Statutes. The initial statutory cap on yearly household income was \$20,000 in 2000, but that amount has increased each year by the percentage increase in the consumer price index. In 2015, the cap was \$28,448.
- **Widow or Widower Tax Exemption.** A widow or widower who is a bona fide Florida resident may claim a \$500 exemption.
- **Disability Exemption.** A Florida resident who is permanently disabled may qualify

for a \$500 disability exemption. Based on the extent of the disability and the household income of the Florida resident, a totally and permanently disabled homeowner could qualify for 100 percent exemption. Household income for purposes of this provision includes Veterans Affairs benefits and Social Security benefits.

- **Disability Exemption for Ex-Service Members.** An ex-service member with a war or service-connected disability of 10 percent or more may be entitled to a \$5,000 exemption on property owned by the ex-service member.
- **Veterans Property Tax Discount.** For veterans returning to Florida, there is an additional property tax discount if they were Florida residents at the time of entering military service. This is for veterans with honorable discharges from military service, who are at least 65 years old, partially disabled with a permanent service-connected disability, all or a portion of which must be combat-related.

## Other Property Tax Considerations

Laws about property taxes periodically change. Make sure to fit any changes in property taxes into your budget. Residents who live in unincorporated districts may pay lower property taxes, but they may also receive a lower level of services (perhaps for example, no sewer, water, or transportation service).



# Leasing (Landlord-Tenant Relations)

Landlord-tenant relationships begin with a rental agreement. The agreement is a written lease or oral contract for the use and occupancy of a residential dwelling. Florida Statutes Chapter 83, Part II governs residential tenancies. Tenants who do not understand their agreements and/or the law could have their rents illegally raised or be forced to move out when they are not legally required to do so. Also, without a written lease, the landlord may require that you vacate on short notice. However, even with a written lease one can be evicted. Negotiate the terms until you are comfortable that your rights and obligations are clear and acceptable. The most reliable way to know your rights and duties is to put your agreed-upon terms in a written lease.

### **Some Duties of the Tenant**

- Pay rent on time.
- Keep rental unit clean and sanitary.
- Comply with all rules set down by the building, housing, and health codes.
- Remove garbage in a clean and sanitary manner. Keep plumbing fixtures clean, sanitary, and in repair.
- Notify the landlord of repairs or defects, or fix them, if the lease establishes repairs as a tenant responsibility.
- Preserve and do not destroy, deface, damage, impair, or remove any elements of the structure or allow anyone else to do so.

- Use and operate in a reasonable manner all plumbing, appliances, electrical fixtures, and other facilities.
- Permit the landlord to enter your unit at reasonable times and upon reasonable notice to inspect the premises; make repairs, alterations, or improvements; or exhibit the unit to purchasers and prospective tenants.
- Maintain/keep the peace.
- If you have an oral lease, provide 15 days' written notice to your landlord before ending a month-to-month tenancy, or seven days' written notice before ending a week-to-week tenancy.

### **Some Duties of the Landlord**

- Comply with requirements of building, fire, housing, and health codes, and maintain the structure in good repair.
- Unless these duties are delegated to the tenant or others in writing, a residential landlord must make reasonable provisions for the following:
  - » Extermination. If the tenant is forced to vacate the unit because of extermination, the landlord is required to decrease the tenant's rent in proportion to the amount of time the unit is unlivable.
  - » Supply locks and keys; remove garbage;
  - » Provide heat;

- » Provide cold and hot water;
  - » Maintain common areas in a clean and safe condition;
  - » Install a functioning smoke detector; and
  - » Maintain plumbing fixtures in reasonable working condition.
- Attempt to give tenant reasonable notice of repairs, inspections, and showings, and not abuse the right to enter the unit or use this right to harass the tenant.
  - Provide tenant with 15 days' written notice before terminating a month-to-month tenancy or seven days' written notice before terminating a week-to-week tenancy regardless of whether the lease is oral or written.
  - If the property the tenant has rented is foreclosed upon, there may be certain additional protections based on state law. The tenant may be entitled to stay in the property for the remainder of his or her lease, or up to 30 days after receiving notice. Check with an attorney to determine what provisions may apply to the landlord, his or her property, and then tenant leasing said property.

## Some Essential Things to Know as a Tenant

- Read and understand the lease in its entirety before signing it. Ask to have the terms of the lease put in writing, if this is practical in your particular circumstance. A written lease is preferable to an oral lease. The terms of a lease, like any contract, are negotiable. Make your best deal. If you do not understand a term, seek legal advice. Do not allow yourself to be rushed or intimidated into signing a lease you do not agree with or do not understand.
- Keep records: receipts of rent payments, copies of lease agreements, records of dam-

ages, and any correspondence between you and the landlord.

- Realize that a landlord does not always have to pay for repairs. However, if the landlord will reimburse you for repairs, before you proceed to hire someone and/or purchase supplies, get a written agreement from the landlord stating that the landlord will pay for them. If you are responsible for the damage, the landlord has no obligation to pay.
- Know your rights. You may be able to withhold rent if the landlord does not make certain repairs. If you give written notice to your landlord and the landlord fails to take steps to correct the situation within seven days after receiving notice, you may be able to withhold your rental payments by depositing them into an escrow account. Before withholding rent, however, you should always seek legal advice.

If you suspect that conditions of your apartment violate housing codes, you should do the following:

- Call the landlord and ask for repairs.
- Make a written request (sent by certified mail, return receipt requested) to the landlord for repairs. Keep the returned receipt.
- Report the situation to the local health department or building inspector if the landlord does nothing to improve the conditions.
- Consult a lawyer.

## Money Deposits Held by Landlords

Upon signing a lease, you may be required to pay a deposit for certain items. Some of the most common deposits required by rental agreements are:

- Damage deposits (to secure the landlord against the cost of repairing tenant-caused damage).

- Security deposits (to secure payments owed to the landlord if the tenant breaks the lease).
- Advance rent deposits (to be applied to future rent payments due, commonly known as “first and last month’s rent”).
- Key deposits (to ensure the return of keys to the landlord or cover replacement costs).
- Pet deposits (to secure the landlord against the costs of repairing pet-caused damage).

Landlords may also require other deposits. If your lease requires a deposit, the landlord should specify in writing (i) the purpose of the deposit, (ii) the condition of its return to you, including when and how it is to be returned, or (iii) the conditions permitting the landlord to keep it.

Many tenants worry about whether their deposits will be returned when their tenancy ends. Florida law requires landlords either to (i) place security deposits in a separate savings account (which can be interest or non-interest-bearing); or (ii) post a security bond in the amount of the deposits. You may ask the landlord to place your security deposit in an interest-bearing account, but the landlord need not comply. If the landlord chooses to place your security deposit in an interest bearing account, the landlord must pay you at least 75 percent of the annualized average interest rate payable on such account, or interest at the rate of 5 percent per year, simple interest.

Upon terminating your lease and vacating the property, one should leave the landlord a forwarding address as a prerequisite to obtaining your security deposit back and preserving your right to object to the landlord’s claim. If your landlord intends to return your full security deposit, the landlord must do so within 15 days, including interest, if applicable. If your landlord intends to withhold any of your security deposit, the landlord must give you written notice by certified mail within 30

days, stating a reason for withholding your security deposit. Upon receiving the written notice, you will have 15 days from the time you receive the notice to object to the security deposit deduction. Your objection must be in writing, sent to the landlord at the address given in the notice (use certified mail, return receipt requested for your verification). If you fail to object in writing within 15 days, the deduction is authorized. However, if you fail to object, you may still have the right to make a separate claim under Florida law. The landlord is required to return to you the balance of your security deposit within 30 days after notice was provided. If the landlord fails to give you the required 30-day notice, the landlord forfeits the claim against your security deposit, and you will be entitled to the return of the entire security deposit.

## Retaliatory Conduct

It is unlawful for a landlord to increase rent, decrease services, or threaten to evict a tenant as retaliation against the tenant. Examples of conduct for which a landlord may not retaliate include the following:

- The tenant complained to a governmental agency about suspected violations of the applicable building, housing, or health codes;
- The tenant organized, encouraged, or participated in a tenants’ organization; or
- The tenant made a formal complaint to the landlord pursuant to Florida law.

## Prohibited Practices

### *A Landlord May Not:*

- Interrupt or terminate utility services such as water, heat, light, electricity, gas, elevator, garbage collection, or refrigeration.
- Prevent the tenant from gaining reasonable access by changing locks or by other means.
- Remove outside doors, locks, roof, walls, or windows of the unit except for repair or replacement.

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- Remove the tenant’s personal property, unless the tenant has abandoned or surrendered the unit or has been lawfully evicted.
  - Prohibit a tenant from displaying, in a respectful manner, a small, portable, removable, cloth or plastic United States flag.

A landlord who violates these rules is liable to the tenant for actual and consequential damages caused, or for an amount equal to three (3) months’ rent, whichever is greater. The tenant is also entitled to recover costs and reasonable attorneys’ fees.

## **Eviction**

In Florida, a tenant may not be evicted without a court order. To evict a tenant for not paying the rent, the landlord must first give the tenant a three(3)-day written notice, requesting that the tenant either leave the premises or pay the rent owed. If, after three days, the tenant has neither paid nor vacated, the landlord may file a lawsuit in the county court. The landlord can also evict a tenant for reasons other than failing to pay rent. Most notably, a landlord can evict a tenant for violating provisions of the lease agreement.

When a landlord begins eviction proceedings against a tenant, this is called an action for possession. An action for possession requires the landlord to serve the tenant with notice of the lawsuit by delivering a copy of the complaint to the tenant. The complaint will request that the premises be vacated. The tenant has five days (not including weekends, holidays, or the day on which the notice of the lawsuit is received) to answer the complaint. The answer must be in writing. Also, upon receiving the notice, the tenant must deposit the past-due rent into the registry of the county court. Failure to pay such rent into the registry could result in the loss of the lawsuit.

If the tenant answers the complaint and deposits the disputed rental monies in the registry of the court, if applicable, the court will hold a hearing and listen to all the evidence presented. If the tenant wins, the case will be dismissed and the tenant will probably be allowed to stay. If the landlord wins, the court will direct the sheriff to put the landlord in possession of the premises after a 24 hours’ notice is conspicuously posted on the premises. After the passage of 24 hours, the sheriff executes the writ of possession, and the landlord or the landlord’s agent may remove any personal property remaining on the premises. The landlord may also be entitled to a money judgment for rent owed plus costs and attorneys’ fees. When an action for possession is based on a breach of a rental agreement other than for nonpayment of rent, the prevailing party is entitled to recover the costs including attorneys’ fees incurred by pursuing the court action.

Note: A tenant who remains after the rental agreement has terminated (without the landlord’s permission) may be held liable for twice the amount of rent due.

## **Mobile Home Park Lot Tenancies**

The Division of Florida Condominiums, Timeshares and Mobile Homes is charged with the regulation of these living environments. Issues related to increasing rent, notice of rent increases, notice provisions, eviction grounds, filing complaints against mobile park owners, and the making of complaints are covered by Florida law and this agency. For assistance call 850-488-1122 or write the Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, FL 32399. Additional information can be found at [www.myfloridalicense.com](http://www.myfloridalicense.com) and search for “mobile homes.”

# Rental, Rehabilitation, and Ownership Assistance Programs

## **The Housing Choice Voucher Program**

*(Formerly called the Section Eight  
Rental Assistance Program)*

The federal government funds a rental subsidy program known as the Housing Choice Voucher Program, formerly called the “Section Eight” Housing Rental Assistance Program. The housing choice voucher program is the federal government’s major program for assisting very low-income families, the elderly, and the disabled to afford decent, safe, and sanitary housing. Success in obtaining such housing depends upon the availability of qualifying units in the municipality. Landlords are not required to participate in the Housing Choice Voucher Program.

Participants are able to use housing choice vouchers to choose their own housing, including single-family homes, townhouses, and apartments that meet program requirements. Housing vouchers are NOT limited to units located in subsidized housing projects.

Eligibility for a housing choice voucher is determined by the Public Housing Agency (PHA) based on the total annual gross income and family size, and is limited to U.S. citizens and specified categories of non-citizens who have eligible immigration status. The housing voucher family must pay 30 percent to 40 percent of its monthly adjusted gross income for rent and utilities, and if the unit

rent is greater than the payment standard, the family is required to pay the additional amount. If you are interested in applying for a voucher, you must contact your local PHA. Local PHA contact information can be found at [www.hud.gov/offices/pib/phal/contacts/states/fl.cfm](http://www.hud.gov/offices/pib/phal/contacts/states/fl.cfm), or by calling your PHA Regional Director at (305) 520-5091.

Once the PHA determines that your family is eligible for housing choice vouchers, it will put your name on a waiting list, unless it is able to assist you immediately. PHAs may give preference to a family who is (1) homeless or living in substandard housing; (2) paying more than 50 percent of its income for rent; or (3) involuntarily displaced. Once your name is reached on the waiting list, the PHA will contact you and issue the housing voucher.

## **How Do Housing Choice Vouchers Work?**

A family with a housing voucher must find suitable housing where the landlord/owner agrees to rent under the program. This may include the family’s then-current residence. Rental units must meet minimum standards of health and safety, as determined by the local PHA.

The PHA pays the housing subsidiary directly to the landlord on behalf of the participating family. The family then pays the difference owed. Under certain circumstances, if au-

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thorized by the PHA, a family may use its voucher to purchase a modest home.

## Other Vouchers

Other types of vouchers, besides housing choice vouchers, are available for families who satisfy the following criteria (if you think you may be eligible to receive any of the following vouchers, contact your local PHA).

- **Family Unification Vouchers** are made available to families whose children may be taken away due to lack of adequate housing. Family unification vouchers enable these families to lease or purchase decent, safe, sanitary housing that is affordable in the private housing market.
- **Conversion Vouchers** assist with replacing housing needs that result from the demolition, sale, or mandatory conversion of public housing units. Also, conversion vouchers include providing assistance to families living in Section 8 projects, which are no longer eligible for participation.
- **Vouchers for People with Disabilities.** Three special types of vouchers are available to people with disabilities:
  - » Mainstream Vouchers are available to elderly and non-elderly families that have a family member with disabilities.
  - » Designated Housing Vouchers are available to non-elderly families who would be eligible for public housing if occupancy were not restricted to elderly households, and also to assist families affected by a PHA decision to designate their buildings as “mixed elderly and disabled buildings” but demonstrate a need for alternative resources for families with a disabled person.
  - » Certain Development Vouchers assist non-elderly families living with an elderly or disabled person to obtain affordable housing in “certain developments” that favor or limit residency to

the elderly and/or disabled. These are available to families who do not receive housing assistance.

- **Welfare to Work Vouchers** (“WtWs”) assist families transitioning from welfare to self-sufficiency.
- **Homeownership Vouchers** are awarded to families who wish to purchase their first home, but need help meeting the monthly mortgage and other homeownership expenses.

## Other Programs

### *Emergency Home Energy Assistance for the Elderly Program (EHEAEP)*

The Emergency Home Energy Assistance for the Elderly Program (EHEAEP) assists low-income households with at least one person age 60 or older, when the household is experiencing a home energy (heating or cooling) emergency.

Assistance is available for emergency, energy-related costs during the heating (October-March) and cooling (April-September) seasons. A home energy emergency may result from a delinquent utility bill, lack of fuel or wood, or the receipt of a shut-off notice. Eligible households may receive one benefit per season, currently up to \$400. Payments are made directly to the vendor, or by a two-party check to the vendor and client, for electricity, natural gas, propane, fuel oil, kerosene, or wood.

The purchase of blankets, portable heaters and fans, repairs of existing heating or cooling equipment, and payment of re-connection fees are also allowed.

To be eligible for assistance, households must have the following:

- A documented heating or cooling emergency;

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- At least one individual age 60 or older in the home; and
  - A net household annual income of at least 150 percent of the federal poverty guidelines (minus certain exclusions).

Contact your local Area Agency on Aging or call the Elder Helpline at 1-800-96-ELDER (1-800-963-5337) for more information on additional eligibility requirements. You can also contact the local Emergency Home Energy Assistance Program for the Elderly provider listed by Area Agency.

### **Section 1715z Home Ownership Subsidy Program**

Section 1715z is a home ownership subsidy program that assists low-income individuals with purchasing a home. HUD subsidizes

monthly mortgage payments to Federal Housing Authority (FHA) approved lenders, and provides mortgage insurance that guarantees the payment of mortgage premiums.

In order to qualify for this program, family income (at the time of initial occupancy) may not exceed 95 percent of the median income of the area, adjusted for family size. The Secretary of HUD may establish higher or lower income tests.

Applications are submitted to HUD by an FHA approved lender from whom the purchaser is seeking the loan. The amount of the subsidy received varies according to the income needs of the homeowner, the total amount of the mortgage payment, and the locality.

# Assisted Living Facilities (ALF)

## Introduction

An Assisted Living Facility (ALF) is a popular long-term care housing alternative licensed by the state. This is essentially Florida’s version of a board and care facility. An ALF is often a good option when a nursing home is not required but independent living is no longer appropriate. Medicare does not pay for ALFs. Fees are generally paid monthly, though “personal services” may be offered separately.

An ALF provides housing, food service, and one or more personal services. Personal services might include assistance with eating, personal care, and housekeeping; supervision of medication; arrangement for social and leisure services; and arrangement for appropriate health services. However, an ALF will not provide medical, nursing, dental, or mental health services directly. ALFs, therefore, are not nursing homes. In general, a person needing medical/nursing services requires a nursing home.

## Contract Requirements

Be careful in choosing an ALF. Carefully review the contract before signing. By law, the contract must be in writing and state the following:

- The services and accommodations to be provided;
- Rates;
- 30 days’ notice prior to any rate increase;

- Whether the facility is affiliated with any religious organization and that organization’s responsibility to the facility;
- The rights, duties, and obligations of the residents;
- The purpose for any advance payments, including refund policies for those payments.

## Inspecting ALF Records Before Placement

The ALF industry is licensed and regulated by the Agency for Health Care Administration (AHCA). Other departments participate in the oversight of ALFs, including the Department of Children and Families (DCF), the Department of Elder Affairs, and the Department of Health. You should request information about the facility from AHCA, including inspection reports, and review them before signing a contract. The most recent inspection report must be posted prominently in each facility. Upon request, a facility must give an applicant a copy of the latest inspection report. Anyone may obtain a list of ALFs that are currently in violation of statutes or regulations at [www.abca.myflorida.com/MCHQ/WebDmHelp](http://www.abca.myflorida.com/MCHQ/WebDmHelp).

Additional considerations in selecting an ALF are similar to those found in the section of this Handbook entitled “Health Care—Nursing Homes.”



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## Criteria for Admission and Residence to an ALF

An individual must meet certain criteria to be admitted to an ALF. Remember, an ALF is not a nursing home. This means that residents must be capable of performing many everyday activities independently. An ALF can provide assistance and supervision with these activities, but it is not a skilled health care facility like a nursing home or a hospital.

In general, for admission to an ALF, a resident must be an adult, be capable of performing day-to-day living activities with supervision or assistance, not require 24-hour nursing supervision, be free of stage II, III, or IV pressure sores, be able to participate in most social and leisure activities, be ambulatory, not display violent behavior, and be able to take their own medication, with assistance of staff if necessary. An ALF can accommodate special dietary needs and provide mobility services. A resident may be discharged if he or she is no longer able to meet these criteria, or is bedridden for more than seven days.

When possible, each resident should be examined by a licensed physician or nurse practitioner within 60 days prior to admission, and the medical report should be transmitted to the ALF. If a medical exam is not done prior to admission, it must be done within 30 days after admission.

## Resident Bill of Rights

- Residents may not be deprived of any civil or legal rights, benefits, or privileges guaranteed by law, the Florida Constitution, or the United States Constitution. Every resident has the right to the following:
  - » Live in a safe and decent living environment, free from abuse and neglect.
  - » Receive considerate and respectful treatment, with recognition of personal dignity, individuality, and the need for privacy.
- Retain and use personal property.
- Communicate freely.
- Participate freely in community services and activities.
- Manage his/her financial affairs.
- Share a room with his/her spouse, if both are residents of the facility.
- Enjoy exercise and the outdoors.
- Exercise civil and religious liberties.
- Receive adequate and appropriate health care.
- Receive at least 45 days' written notice of relocation or termination, unless medically necessary.
- Present grievances and recommend changes. Access to the Long-Term Care Ombudsman Council and other advocacy groups must be allowed.
- The Resident Bill of Rights must be posted prominently in each ALF facility and must be read or explained to residents who cannot read. This notice must include the contact information for the local ombudsman council, advocacy organizations, and the central abuse hotline. The ALF facility must allow access to a telephone to call any of these numbers.
- An inspection of the ALF occurs every two years, and must include private, informal conversations with a sample of the residents and the ombudsman council.
- ALF facilities may not prevent residents from exercising their rights.
- An ALF may not retaliate against residents for exercising their rights or for filing a complaint about the ALF.

- Any facility that terminates the residency of an individual who participated in the above-mentioned activities must show good cause in a court of competent jurisdiction.
- Persons submitting complaints or reports about an ALF are immune from prosecution (unless submitted in bad faith or maliciously).

## Other Resident Rights

An ALF must provide care and services appropriate to the needs of residents accepted for admission to the facility. Some of the most relevant are as follows:

- **Supervision.** Facilities must offer personal supervision, as appropriate for each resident, including the following:
  - » Monitor the quantity and quality of residents' diets.
  - » Observe residents' activities daily on the premises; and keep apprised of the general health, safety, and physical and emotional well-being of each individual.
  - » Maintain a general awareness of the residents' whereabouts. The resident may travel independently in the community.
  - » Contact the residents' health care provider or other appropriate party, such as the resident's family, guardian, health care surrogate, or case manager, if the resident exhibits a significant change or if the resident is discharged or moves out.
  - » Maintain a written record, updated as needed, with any significant changes, any illnesses which resulted in medical attention, major incidents, changes in the method of medication administration, or other changes which resulted in the provision of additional services.
- **Social and Leisure Activities.** Residents must be encouraged to participate in social, recreational, educational, and other activities within the facility and the community.
  - » The facility must provide an ongoing activities program. The program shall provide diversified individual and group activities in keeping with each resident's needs, abilities, and interests.
  - » The facility must consult with residents in selecting, planning, and scheduling activities.
  - » Scheduled activities should be available at least six (6) days a week for a total of not less than twelve (12) hours per week. Watching television is not considered an activity for the purpose of meeting the twelve (12) hours per week of scheduled activities, unless the television program is a special, one-time event of special interest to residents of the facility. A facility whose residents choose to attend day programs conducted at adult day care centers, senior centers, mental health centers, or other day programs may count those attendance hours toward the required twelve (12) hours per week of scheduled activities. An activities calendar must be posted in common areas where residents normally congregate.
  - » If residents assist in planning a special activity such as an outing, seasonal festivity, or an excursion, up to three (3) hours may be counted toward the required activity time.
- **Arrangement for Health Care.** In order to facilitate resident access to needed health care, the facility should, as needed by each resident do the following:
  - » Assist residents in making appointments and remind residents about scheduled appointments for health services.
  - » Provide for, or otherwise arrange, transportation to needed health services.

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- » The facility may not require residents to see a particular health care provider.
  - **Activities of Daily Living.** Facilities must offer supervision of or assistance with activities of daily living, as needed. Residents should be encouraged to be as independent as possible in performing daily activities.
  - **Nursing Services.**
    - » The facility may employ or contract with a nurse to do the following:
      - a. Take or supervise the taking of vital signs;
      - b. Manage pill-organizers and administer medications;
      - c. Give prepackaged enemas pursuant to a physician's order; and
      - d. Maintain nursing progress notes.
    - » The nursing services listed above may also be delivered in the facility by family members or friends of the resident, provided the family member or friend does not receive compensation for such services.
  - **Resident Rights and Facility Procedures.**
    - » A copy of the Resident Bill of Rights, or a summary provided by the Long-Term Care Ombudsman Council must be posted in full view in a freely accessible resident area, and included in the admission package.
    - » The facility must have a written grievance procedure for receiving and responding to resident complaints.
    - » The address and telephone number for lodging complaints against a facility or facility staff must be posted in full view in a common area accessible to all residents. The addresses and telephone numbers are the District Long-Term Care Ombudsman Council, 1-888-831-0404; Disability Rights Florida, 1-800-342-0823; and the Agency Consumer Hotline, 1-888-419-3456.
    - » The statewide toll-free telephone number of the Florida Abuse Hotline, 1-800-96-ABUSE or 1-800-962-2873, must be posted in full view in a common area accessible to all residents.
    - » The facility must have a written statement of its house rules and procedures which shall be included in the admission package. The rules and procedures must state the facility's policies, such as resident responsibilities, the facility's alcohol and tobacco policy, medication storage, the delivery of services to residents by third party providers, resident elopement (based on the facility's definition of elopement), and other administrative and housekeeping practices, schedules, and requirements.
    - » Residents may not be required to perform any work in the facility without compensation, except that facility rules or the facility contract may include a requirement that residents be responsible for cleaning their own sleeping areas or apartments. If a resident is employed by the facility, the resident must be compensated, at the minimum wage.
    - » The use of physical restraints shall be limited to half-bed rails, and only upon written order of the resident's physician, who shall review the order every six months, with the consent of the resident or the resident's representative. Any device, including half-bed rails, which the resident chooses to use and can remove or avoid without assistance shall not be considered a physical restraint.
  - **Third Party Services.** Residents or their representatives may not be prohibited from utilizing third party services, including
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home health agencies or private nurses. A resident must, however, comply with delivery policies of the facility.

- **In Florida, residents may sue an ALF that violates a resident's rights.** A private attorney may be hired by a victim or the victim's family to sue for actual and punitive damages, along with reasonable attorneys' fees and expenses if the resident wins. The State Attorney, AHCA, DCF, and/or the Long-Term Care Ombudsman Council should also be contacted for a suspected

violation of the Resident Bill of Rights. The Long-Term Care Ombudsman may also be very helpful in many situations which do not rise to the level of "resident rights violations." For example, the Ombudsman can often facilitate communication among residents, families, and the administration of the facility to resolve various issues. You can visit its website at *[ombudsman.my-florida.com](http://ombudsman.my-florida.com)* or call the toll-free number for the Long-Term Care Ombudsman Council 1-888-831-0404.

# Continuing Care Agreements

### **General Information about Continuing Care Agreements**

Continuing care contracts or care for a term of years contracts are another means of financing shelter, food, and limited care for older Floridians. Continuing Care Agreements are generally long-term commitments, sometimes providing for different levels of care as a senior's needs change. In contrast to ALFs, where the contract for a stay is like a rental agreement, a continuing care contract is treated as a financial product. In Florida, establishments that provide continuing care for a term of years or for life in exchange for a lump sum of money are regulated by the Florida Office of Insurance Regulation.

Prior to signing a continuing care contract with a facility, a prospective resident should review the annual statement filed with the Office of Insurance Regulation. A facility provides room and board and other incidentals to its residents through a continuing care contract in return for money or property. Florida law requires that such contracts state the following:

- Whether the care is for one or two persons;
- All properties to be transferred and/or amounts to be paid by the resident or on behalf of the resident;
- The services to be provided for the resident and for how long;
- An estimate of how much the facility will charge for any services not included in the contract;
- Terms for cancellation of the contract;
- Health and financial condition requirements for a resident to be accepted and remain at the facility;
- The circumstances under which the resident will be permitted to remain in the facility in the event of financial difficulties;
- Provision for contract cancellation either by the facility or by a resident after giving 30 days' notice, and a discussion of the refund policy for prepaid fees;
- The effect of marriage;
- Cancellation in the event of the resident's death;
- The policies which may lead to changes in monthly recurring and nonrecurring charges or fees for receipt of goods and services;
- Statement regarding the facility's affiliation with any religious, nonprofit, or proprietary organization or management entity, if any; and
- Statement affirming that charges for care paid in one lump sum shall not be increased or changed during the duration of

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the agreed upon care, except for changes required by state or federal assistance programs.

## **Important Things to Know About Continuing Care Agreements**

- A resident has the right to pull out of a continuing care contract and receive a full refund of any funds paid, without penalty or forfeiture, within seven days after executing the contract.
- The resident or the resident's legal representative has the right to inspect the provider's most recent financial statement and inspection report before signing the contract.
- Before the transfer of any money or other property to a provider by or on behalf of a prospective resident, the provider must present a typewritten or printed copy of the contract to the prospective resident and all other parties to the contract.
- If a resident dies before occupying the facility, or through illness, injury, or incapacity is precluded from becoming a resident under the terms of the continuing care contract, the contract is automatically canceled, and

the resident or the resident's legal representative must receive a full refund of all monies paid to the facility, except those costs specifically incurred by the facility at the request of the resident, if any, and set forth in writing in a separate addendum, signed by both parties to the contract.

Remember that unless the contract violates the law, it will be binding. You should consult an attorney and try to negotiate the terms of a continuing care contract which will suit your needs. In addition, remember that if you want to cancel your contract and do so within seven days after making an initial deposit or executing the agreement, you cannot be charged penalties of any kind.

Any agreement between a continuing care facility and a prospective resident (or the resident's family) for the provision of care in return for payment of any kind is contractual, and any written statements should be read and understood before being signed. Guarantors or co-signers of these contracts are bound to pay the debts of the resident should the resident become unable to pay. Persons considering becoming guarantors should take special care to understand the obligations they may incur.

# Protecting Yourself from Crime

## Remedies

Crime can strike anyone at anytime, anywhere. Unfortunately, many criminals target the elderly because they believe that the elderly are vulnerable. Furthermore, Florida has a large, and growing, senior population. So if you are new to Florida, don't assume that the casual environment means that you can be less vigilant.

However, there are ways to protect yourself from becoming a victim. For example, you and your neighbors can contact your local police to establish a Crime Watch program in your neighborhood. In addition, a few simple precautions could prevent you from being targeted for a robbery, burglary, or violent assault. This section will suggest ways to prevent some of the most common crimes from happening to you.

## Robbery

Robberies and purse snatchings are difficult to prevent, but there are things that you can do to guard against property loss, injury, or death. You can reduce your chances of becoming a victim by doing the following:

- Do not carry large amounts of cash. Credit cards and checks can be replaced. Cash cannot be replaced.
- Do not discuss your financial affairs in public or around strangers. Disclosing banking and similar information could set you up for a robbery.

- Stay away from dark and deserted places at night.
- Always lock your car doors, even when you are inside the car or next to the car. It is possible to have items stolen from the car while you are at a stop sign or getting gas.
- Avoid walking alone.
- Do not use an outdoor ATM at night. If you need to get cash after dark, find an indoor location, such as a mall, grocery store, or restaurant. Remember, many vendors allow you to get "cash back" when you purchase an item with your debit/credit card.

In the event of a holdup, do not resist. If your purse is snatched, let it go. Your wallet is replaceable; your life is not.

## Preventing Burglary and Theft Generally

Take adequate security measures to protect yourself and your home. Many burglaries can be avoided by taking some common precautions.

Never provide sensitive information to incoming callers or in response to an e-mail, even if the caller or sender says they are from your financial institution. A reputable financial institution will not call you out of the blue to ask for your account number or Social Security number.

Do not hide a door key under the doormat, behind the shutter, or in a mailbox. Everyone knows these tricks. Leave a key with a trusted neighbor. If you park your car inside a secure garage, you can also purchase a magnetic key case that attaches to the bottom of your car. The safest key cases need a code to open them. Do not use a key case if you park your car outside.

Install an alarm system if you can afford one. A basic alarm system may be cheaper than you think, and many companies offer installment payment plans.

Turn on some lights when you are away. A dark home or apartment attracts burglars. Try to leave two lights on, particularly in the kitchen and living room, the two most used rooms at night. You should not, however, leave the same lights on every time you are out. Outside lights near doors and large windows discourage burglars.

Keep all doors and windows in good repair. A broken window or door is an invitation to a burglar. Many burglaries occur because a burglar entered through a broken door or window.

<b>HOME SECURITY CHECKLIST</b>		
Yes	No	
		Do exterior lights illuminate all entrances to your home?
		Is shrubbery kept trimmed so a burglar can't hide near windows and doors?
		Are garage doors kept closed and locked at all times?
		Are exterior doors made of solid core construction (including door leading from the garage to house)?
		Is there a peephole viewer (180°) on the front door?
		Are sliding glass doors secured with auxiliary locks or pinned, and are screws in the track to prevent removal of doors?
		Are exterior doors secured with a deadbolt lock (single or double cylinder) with a minimum 1-inch throw?
		Are windows secured with auxiliary keyed locks or pinned with a nail?
		Do you report suspicious persons or activity in the neighborhood to the police immediately?
		Are doors locked at all times?
		Are your valuables marked with your Florida driver's license number and do you have a record of them with complete serial number, make, and model?

If you are able to answer yes to all of the above precautions, you have greatly decreased the likelihood of your home being burglarized.

Check to see who is at the front door before opening it to strangers. Require identification from all repair and delivery personnel. If in doubt, check the authenticity of the identifica-

tion by calling the company before letting the person into your home. Check I.D. through the peephole viewer. A wide angle viewer is easy to install and inexpensive.

**Maintain adequate locks on doors and windows.** Weak or easily broken locks give burglars a reason to break into your house.



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Most burglars are amateurs; however, they are often successful because many locks are inadequate. A dead-bolt lock with a one-inch bolt is recommended. The key-in-the-knob type lock is not adequate and should be replaced or supplemented with a dead-bolt lock.

When you are going away for a long period of time, ask a friend or neighbor to check on your house every day. Leave the lights on when you leave. Your friend can do this for you, or you can purchase timers and motion-sensitive lights, available at any hardware store. Cancel deliveries, newspapers, and mail. Newspapers piled up near your door or mail overflowing from your mailbox indicates to a burglar that you are not home.

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## Women and Street Crimes

There are basic steps that women can take to protect themselves from robbery and physical or sexual assault. Keep the following points in mind.

### **Do not leave your purse on a counter while shopping.**

When in a crowd,

hold your purse firmly. A cross-body purse is less attractive to a purse snatcher than a purse you carry on one shoulder. If at all possible, avoid carrying a purse.

**Do not list your first name** in the phone book or on a mailbox. This invites prank calls.

**Do not let strangers into your home.** Ask for identification if it is necessary to let someone inside. Be fully dressed when delivery men or others come to your home. When possible have delivery people leave packages outside.

**When riding a bus,** watch to see if anyone is staring at you, then watch to see if that person follows you off the bus. Anticipating trouble is the best way to prevent it.

**Take a taxi at night** if you can afford it, and do not hesitate to ask the driver to wait until you are inside.

**Use common sense** when alone in public places. Be aware that self-service elevators can be dangerous. Do not step into an elevator at night with a stranger if you can avoid doing so.

**Keep shades pulled at night.** Do not let strangers see that you are alone, and do not undress unless the shades are pulled.

**To guard against the possibility of sexual attack, a woman should do the following:**

If a portion of the door is glass, install a lock that requires a key both on the inside and outside. If you use a padlock, it should be of pick-resistant quality and have a hardened shackle. Remove the identification numbers and record them elsewhere before you use the padlock.

If your door frame is weak, use a lock which does not depend on the frame for strength. Door chains do not provide security against forced entry. Exterior door hinges should always have non-removable hinge pins.

All windows, except those providing emergency exits, should be secured by key-controlled inside locks. Place a board lengthwise in the floor track of sliding doors. Never leave windows or doors unlocked if you are leaving your home, even if only for a few minutes.

**Trim your shrubs.** High shrubs and bushes that hide doors and cover windows should be trimmed to reduce hiding places for burglars.

**Do not make it easy for the burglar to find valuables.** Do not keep large amounts of money in the house. Do not place your money and jewels in the bedroom; burglars often search there first. Store valuable property in a closed area — preferably a locked closet, a safe, or a safety deposit box. Do not put valuable items near windows where they are visible from the street.

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- Always walk with a whistle and keys in hand for quick access to car, home, or office. Keys can also be used to repel an attacker in an emergency.
  - When walking alone, be aware of your environment and be cautious of the people who are around you.
  - If you go out at night, tell someone where you will be. Ask that person to look for your return, and to notify the police if you do not return after a certain time. Stay in well-lit areas and take the most direct route to and from your destination. Carry a cell phone to alert 911 if an emergency occurs, and so friends and family can communicate with you.
  - Notice stores or establishments that stay open at night and places to go where you can get help.
  - If you suspect that you are being followed, go into the nearest store or walk out into the street, where you can easily be seen. Blow a whistle, shout “fire,” or scream to get attention.
  - If a police officer pulls you over after dark, turn on your hazard lights and drive to the nearest gas station or other well-lit area. Officers should recognize this maneuver. If you have a cell phone, dial 911 and let the operator know that you intend to drive until you find a safe place. The operator can relay the information to the officer. Regardless, you should follow any specific instructions given to you by law enforcement.
  - If you have car trouble, **stay in the car and keep the doors locked**. Use your cell phone to call for assistance. You should keep your insurance company’s Roadside Assistance number in your contacts list or your glove compartment. If you do not have a cell phone, turn on your hazard lights and wait for law enforcement.
  - Drive with car doors locked **at all times**. Keep your windows up if possible.
  - Choose driving routes that are direct and well-traveled.
  - Avoid empty stairwells, basement laundry rooms, or empty laundromats.
- If you are ever in a situation where you think you are going to be attacked, first and foremost, try to talk the attacker out of it. Distract him, and use all of the delaying tactics at your command. If the attacker has a weapon, put your life first. Struggling may result in your being hurt or killed. If you are a victim of rape, contact your local rape treatment center for counseling and treatment.

### **Florida Crime Victims’ Bill of Rights**

The Florida Constitution provides that all Florida victims of crime or their lawful representatives are entitled to the right to be informed, be present, and be heard when relevant at all crucial stages of criminal proceedings (as long as these rights do not interfere with the rights of the accused).

Florida Law has guidelines for the fair treatment of victims and witnesses in the justice systems. It authorizes a direct-support organization to assist victims of crime. It provides victims the opportunity to have a defendant tested for HIV if there was a transmission of body fluids during the crime. It also designates a Victims Compensation Trust Fund to assist victims of violent personal crimes to pay for stipulated expenses they incur as a result of the crime.

If you are the victim of a crime and have suffered a physical injury, or are the surviving spouse, parent, child, or dependent of a victim who died as a result of a criminal act, you may be eligible for financial assistance from the State under the Florida Crimes Compensation Act. Such assistance may include reimbursement for medical expenses, lost wages, and funeral expenses.

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The Florida Attorney General's Division of Victim Services not only serves as an advocate for crime victims and victims' rights, it also administers a compensation program to ensure financial assistance for innocent victims of crime. As part of its responsibility, the division also notifies victims of the status of any appellate decisions regarding their cases. The toll-free number is 1-800-226-6667. In addition, victims may also contact the Bureau of Victim Compensation at (850) 414-3300.

## Elder Abuse

Older persons and their families today face increased economic and emotional pressures. Often, these are pressures over which we feel we have no control. The result can be undesirable living conditions. For the elderly adult who is dependent on a caregiver, the result may be abuse, exploitation, or neglect.

There are many types of abuse. Although actual physical violence by one person against another (in this case the elderly adult) is not the most common form of abuse, it does occur. More often, the older adult is subjected to psychological abuse, such as unnecessary neglect or verbal taunting. Financial abuse of elderly persons' resources and possessions is also prevalent.

Older Floridians have enhanced protections. **Help is available.** There is a response network in Florida. If you feel you are being abused, neglected, or exploited, contact the Department of Children and Families (DCF) immediately, at **1-800-96-ABUSE**. This is a 24-hour-a-day toll-free number. When you call, DCF will intercede on your behalf and make appropriate arrangements for your safety and well-being. DCF's goal is to protect you while allowing you to remain in your own home.

If the DCF investigator finds sufficient evidence of abuse, neglect, or exploitation, the Department will provide protective services (e.g., family counseling, additional home health care, placement and protective supervision, or emergency shelter placement).

If you are the victim of physical violence, call the police and DCF immediately. Go to your doctor's office or a hospital emergency room if you are injured. If you have little or no money, a county hospital will provide emergency medical treatment. Health insurance plans (including Medicare and Medicaid) usually cover medical expenses resulting from physical abuse. Tell the doctor or nurse that your injuries are the result of abuse. Florida law requires professionals, such as physicians, nurses, and other health care workers, as well as anyone else who knows or has a reasonable cause to suspect that abuse is occurring, to report this knowledge or suspicion to DCF.

You may also qualify for a domestic violence injunction or an injunction against repeat violence, through which you can seek exclusive occupancy of the home you may share with the abuser. You may also be entitled to temporary support through your injunction if you are married to an abusive spouse.

Document the incident by keeping your medical records and the police report. This will enable you to be reimbursed by your insurance company, protect yourself through legal action, and possibly receive reimbursement through the Victims of Crime Act.

If you or someone you know is not receiving adequate care or is being neglected by his or her family or caretaker, please seek help immediately. Help cannot be provided if you do not make the situation known to the proper agency or authorities. Do not be afraid or ashamed to report any situation that you feel is not what it should be. Both the victim and the abuser need help, and, without intervention, the abuse is often repeated. Do not worry about the confidentiality of your information when making a report. Confidentiality is strictly enforced by law. The law recognizes that older adults have the right to respect and dignity.

# Consumer Guide

### Introduction

Consumers of all ages are vulnerable to the fast pitch and hard sell of the professional salesperson. Often, incredible claims and outright lies are used to persuade the buyer.

Even though Florida has consumer protection laws, your best protection is to be a well-informed, careful buyer. A smart consumer should be knowledgeable of legal rights, cautious of product exaggerations, and unafraid to demand satisfaction. This section is designed to help you become an alert consumer so you can avoid being taken advantage of by fast-talking sales people or misleading advertising. This Handbook also provides a description of available remedies for dissatisfied consumers.

Be proactive: consumer-conscious senior citizens in Florida have the opportunity to volunteer their time and energy to help the Attorney General's (AG's) Office fight back against con artists who typically prey upon them. If you are interested in volunteering, you can become part of the AG's statewide program known as "Seniors vs. Crime." The program trains retired citizens, known as "Senior Sleuths," to educate Floridians about consumer fraud and to participate in some consumer investigations. In addition, the volunteers regularly conduct seminars about how seniors can protect themselves from becoming crime victims. For program information, consum-

er inquiry or complaints, or to schedule a consumer seminar, please call **1-800-203-3099**, or visit its website at [www.seniorsvscrime.com](http://www.seniorsvscrime.com).

### Contracts and Buying on Credit

Most major purchases involve the making of a contract between you (the buyer) and a merchant (the seller). If you have ever bought a car, hired someone to do repairs, or purchased a pair of shoes using a credit card, you have entered into a contractual relationship.

Contracts are usually involved when credit is extended for the purchase of an item or service and payment is spread out over a period of time. This arrangement is commonly known as buying on time or buying on credit. In effect, the seller – or more often, the **lender** – extends a loan to you in the amount needed to purchase the item or service. You, in turn, agree to pay back that money, plus a finance charge.

Whenever you buy on credit, make sure you know the total cost. Find out how long you will have to make payments, and be sure that you are able to make them.

You should be familiar with the following glossary of credit terminology:

- **Cash Price:** The price of an item or

It is important to note the distinction between "seller" and "lender." Even if a product is defective, you may still be obligated to your lender-credit card company for the amount you borrowed to buy something from the seller.

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service if paid for in cash at the time of purchase.

- **Finance Charge** (also carrying charge or price-differential): The cost for the privilege of paying in installments over a period of time. It is added to the cash price.
- **Deferred Payment Price:** The total amount that you will pay for the item or service during the installment period. Cash price + finance charge = deferred payment price.
- **Annual Percentage Rate (APR):** The rate of interest you pay for the privilege of buying on credit. By law, in almost all cases, the APR must be disclosed.

Finance charges and interest rates vary; be sure to shop around for the best rate. You should also be aware that Florida law limits the finance charges a consumer must pay. **The limit depends upon the type of transaction.** For example, the allowable finance charge for a motor vehicle contract may not be the same as the allowable finance charge on a credit card purchase. If you have questions about the legal limit on a finance charge for a particular transaction, contact the Florida Office of Financial Regulation/Division of Consumer Finance for more information, 850-487-9687; [www.flofr.com](http://www.flofr.com).

Also, a new federal agency, the Consumer Financial Protection Bureau, is an excellent resource for learning about financial products generally, including credit cards, installment purchases, and loans. You can find on its website, [www.consumerfinance.gov](http://www.consumerfinance.gov), summaries of important consumer laws and regulations, as well as information about proposed regulations to protect your rights, such as the Federal Truth-in-Lending and Credit Card Acts.

When shopping for credit, remember the following tips:

- Persons and businesses who extended you credit must tell you the finance charge

and the annual percentage rate of interest (APR). Look for these first.

- Credit card companies must disclose how long it will take for you to pay off your debt if you only make minimum payments, and the total interest you will pay.
- These companies must also give you 45 days' notice before increasing your interest rate, and must give you an opportunity to opt out of the agreement.
- To save money, choose the lender who charges you the lowest annual percentage rate.
- Credit unions are limited in the amount of interest they may charge, and their rates are usually low; by comparison, small loan companies usually charge extremely high rates.

Before signing any sales contract, ask yourself these questions:

- Do I know what I am buying?
- What kind of protection do I have in the way of guarantees and warranties? (Buying something "as is" means no warranty.)
- Do I understand what the contract says and what my obligations are?
- Can I get a similar item elsewhere at a better price?
- If the purchase is financed, am I satisfied with the price I am paying for the loan?
- If financed, do I understand my obligations to the lender, who may not be the same as the seller?

## **Basic Contract Do's and Don'ts**

**DO** get service estimates in writing.

**DO** insist that the salesman let you take home a copy of the contract **BEFORE** you sign it.

**DO** show the contract to a lawyer **BEFORE YOU SIGN** if you have a question about any provision.

**DO** insist that all promises (guarantees and warranties) be put in writing.

**DO** keep copies of all contracts, payment records, and complaint records in a safe place.

**DON'T** sign anything unless you have read it carefully (or have had it read to you), and you fully understand what it says.

**DON'T** ever sign a contract with blank spaces to be filled in later by a salesperson.

Most of all, take your time when making a major purchase. Don't let salespeople pressure you into making a quick decision. Your strongest power as a consumer is to walk away from a deal.

## Can I Cancel My Contract?

### *A Summary of the "Cooling Off" Rule*

Most contracts in Florida **DO NOT** have a "cooling off" period. Unless the contract says so in writing or Florida Statutes provide otherwise, there is no three-day right to cancel.

Florida law provides a right to cancel in very specific circumstances. Some examples include home solicitation sales, and contracts for ser-

Note that any promises made but not written into the contract usually cannot be enforced.

There is no three-day right to cancel a contract to buy or lease a car in Florida unless it says so in the contract. This means you cannot return the car – even the very next day – without significant financial consequences.

If you have a question about whether there is a three-day cooling off period, or any other right to cancel a particular type of contract under Florida law, you may call the Florida Consumer Protection and Information Hotline, 1-800/435-7352, **BEFORE** you sign an agreement. After you sign is too late to learn that your purchase is not on "the list."

By law, you are required to send **WRITTEN** notice to the company before midnight of the third business day after the date of the transaction.

vices to be provided in the future and on a continuing basis, such as health clubs.

## Door-to-Door Sales

### *Home Solicitation Sales*

Beware the door-to-door salesman! Even the most strong-willed customer occasionally falls prey to an enterprising door-to-door salesperson. You are not obligated to buy anything even if a salesperson spends a long time demonstrating a product or explaining a service to you. If you are not pleased with such a purchase, you do have options. If your purchase is for **more**

than \$25, you have the **right** to cancel the sale within three days.

Once the seller receives your notice, he or she has 10 days to refund your money, return documents that you have signed, and return any goods or property that you have traded in. The seller is not entitled to keep any portion of your deposit after you have properly canceled the agreement. If the seller left any products with you, you must take reasonable care of them. The seller has up to 40 days in which to pick up the products. You are not responsible for returning the products. If the seller fails to pick them up within that time, the products are yours and you have no obligation to pay for them. Similarly, if the seller has performed any services within the three-day cancellation period and you have properly canceled in writing, the seller is not entitled

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to any compensation for those services.

Florida also has a law specifically designed to protect older persons from unfair and deceptive sales tactics.

The law applies to persons 60 years of age or older. If any salesperson willfully uses methods that intend to victimize an older consumer, that salesperson may be liable for up to \$15,000 in civil penalties.

## Consumers and Home Repairs

Whenever you hire someone to work on your home, exercise caution and shop around. Don't feel you have to hire the first contractor that you find. Get two or three written estimates to see who is offering the best bargain. Check references BEFORE you hire. When construction is involved, check whether a license or permit is required for the work, and whether or not the contractor you are considering has the appropriate license.

Once you've chosen your contractor, make sure that your agreement is in writing. If all the important terms are not in writing, you may not have any recourse if something goes wrong. Terms such as the price, a complete description of the work to be done, a time frame for completion of the work, when payments are due, and a guarantee of the work to be done should be part of the agreement signed by you and the contractor. Negotiating a complete written agreement will help to avoid arguments after the work is completed.

If you plan to pay for work on your home in installments and you default on the payments, the contractor can place a mechanic's lien on your house. A mechanic's lien, like a mortgage, can lead to foreclosure and must be satisfied before you can sell your property. **Caution:** Be aware that a mortgage or an equity line creates a lien on your property; if you use a mortgage or equity line to finance construction

To find out whether a license or permit is needed, and whether the contractor you're considering has the proper license, call the Florida Department of Business and Professional Regulation, 1-850-487-1395, or verify a license on [www.myfloridalicense.com](http://www.myfloridalicense.com).

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and you are unable to make payments, you put your home at risk!

## Collection Activities

When you are paying for a product or service over time and get behind on your payments, there will be consequences. The original creditor – and eventually a collector – will contact you about payment of the amount you owe. Even though you may owe the money and even though creditors have the right to collect, Florida and federal law limit what a collector can say or do; harassment is prohibited. If you want to stop contact by a collector, send a certified letter to the collector asking that contact cease. The Consumer Financial Protection Bureau, 1-855-411-2372, has good sample letters which you can download from its website, [www.consumerfinance.gov](http://www.consumerfinance.gov), to use as a guide. This federal agency will also take and investigate your personal complaint about collection harassment. "Harassment" includes the use or threat of force or violence, the use of abusive language, and sending correspondence in an envelope or on a postcard designed to embarrass you. To report abusive collection practices in Florida, you may file a complaint with the Florida Office of Financial Regulation, 1-850-487-9687, [www.flofr.com](http://www.flofr.com) and search "file a complaint." Be aware, however, that this agency cannot mediate or intervene on behalf of individual consumers.

## Garnishment

Although the creditor has to stop contacting you by mail or telephone if you ask them to do so, you can still be sued and a judgment entered against you. Once a judgment is entered, garnishment is a remedy available to the plaintiff-creditor. Garnishment is a court order permitting the creditor to take your income or assets. However, Florida law provides protection for certain types of income and certain types of assets. For example, in general, a creditor cannot take your homestead. That is NOT the case when the creditor is your lender



or your homeowners' association; you owe taxes; or you owe a contractor who has perfected a mechanic's lien: in those cases your homestead can be foreclosed.

Additionally, even if there is a judgment against you, your Social Security, SSI, and other federal benefits are automatically protected from garnishment.

Other important information:

- Do not mix funds that creditors can't touch (like Social Security), with funds that are not protected (like investment income or a gift).
- Do not ignore a notice that a creditor is attempting to garnish your bank account or your wages. You may be able to protect all or some of your money, but you must take action.
- If a creditor attempts to seize assets, like your car, contact an attorney as soon as possible to find out whether it qualifies for Florida's personal property exemption.

## Buying a Car

The **Florida Lemon Law** protects consumers who purchase a new car that has defects or impairments. Defects must be reported to the manufacturer or the car dealer within the first 24 months of purchase or lease. If the manufacturer fails to fix the vehicle, the manufacturer must buy back the defective vehicle and give the consumer a refund or a replacement vehicle.

Consumers should **keep records** of all repairs and maintenance on the vehicle. These records should include the time and date that the vehicle was taken in for repair, the date the consumer was notified that the work was

In Florida you cannot be jailed because you owe a debt.

**CAUTION:** "Offset" is different from garnishment and doesn't even require a lawsuit. If you owe a federal debt (such as a benefits overpayment, income tax, or a federally-insured student loan) or child support arrears – even if the child is an adult – the government may withhold your benefits.

completed, odometer mileage when the vehicle was taken in to the shop and when it was picked-up, and invoices for payment of expenses for repairs. Consumers should always obtain a written report for each examination or repair of the vehicle.

If the vehicle has had to be repaired for the same problem at least three times, the consumer must give written notification of the issue to the manufacturer by mail to give the manufacturer a final opportunity to repair the vehicle. The vehicle's owner's manual may contain a form for this purpose. Upon receiving the notification, the manufacturer has 10 days to provide the consumer with an accessible repair facility and then 10 days to fix the vehicle.

If the vehicle is in and out of the repair facility for 15 or more cumulative days, the consumer must give written notification of this fact to the manufacturer by mail. The manufacturer must have at least one opportunity to inspect or repair the vehicle. The consumer may be eligible for a refund or a replacement vehicle if the vehicle is out of service for repair of one or more nonconformities for at least 30 days.

If the manufacturer does not refund or replace a vehicle, consumers may submit the dispute to a manufacturer-sponsored program for arbitration. That program should have been certified by the State of Florida when the consumer purchased or leased the vehicle. The manufacturer's warranty or other written material should explain how and where to file a claim.

A list of manufacturers who sponsor state-certified programs can be found at [www.myfloridalegal.com/lemonlaw](http://www.myfloridalegal.com/lemonlaw). You



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may also call the Lemon Law Hotline (listed below).

If a manufacturer has no state-certified program, the program fails to make a decision in 40 days, or the consumer is not satisfied with the program's decision, the dispute must be submitted to the Florida New Motor Vehicle Arbitration Board, which is administered by the Office of the Attorney General. The Consumer must submit a Request for Arbitration form available at [www.myfloridalegal.com/lemonlaw](http://www.myfloridalegal.com/lemonlaw) or contact the Lemon Law Hotline (listed below).

For more information on the Florida Lemon Law, visit [www.myfloridalegal.com/lemonlaw](http://www.myfloridalegal.com/lemonlaw) or call the Lemon Law Hotline at 1-800-321-5366. Consumers outside Florida should call 1-850-414-3500.

## **Schemes, Frauds, and Rip-Offs**

Unscrupulous dealers and businesses have many ways of getting you to part with your money. Unfortunately, bargains and deals that are too good to be true usually are, and you are the one who ends up paying for the costly lesson in consumer education.

There are dozens of methods to take advantage of the unwary and unsuspecting buyer. Some schemes involve products and services commonly purchased by senior citizens.

### **Bait and Switch**

This sales tactic has taken in even the most careful and skeptical of buyers. The store or business employing bait and switch advertises a bargain that is available in limited quantities to get you into the store. Once there, the salespeople try to get you to buy a more expensive item—most often by downgrading the bargain that brought you to the store in the first place. Frequently, the more expensive item is overpriced.

### **Pigeon-Drop**

Generally, this is a scheme designed to rob people—particularly elderly persons—of their

savings. Usually a seemingly pleasant person introduces him or herself, and informs the victim that he or she has recently found a large amount of money. This person wants to give some of the money away to a deserving and honest person because he and his spouse do not need all of it. The victims are told that proof of their good faith is needed before they can get the money. This proof is cash, called good faith money. An amount is agreed upon, and the victim delivers it to the “nice” person. What follows is either: (1) an exchange for a box which supposedly contains the large amount of money but actually does not; or (2) the victim gives his or her money to the thief and expects to receive his or her windfall later, but never does. These cons sometimes sound trustworthy, **but they never are**. When in doubt, call the police or the Better Business Bureau to see if people are using a particular scheme to victimize others in the community.

## **Health Insurance Supplements and Life Insurance**

It is important to have adequate health and life insurance throughout your life, but as the retirement years approach—and even after retirement—these insurance plans become even more important. It is necessary, though, to avoid being scared, rushed, or tricked into buying policies that do not provide the necessary coverage and that just duplicate the coverage that you already have.

When buying health insurance, accident insurance, or life insurance policies, make sure you know what benefits you are getting for your money, including the length of the policy. A **term insurance policy** ends at some point other than at your death, such as when you reach age 65. You may pay premiums for many years and when your policy ends you will find out that you will receive no benefits for all those premiums. You should also note that credit life and disability insurance (sold to cover the balance of your consumer purchases in the event of your death or disability) are usually overpriced and normally not a very good deal for consumers.

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Also, make sure that **you know whether the amount of benefits which your policy provides will change** when you reach a certain age. Some policies are written so that after you reach age 60 or 65, you are eligible for only half of the benefits you would have received at a younger age.

Make certain that all health insurance solicitations received by mail and all newspaper and magazine advertisements do not mislead you with the words “supplemental health” and “Medicare.” These policies only supplement **some or all** of what Medicare **does not** pay. Do not think of them as substitutes for the Medicare program. They are not. Before investing your money, you should make sure you know exactly what is covered and what is not. For example, some supplemental health plans only cover costs of hospitalization, but not medication or doctors’ fees. Other plans cover hospitalization and doctors’ fees, but do not include certain illnesses.

If you do not understand a policy that you are considering signing, have someone you trust read it for you. If that does not clear things up, you should consider not taking the policy at all, contacting the Florida Department of Insurance, or seeking legal advice.

### ***Pre-paid Burial Plans***

Some burial policies are similar to insurance in that you will receive the benefits (costs of burial) no matter how many payments you have made. Other plans require that you pay a set amount before you receive any benefits. As with insurance policies, you should know exactly what you are paying for when purchasing a burial plan. For example, some plans may exclude preparation of the grave or transportation. Read the policy carefully before you invest your money to know exactly what is and is not included.

### ***Hearing Aid Purchases***

Unless you are a doctor, you cannot tell whether your hearing loss will be helped by a hearing aid. Always have a doctor test your ears before you decide to buy a new hearing aid or

to replace an old one. Many companies will attempt to sell aids to anyone who will pay the price. Always check with your doctor first.

### ***Implications of Co-signing***

The decision to co-sign a loan for someone must never be taken lightly even if a family member or close friend. As a co-signer, you are guaranteeing someone else’s debt. While you should consult the documents you sign and receive to learn your obligations under the loan, you should be prepared to pay the entire loan amount plus late fees and legal expenses (should the creditor file a lawsuit to recover the debt). Under federal law, creditors can collect debts from co-signers even before attempting to collect from the debtor. If you have enough credit to be a co-signer, you undoubtedly have better credit than the person for whom you are co-signing. As a result, other companies may offer more favorable terms for you as the co-signer than the company with whom your friend is dealing. You should always first shop around for a better deal. Consult the help of an attorney if you are unsure of your potential obligations as a co-signer.

### ***Consumer Remedies***

If you have consumer problems, there are several numbers you may call. The Florida Department of Agriculture and Consumer Services has a toll-free line to answer consumer complaints. The number is **1-800-435-7352**. You can also call the Better Business Bureau to report consumer problems. Many cities and counties also maintain local consumer affairs offices. If you have purchased a defective product, or if the repair job that you contracted for was poorly done, you can seek satisfaction in a number of ways. A thoughtfully prepared complaint, made either in person or in writing can be extremely effective, especially when the complaint is directed to the proper authority. Also, by law, consumers may cancel certain types of sales contracts. If the amount in controversy is \$5,000 or less, the consumer may initiate a legal action in small claims court.

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## Complaints

Complaints are most effective when accompanied by receipts and other documentation that explain your case. If you are contacting the store or business by mail, send your complaint letter by certified mail, return receipt requested, and keep a copy for your records. **Never** send originals of any receipt, contract, or documentation – **make copies**. If you are making your complaint in person, try to remain calm, but be firm and make sure that you understand what you are told. When a direct complaint to a store or business does not satisfactorily resolve your problem, contact the Better Business Bureau or the Consumer Protection Office in your community.

## Canceling Contracts

As mentioned before (see “Door-to-Door Sales”), certain types of **home** solicitation sales and service contracts can be canceled if done timely. You have until midnight of the third business day after the date of the original transaction to cancel these contracts in writing. The law, however, only covers contracts involving more than \$25.

You may also cancel any contract in which your house was put up as collateral or security for the contract. As in the door-to-door contracts, you have **three days** from the date the contract was entered into to cancel the contract. The cancellation also must be in writing and sent to the store, business, or individual with whom you dealt.

## Small Claims Court

If you are dissatisfied with the response to your inquiry or complaint, you may seek relief through the small claims court. The small claims court – a division of the county court – is advantageous to the consumer because: (1) the court costs are minor (the costs depend on the county); (2) the procedure is informal; and (3) you do not need an attorney (although you or your opposing party may have one). Small claims courts can hear disputes involving \$5,000 or less.

Before you decide to use the courts, make certain that there is no other way of settling your dispute. You may save yourself a lot of time and effort – and potential difficulties in litigation – if you can solve your grievance satisfactorily out of court.

To file a suit, go to the County Court Clerk in either (1) the county where the person you are suing resides, or (2) the county where the cause of action took place (for example, if you purchased something from a door-to-door salesman, your cause of action took place in your county of residence). The clerk will assist you with filling out a form and answer any questions you may have. However, it is not the clerk’s duty to help you determine the amount for which you are going to sue.

To fill out the form, you (the plaintiff) will need to know the exact name and address of the person or business you are suing (the defendant). You must pay a filing fee, which will vary depending on the amount of your claim. You must also pay a service fee for summoning each party to court.

There are two methods to summon defendants to court. One method is to have the sheriff, or a certified process server, serve the defendants for you. Contact the Administrative Office of the Courts to obtain a list of process servers in your county. There is a fee associated with this method. The other method is to serve the parties yourself, within Florida. A deputy clerk can assist you with this procedure at any of the filing locations. If serving the defendants yourself, do so by certified mail and request a return receipt. There is no fee associated with this method, except the cost of mailing.

Here are some important points to remember when preparing your lawsuit:

- Organize relevant materials (bills, receipts, letters, etc.) so that you can make a complete and orderly presentation of your case at the hearing.

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- Think over your claim and make some notes on what you want to say so that you can make a full (but brief) statement of your case.
  - Determine what witnesses, if any, you want to testify at the trial. Witnesses may be subpoenaed (compelled) if they are reluctant to appear voluntarily. The court has witness subpoena forms. You must have these forms issued and served on the witness by someone not interested in the case, and then you must file an affidavit with the court showing that the subpoenas were served. You also must serve witness and travel fees schedules (set by statute) with the subpoena or the witness will not have to appear.
  - Check with the court before the hearing to find out whether the defendant has been served successfully with the summons. If successful service has not been made, the clerk can advise you of your options. When this happens, you may want to change the date of your hearing. You may seek one continuance or postponement of the hearing date for this or a similar good reason.
  - Should the defendant fail to appear after being served, a default judgment will be issued in your favor.

Before your hearing date is set, the judge will notify you of a pretrial conference. This is a meeting in which the court tries to mediate a settlement between the parties. If a party is not represented by an attorney, the court is required to assist that party on the procedure to be followed and the presentation of material evidence. If you can settle at this pretrial conference, you should do so. It may be to your advantage. Remember, it is not easy to collect payments.

If you settle the lawsuit before the court hearing, inform the court. However, still be prepared to go to court in case your settlement falls through.

When you appear in court, do not be disturbed if the business or person you are suing is represented by an attorney. Your lack of legal knowledge will not work against you because the judge has a responsibility to ensure that the proceedings remain informal.

In small claims cases, either side may appeal an unfavorable ruling to the Circuit Court. If you want to appeal, you usually will need the aid of an attorney.

If you win the amount that you were seeking, you face the task of getting the defendant to pay. The defendant may agree to pay you all at once or by installments. But often, a defendant who has lost in court will not pay. When this happens, the court clerk can help you complete the forms to seize the property or bank account of the defendant. To seize property or accounts, you must have tried to collect on the judgment first. Other court procedures may be available to collect on a judgment, but they are difficult to pursue without the help of an attorney.

### ***Suits in Other Courts***

If a lender fails to show you the complete contents of a contract before you sign, including any finance charges or annual interest rates, you can file a lawsuit to recover up to \$2,000 (exact amount depends on the transaction – see the Contracts and Credit Buying section of this Handbook). This suit should be filed in a United States District Court or in a Florida Circuit Court under the Truth-in-Lending Act. You must file suit within one year from the date of the contract or you lose the right to sue.

If the remedies listed here fail, you may still have a court case. Discuss your situation with an attorney. For legal assistance information for the elderly, see the listing in the back of this book.

### ***Summary***

If you are dissatisfied with a product or service, the first thing you should do is to notify the company, in writing, of your complaint. If

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the company does not satisfactorily respond to your complaint, you may want to contact a lawyer. Do not assume you can stop paying just because you are dissatisfied. Get the advice of a lawyer first. An attorney may be able to resolve matters without going to court.

## Identity Theft

Everyone has a “paper identity” consisting of a Social Security number, birth date, address, bank account numbers, credit card numbers, PINs, etc. Identity theft is the wrongful obtaining and using of someone else’s personal data in a way that involves fraud or deception, typically for economic gain. Identity theft is a very serious and scary crime. Fortunately, there are several things that you can do to protect yourself against it. You can reduce the chances you will be a victim of identity theft by protecting your paper identity and personal information by doing the following:

- Destroy or secure old records that identify you, such as bank statements, credit card statements, etc.
- Resist telemarketers and computer scams that seek personal information.
- Sign up for the National Do Not Call Registry ([www.donotcall.gov](http://www.donotcall.gov)).
- Regularly check your financial records for unfamiliar charges or withdrawals. Also check your medical bills and insurance statements for any unfamiliar treatments or charges.
- Do not use your Social Security number as your insurance ID.
- Minimize the amount of personal information in your wallet or purse. Do not carry your Social Security card or its number on you if possible; do not carry your Medicare card, which uses your Social Security number; and limit the number of ID cards that you carry.
- Do not discard pre-approved credit offers or unsolicited applications for a loan, insurance or a credit card. Destroy them! You can avoid the above offers by calling 1-888-5-OPTOUT (this stops the credit report companies from selling your information to the companies that want to offer you unsolicited credit).
- The next time you order checks, have them delivered to your bank and pick them up there. Also, have your initials (instead of first name) and last name put on them (that way if someone takes your checkbook, they will not know if you sign your checks with just your initials or your first name, but your bank will know how you sign your checks).
- Put your work phone number on your checks instead of your home phone. If you have a P.O. Box, use that instead of your home address. If you do not have a P.O. Box, use your work address. Never have your Social Security number printed on your checks. You can add it if it is necessary.
- When you are writing checks to pay your credit card accounts, DO NOT put the complete account number on the “For” line; instead, just put the last four numbers. The credit card company knows the rest of the number, and anyone who might be handling your check as it passes through the processing channels won’t have access to it.
- Use secure websites with addresses that start with “https.”
- Never let someone look over your shoulder when entering a PIN.
- Rather than sign your credit cards, write in “photo ID required.”
- Photocopy the contents of your wallet, making sure you have telephone numbers to cancel accounts.

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If you are a victim of identity theft, take action immediately and keep records of everything that you do. Take the following steps:

- Call the police where you live and file a report, and get the case number. This proves to credit providers you were diligent, and this is a first step toward an investigation (if there ever is one).
- Close all credit accounts that have been opened without your permission and dispute all unauthorized charges or withdrawals.
- File a complaint with the Federal Trade Commission at [www.consumer.gov/identity-theft](http://www.consumer.gov/identity-theft) or call the Identity Theft Helpline 1-877-438-4338.
- If your Social Security number has been used, call the Social Security Administration Fraud Hotline at 1-800-269-0271.
- If your mail has been stolen, contact the Postal Inspection Service at [www.postalinspectors.uspis.gov](http://www.postalinspectors.uspis.gov) or 1-877-876-2455.
- Call the three credit bureaus to place a fraud report on your credit history. This alerts companies that check your credit to the fact that your information was stolen, and that they should contact you by phone to authorize new credit. The three national credit bureaus are:
  - » Equifax Inc.: 1-888-766-0008
  - » Experian: 1-888-397-3742
  - » Transunion: 1-800-680-7289
- Florida has a law allowing for a “security freeze” on your credit information. This prevents thieves from using your stolen information to open and use credit cards. The freeze makes your credit information unavailable to vendors, if the vendor checks credit records before making unsolicited credit offers. If you are 65 or older, there is

no charge for a security freeze. Also, there is no charge if you have been a victim of identity theft (as long as an investigative report has been filed). For all others, there is a \$10 fee to place, temporarily lift, or to remove a security freeze. For instructions on how to place a security freeze in Florida, see: <http://consumersunion.org/wp-content/uploads/2013/04/securityFL.pdf>.

- Notify the Internal Revenue Service to prevent the use of your Social Security number to obtain fraudulent tax refunds. Information regarding contacting the Internal Revenue Service about identity theft is available here: [www.irs.gov](http://www.irs.gov). Search for “identity theft.”

## Internet Fraud

The term “internet fraud” refers generally to any type of fraud scheme that uses the internet. This includes fraud that occurs via chat rooms, e-mail, message boards, or websites. Thieves may use the internet to present fraudulent solicitations to prospective victims, to conduct fraudulent transactions, or to transmit the proceeds of fraud to financial institutions or accomplices.

In general, the same types of fraud schemes that have victimized consumers and investors before the creation of the internet are now appearing online (sometimes with particular refinements unique to internet technology). With the growth of the internet, and e-commerce in particular, online criminals try to present fraudulent schemes in ways that look, as much as possible, like the goods and services that the vast majority of legitimate e-commerce merchants offer. In the process, they not only cause harm to consumers and investors, but also undermine consumer confidence in legitimate e-commerce and the internet.

Some of the major types of internet fraud that law enforcement and regulatory authorities and consumer organizations are seeing are as follows:

- Auction and Retail Schemes

- Business Opportunity/”Work-at-Home” Schemes
- Identity Theft and Fraud
- Investment Schemes (e.g., Market Manipulation Schemes)
- Credit-Card Schemes

Judging by the sheer number of solicitations and “can’t miss” propositions that you can see every day in your e-mail inbox, internet scams may seem inescapable. While you can’t wholly avoid seeing online solicitations that may be fraudulent, here are some tips on how to deal with them.

- Don’t judge by initial appearances. It may seem obvious, but consumers need to remember that just because something appears on the internet – no matter how impressive or professional the website looks – doesn’t mean it’s true. Modern software allows anyone, at minimal cost, to set up a professional-looking website that looks just as impressive as those of legitimate e-commerce merchants.
- Be careful about giving out valuable personal data online. If you see e-mail messages from someone you don’t know that ask you for personal data – such as your Social Security number, credit-card number, or password – don’t just send the data without knowing more about who’s asking. Criminals have been known to send messages in which they pretend to be (for example) a systems administrator or internet service provider representative in order to persuade people online that they should disclose valuable personal data. While secure transactions with known e-commerce sites are fairly safe, especially if you use a credit card, non-secure messages to unknown recipients are not.
- Be especially careful about online communications with someone who conceals his or her true identity. If someone sends

you an e-mail in which he or she refuses to disclose his or her full identity, or uses an e-mail header that has no useful identifying data (e.g., “W6T7S8@provider.com”), that may be an indication that the person doesn’t want to leave any information that could allow you to contact him or her later if you have a dispute over undelivered goods for which you paid. As a result, you should be extremely cautious about relying on advice that such people give you if they are trying to persuade you to entrust your money to them.

- Watch out for “advance-fee” demands. In general, you should look carefully at any online seller of goods or services who wants you to send checks or money orders immediately to a post office box, before you receive the goods or services you’ve been promised. Research online companies that aren’t known to you before entrusting a significant amount of money to such companies.

If you think that you’ve been the victim of a fraud scheme that involved the internet, you can file a complaint online with the Internet Crime Complaint Center ([www.ic3.gov](http://www.ic3.gov)), a joint project of the FBI and the National White Collar Crime Center. In addition, you can file complaints about specific types of fraud complaints with the following agencies:

- Commodities Fraud:  
Commodity Futures Trading Commission (CFTC)  
([www.cftc.gov](http://www.cftc.gov))
- Consumer Fraud:  
Federal Trade Commission  
([www.consumer.ftc.gov](http://www.consumer.ftc.gov))
- Securities Fraud:  
SEC Enforcement Division  
Complaint Center  
([www.sec.gov/complaint.shtml](http://www.sec.gov/complaint.shtml)) or the Florida Securities Commission:

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» Florida Department of  
Financial Services  
200 East Gaines Street  
Tallahassee, Florida 32399  
1-877-693-5236

## **Employment Discrimination**

In an effort to promote employment of older persons and to prohibit arbitrary age discrimination, Congress passed the Age Discrimination in Employment Act of 1967. The Act is designed to protect persons who are 40 years of age and older. The Act prohibits employers from discriminating against you based solely on age, as long as the employer has more than 20 employees during at least 20 weeks per year. This law protects persons who are employed, persons who have been forced to retire involuntarily, and persons who are applying for employment. It also prohibits employment agencies from refusing to refer prospective employees on the basis of age. However, an employer may still discriminate based on age if age is a reasonably necessary qualification for a particular job.

In addition to protection from federal laws, Floridians also have protection from state laws. The Florida Statute differs slightly from the federal act. For instance, it applies to employers with **15** or more employees during at least 20 weeks per year.

If you feel you have been discriminated against on the basis of age, you can and should file a claim with the relevant agency. If you think an employer has violated federal law, file with

the Equal Employment Opportunity Commission. If you think an employer has violated state law, file with the Florida Commission on Human Relations. You can file a claim with both agencies if you think an employer has violated both federal and state law. The claim should describe the alleged violation and must name the person who committed it.

To file a federal discrimination claim, contact the Equal Employment Opportunity Commission at your nearest office:

### **Miami Office:**

Miami Tower  
100 S.E. 2nd Street  
Suite 1500  
Miami, Florida 33131  
Phone: 1-800-669-4000  
Website: [www.eeoc.gov/field/miami](http://www.eeoc.gov/field/miami)

### **Tampa Office:**

501 East Polk Street  
Suite 1000  
Tampa, Florida 33602  
Phone: 1-800-669-4000  
Website: [www.eeoc.gov/field/tampa](http://www.eeoc.gov/field/tampa)

To file a state claim, contact the Florida Commission on Human Relations at this address:

4075 Esplanade Way, Room 110  
Tallahassee, Florida 32399  
Phone: (850) 488-7082  
Toll-Free: 1-800-342-8170  
Website: <http://fchr.state.fl.us>  
E-Mail: [fchrinfo@fchr.myflorida.com](mailto:fchrinfo@fchr.myflorida.com)



# Age Discrimination

Under Florida's age discrimination law, you must file a claim with the Florida Commission on Human Relations within one year of the occurrence of the discriminatory practice. Under the federal age discrimination law, you must file what is known as a "charge" with the Equal Employment Opportunity Commission within 180 days of the occurrence of the discriminatory practice. After your charges are filed with the respective commissions, the agency will try to resolve the dispute. You also may be entitled to institute legal proceedings in federal or state court. Among the remedies which courts may grant are (1) judgments compelling employment, reinstatement, or promotion, and (2) back pay. If you are contemplating legal action against an employer for age discrimination, you should seek legal advice from an attorney.

## Housing Discrimination

The federal Fair Housing Act prohibits discrimination in housing. It is against the law to deny housing; to refuse to rent, sell, or negotiate; or to offer different terms because of race, color, religion, sex, national origin, handicap, or familial status. The "familial status" classification extends protection from discrimination to individuals, families with children younger than 18 years old, and pregnant women.

The law permits certain condominiums and homeowners' associations designed for seniors to exclude families with children if certain strict requirements are met. If a community does not qualify under one of the exemptions

under the Fair Housing Act, it cannot exclude families with children.

The Act exempts from its application:

- State and federal housing programs for the elderly,
- "62 or over housing," and
- "55 or over housing."

The "55 or over housing" exemption is the most often used exemption for property owners' associations. To qualify, 80 percent or more of the units must have at least one occupant who is 55 years or older, and the manager of the community must comply with federal rules regarding verification of occupancy.

Nothing in the Fair Housing Act requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others. The Act also does not limit the applicability of any reasonable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

Under the Act, it is illegal for landlords to deny tenants permission to make reasonable modifications to housing, at their own expense, if the changes are necessary for the tenants to fully enjoy their units. In some

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cases, the landlord may permit the changes only if the tenant agrees to restore the property to its original condition before moving out. Landlords are also required to accommodate their rules, policies, practices, and services to provide people with disabilities an equal opportunity to use and enjoy their homes.

It is illegal to fail to design and construct most multi-family dwellings of four or more units (ready for first occupancy after March 13, 1991) in such a way that the units are not accessible to people with disabilities.

If you believe that you have been discriminated against in the area of housing, you may file a complaint in person, by mail, or by telephone with any Housing and Urban Development (HUD) office. HUD or an equivalent state or local agency will investigate and attempt to conciliate the complaint. If it is not conciliated, and it appears that discrimination has occurred, HUD will issue a charge. A HUD Administrative Law Judge (ALJ) will hold a hearing, unless either party chooses to take a case to United States District Court. In either case, the government, at its own expense, will appoint an attorney to assist you (the complainant).

If your case is heard by a HUD ALJ, you may receive access to the housing that you were denied and be awarded compensatory damages as well. In such cases, the discriminating party may also be assessed a civil penalty of up to \$50,000, depending on the existence and number of prior discriminatory housing practices. If your case is heard by a United States District Court judge, you may be awarded punitive damages – civil penalties are not available.

If you have any questions about the effect of the Fair Housing Act, please consult an attorney.

## **Ageism**

Not all discrimination against the elderly is in the area of employment. Ageism exists in many forms. If you have been the victim of ageism, or you wish to become active in fighting ageism, you may want to contact AARP or one of the many organizations that promote healthy aging and work to combat ageism. AARP has many resources on ageism and age discrimination at [aarp.org](http://aarp.org).

# Hurricane Preparedness

## Introduction

Hurricanes and natural disasters disrupt our way of life and peace of mind. But preparation is the best way to reduce the effects of a hurricane. Planning ahead can help decrease the risk of harm in an emergency and can provide the comfort of knowing that plans are in place. The Federal Emergency Management Agency (FEMA) recommends creating a plan before the hurricane season begins to best prepare you and your family. FEMA has videos and a comprehensive handbook: “Are you Ready?: An In-depth Guide to Citizen Preparedness” (IS-22) available on its website ([www.fema.gov](http://www.fema.gov) search for “Are You Ready Guide”) and by calling 1-800-480-2520. The handbook contains a wealth of information. FEMA also has a toll-free disaster assistance line: 1-800-621-FEMA (1-800-621-3362).

## Before a Hurricane

While we strongly recommend obtaining the FEMA handbook, a few basic precautions are worth mentioning here. Hurricanes form off the Atlantic coast, providing a small window of preparation time before hitting U.S. coastlines. It is a mistake to wait until a Hurricane Watch or Hurricane Warning has been issued; precautions taken at the beginning of hurricane season will improve your safety.

Prior to the storm’s arrival, secure your property. Permanent storm shutters offer the best protection for windows. A second option is installing 5/8” marine plywood over your windows. It is important to remember, tape

does not prevent windows from breaking during hurricanes.

Further preparations include securing and storing outdoor objects, turning the refrigerator thermostat to its coldest setting, and keeping its doors closed. Fill your bathtub and other large containers with water. Make sure to ensure a supply of water for sanitary purposes, such as cleaning and flushing toilets, separate from and in addition to drinking water for household members and pets.

In addition to securing and protecting the outside of your home, it is important to take precautionary action to protect the valuables inside your home. Make an inventory of your home possessions and videotape, record, or photograph items of value. Review your insurance policies before hurricane season starts to ensure you have adequate coverage. Once a Hurricane Watch has been issued, insurers normally will not issue new or additional coverage.

## Hurricane Evacuation

When community evacuations become necessary, local officials provide information to the public through the media. In some circumstances other warning methods, such as sirens or telephone calls, are also used. The amount of time you have to leave will depend on the severity of the hurricane. Designate a friend or family member who lives outside of the likely hurricane area that can house your family for the duration of the evacuation.

Another important precautionary step is preparing a disaster supply kit. The **National Hurricane Center** has suggested the following items be included in your kit:

**Water:**

At least 1 gallon daily per person for 3 to 7 days

**Food:**

At least enough for 3 to 7 days

- non-perishable packaged or canned food/juice
- foods for infants or the elderly
- non-electric can opener
- cooking tools/fuel
- paper plates/plastic utensils

**Blankets/Pillows, etc.**

**Clothing:**

seasonal/rain gear/sturdy shoes

**First Aid Kit/Medicines/ Prescription Drugs**

**Toiletries/Hygiene Items/ Moisture Wipes**

**Flashlight/Batteries**

**Radio:**

Battery operated and NOAA weather radio

**Cash and Credit Cards:**

Include small bills. Banks and ATMs may not be available for extended periods.

**Telephones:** Fully charged cell phone with extra battery

**Keys**

**Important Documents:**

In a waterproof container or watertight resealable plastic bag

- insurance policies, medical records, bank account numbers, Social Security card, etc.

**Tools:**

keep a set with you during the storm

**Vehicle Fuel Tanks Filled**

**Pet Care Items:**

- proper identification/immunization records/medication
- ample supply of food and water
- a carrier or cage
- muzzle and leash

If you don't have a designated hurricane evacuation location, Red Cross Hurricane Evacuation Centers should be used as a last resort. The Red Cross uses local media (radio and television) to communicate which evacuation centers will be open. For a complete list of evacuation centers in your area, please contact your county Emergency Management Office listed in the reference section.

Individuals who are unable to provide their own transportation to a Hurricane Evacuation Center can use public evacuation transport. Most counties will activate specific Emergency Evacuation Bus Pick-Up Sites by zone as directed by the Office of Emergency Management and Homeland Security. These

Pick-Up Sites are identified by a sign that reads "EMERGENCY EVACUATION BUS PICK-UP SITE." The buses placed into service for the evacuation will have displays that read "EMERGENCY EVACUATION" and these buses will only travel between Pick-Up Sites and the Hurricane Evacuation Centers. Please note that the active zones will be determined individually for each storm.

To learn which Emergency Evacuation Bus Pick-Up Sites are active during a particular storm you should listen to the local media, or contact the Emergency Management Office in your county. (See the Reference and Referral Information section of this Handbook.)

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## Florida Special Needs Registry

Florida has a registry to meet the special needs of persons who require assistance during evacuations and sheltering. Contact your county health department for information regarding shelters and pre-registering. Each local emergency management agency in the state maintains a registry of persons with special needs located within the jurisdiction of the local agency. Registered participants will be eligible for special evacuation centers that are equipped with trained health care professionals and generator power for energy dependent medical equipment. Transportation, such as lift-gate buses and other specialized forms, may also be provided to take registered participants from their homes to the assigned facility.

To register with the Special Needs Registry, contact your local county Emergency Management Office. Contact information for your local county is available by contacting the Florida Division of Emergency Management at (850) 413-9969 or TDD at 800-226-4329 or on the internet at [www.floridadisaster.org/shelters](http://www.floridadisaster.org/shelters). (See also the Reference and Referral Information section of this Handbook).

## Pet Preparation

If an evacuation order is given, it is not safe to leave your pets behind. Animals can be lost, injured, or killed during a hurricane, even if left inside your home. Create a list of “pet friendly places” such as hotels, motels, or shelters outside the evacuation area. Please contact your county’s Emergency Management Office to locate pet-friendly shelters in your area.

### Pet Information Websites:

- [www.floridapets.net](http://www.floridapets.net)
- [www.petswelcome.com](http://www.petswelcome.com)
- [www.pets-allowed-hotels.com](http://www.pets-allowed-hotels.com)

## During the Storm

If you are unable to evacuate to a safe location away from the hurricane path, certain precautions are essential to maintaining safety during a hurricane. First, always remain indoors during a hurricane. If there is a lull in storm activity, it is likely the eye of the storm, and wind speeds can pick up suddenly during the eye and create dangerous conditions.

Identify a safe room in your house. Avoid rooms near the exterior of the home with outdoor windows. If possible, take refuge in a small interior room, closet, or hallway on the lowest level of the house. To further protect yourself from debris during the storm, seek refuge under a sturdy table or mattress. Monitor the local news or listen to a battery operated radio; emergency management officials will alert the public when it is safe to go outside.

## Post-Hurricane Tips

Recovery from a hurricane is a gradual process. Safety is a primary issue. When venturing outside after a hurricane, be aware of special health and safety concerns that may arise. Contact local authorities in the event of downed power lines, washed-out roads, large debris, or other potentially hazardous conditions.

Access to information and programs that provide aid in the recovery process will help ease your recuperation. FEMA provides assistance to individuals, families, and businesses whose property has been damaged or destroyed and whose losses are not covered by insurance. Please contact FEMA for further assistance information at 1-800-621-3362 or TTY 1-800-462-7585.

Note: After a hurricane you may also qualify for SNAP. Please refer to the Financial Assistance Chapter on Supplemental Nutrition Assistance (SNAP, formerly known as Food Stamps) for more information.

# Obtaining a New Florida Driver's License or Florida ID Card

## Introduction

The Florida Department of Highway Safety and Motor Vehicles (DHSMV) issues driver's licenses and non-driver identification cards. A license or ID card can be used to prove your identity, age, and residence in a variety of situations including voting. A driver's license is valid for eight years, and an identification card is valid for four years; both cards expire on your birthday either eight or four years after issue, depending on the type of card. If you are 80 years of age or older, you must pass a vision test to renew your license.

## Applying For or Renewing a Driver's License or a Florida ID Card

First-time applicants must apply for a Florida Driver's License or Florida ID card in person. Renewing a Florida Driver's License or Florida ID card may be done online or in person.

To apply for or renew a license or ID card in person, locate the DHSMV nearest you. You may make an appointment online before you go to the DHSMV. The website for making an appointment is available here: [www.flhsmv.gov](http://www.flhsmv.gov) and search for "make appointment."

At the appointment, you will be asked to present one piece of primary identification, proof of residential address, and proof of your Social Security number. The name on the

proof of Social Security must be the same as the one desired on your license or ID card. The types of identification that qualify as primary identification, proof of residential address, and proof of Social Security number for U.S. citizens are described below. More information on the types of identification needed for U.S. citizens and a list of the types of identification needed for non-U.S. citizens is also available at [www.gathergoget.com](http://www.gathergoget.com).

## For U.S. Citizens

### Primary Identification:

An original or certified copy of one of the following:

- United States birth certificate
- Valid U.S. passport or passport card
- Consular Report of Birth Abroad
- Certificate of Naturalization (Form N-550 or N-570)
- Certificate of Citizenship (Form N-560 or N-561)

### Proof of Social Security:

An original of the following that shows your complete name and Social Security number:

- Social Security card;

- W-2 form;
- Paycheck/pay stub;
- SSA-1099;
- Any 1099 form.
- Current automobile insurance policy or bill;
- Educational institution transcript forms for the current school year;
- Unexpired professional license issued by a government agency in the U.S.;

If you don't have a Social Security number, you must bring a letter from the Social Security Administration indicating that you were never issued one and present an additional form of identification on the list available at [www.gathergoget.com](http://www.gathergoget.com).

### **Proof of Residential Address:**

Two different documents from the following list showing your residential address (copies are acceptable):

- Deed, mortgage, monthly mortgage statement, mortgage payment booklet, or residential rental/lease agreement;
- Florida voter registration card;
- Florida vehicle registration or title;
- Florida boat registration or title;
- Two proofs of residential address from applicant's parent, step-parent, legal guardian, or other person with whom the applicant resides, along with a statement from a parent, step-parent, legal guardian, or other person with whom the applicant resides, combined with two proofs of their residential address;
- Utility bills, not more than two months old;
- Mail from financial institutions; including checking, savings, or investment account statements, not more than two months old;
- Mail from federal, state, county or city government agencies (including city and county agencies);
- Transients (Sexual Offender/Predator/Career Offender): FDLE registration form completed by local sheriff's department.
- A utility hook up or work order dated within 60 days of the application;
- Automobile payment booklet;
- Selective Service card;
- Medical or health card with address listed;
- Current homeowners' insurance policy or bill;

- W-2 form or 1099 form;
- Form DS2019, Certificate of Eligibility for Exchange Visitor (J-1) status;

A letter from a homeless shelter, transitional service provider, or a half-way house verifying that they receive mail for the customer. The letter must be accompanied by the Certification of Address form;

If applying for a driver's license for the first time and you do not have a license issued by another state or country, you must pass a driver's test.

To renew a license or ID card online, go to <https://services.flhsmv.gov/virtualoffice> and follow the instructions for renewing your ID card. You may only renew online every other time your license expires. If you have changed your name since your last renewal, you must renew your license or ID card in person.

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## **REAL ID Act**

The federal REAL ID Act of 2005 set new standards for issuing driver's licenses and ID cards. Florida has begun issuing the new ID cards. The new ones have a star in the upper right corner. If you were born after December

1, 1964, your old ID card is no longer valid – you need to get a new one with a star on it. If you were born before December 1, 1964, you have until December 1, 2017, to get a new one. More information about the REAL ID Act and Florida licenses and ID cards is available here: *<http://www.flhsmv.gov/realid>*.



# Wills, Trusts, Gifts, and Estate Planning

### **Some Basic Facts About Wills**

Distribution of a person's property at death is regulated by law. If a person dies intestate (without a will), his or her property passes as designated by the laws of intestacy without regard to the deceased's wishes. If a person dies testate (with a will) he or she may designate distribution as long as the contents and execution of the will are in accordance with the law. Therefore, even if you have little property, a will is an effective tool so that your property at death (called your estate) passes in accordance with your wishes.

To be valid, a will must meet certain requirements. These requirements vary from state to state. The requirements in Florida are as follows:

- The maker (called the testator for a man or testatrix for a woman) must be at least 18 years or an emancipated minor;
- The maker must be of sound mind at the time the will is prepared;
- The will must be in writing (either typed or hand-written). It cannot be oral;
- The will must be signed by the testator at the end of the will and in the presence of two witnesses; and
- The witnesses do not need to know the contents of the document, but they must

acknowledge that the maker knows that he or she is signing his or her will, and the witnesses must sign the will in the presence of each other and of the maker.

It is also strongly advisable to have your will notarized in Florida. This makes the probate process simpler.

If you move out of Florida, your will may still be valid, but you should check the requirements of your new state.

Probate matters can be very complicated, and it is always best to consult an attorney when drafting a will.

### ***How Long Does a Will Remain Valid?***

A validly executed will remains valid until you change or revoke it. If you are of sound mind, you have the right to revoke or change your will at any time before your death, but you must follow specific legal procedures in doing so. In Florida, if you change or revoke your will through the use of another will or written instrument, the new will or written instrument must be executed (signed and witnessed) with the same formalities required for the original will.

It is important to regularly reexamine your will and update it if necessary to account for any changes in the tax laws, the death or change in status of a beneficiary, any changes in your property holdings, or other important matters.

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You may revoke your entire will by burning, tearing, canceling, defacing, obliterating, or otherwise destroying it if, at the time of your act, you have a present intent to revoke it. However, it is best not to revoke your will by these methods. Burning, tearing or scratching through a will often leaves your intentions somewhat unclear. The best way to revoke a will and the only valid way to alter your will is by executing another will or separate written instrument.

You should consult an attorney to obtain details about the most effective ways to revoke or alter your will.

### ***Restrictions on Distributing Property***

Generally, in Florida you may distribute your property by will as you wish. However, there are certain types of property which cannot be freely devised (transferred by will). For example, there are certain restrictions on, or conditions to, the devise of homestead property, jointly held property, property in trust, and life insurance.

Homestead laws are designed to preserve the home for a family to live in. Homestead property is the family place of residence owned by any natural person. Homestead property may not be devised by the owner if he or she is survived by his or her spouse or any minor children. If you have a spouse and minor children, then upon your death, your spouse will have the right to reside in your home for his or her life, and then your children will own it. If your surviving spouse does not wish to live in the home and have the ownership be with your children, your spouse has the right to elect, within six months of your death, to take a one-half ownership interest in the homestead as tenants-in-common with the remaining one-half interest going to your children. If you are not married and have no minor children, then you may freely devise your homestead. Property that is owned jointly – with the right of survivorship – also cannot be devised by will. The law provides that the last surviving joint owner automatically

becomes the sole owner of all jointly owned property (such as real estate, bank accounts, motor vehicles, and household goods) when the joint tenant dies. In Florida, a husband and wife may create a type of joint tenancy called a tenancy by the entirety. In a tenancy by the entirety, upon the death of a spouse, the surviving spouse becomes the sole owner of all the jointly owned property. You can change title to jointly owned property by removing or changing the co-owner, but not through your will.

### ***Joint Ownership as a Will Replacement***

Even if you leave a will, your family will experience some probate court delay before your property is legally distributed following your death. Property owned jointly with rights of survivorship remains with the joint owner and does not pass through probate. Therefore, many use joint ownership, instead of a will, to distribute their estate and thus spare their families the delay of probate court proceedings. Depending on your circumstances, joint ownership may or may not be advisable.

If you are considering joint ownership as a way to bypass probate, be aware that it gives another person equal control during your lifetime over the joint property. For example, a joint owner of a bank account can withdraw all of the money from the account while you are living, without permission, even if you only intended that person to have the money in the account after your death. If you wish to sell jointly owned property, you need the permission of all named joint owners before the property may be sold. Further, they are legally entitled to equal shares of the sale proceeds.

Remember, using joint ownership as a means of helping your family avoid probate proceedings after your death may cause considerable problems during your lifetime. If used wisely in conjunction with a will, however, joint ownership can be a useful legal device in helping distribute your estate after you die. It

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is wise to consult an attorney before making these decisions.

### ***What Are the Property Rights of a Surviving Spouse?***

The surviving spouse of a deceased Florida resident is entitled to certain property rights whether the spouse is named by the will or not. In addition to the right to homestead property for his or her life, a surviving spouse has the right to (1) the following a family allowance during probate not to exceed \$18,000; (2) up to \$20,000 in net value of the deceased spouse's home furnishings and appliances not secured by creditors; (3) all automobiles held in the decedent's name and regularly used by the decedent or members of the immediate family as personal automobiles (unless the automobiles were left under the will to another person); and (4) to an elective share of the deceased spouse's estate. The right to an elective share exists in addition to the right to homestead property and to the right to the decedent's personal belongings and furnishings. The right to an elective share in Florida is granted to either spouse, but is limited to the spouses of persons who are Florida residents and requires that such right has not otherwise been validly waived in a written document, i.e., a prenuptial agreement.

The elective share consists of 30 percent of the fair market value on the date of death of all assets owned by the decedent, including jointly owned property and property in trust, but it is computed after deducting from the total value (1) all valid claims against the estate; and (2) all mortgage, liens, or security interests on the assets. Any real property located outside of Florida is excluded from the elective share calculation. If the surviving spouse elects to take the elective share, he or she must decide to do so within six months of receiving notice that there is a will, or within two years after date of death, if such notice is not received concerning the contents of the will.

An exception to the time limit exists where there are proceedings involving questions about the will. Such proceedings may involve

questions about the construction, admission to probate, or validity of the will or any other activity calling into doubt the complete extent of the estate subject to elective share.

Basically, the elective share is a remedy for a surviving spouse dissatisfied with the share left to him or her under the will. By electing to take the elective share, the surviving spouse gives up the right to what was devised under the will or to what he or she would have received by law if there was no will (i.e., the intestate share).

### ***Can a Spouse Contract to Relinquish Survivor's Property Rights?***

Marriages between senior citizens who have children from previous marriages are very common. Consequently, the marrying couple may be interested in entering into marital agreements (prenuptial agreements or postnuptial agreements). It is important to understand that the law provides surviving spouse remedies, such as the elective share, that may disrupt decisions made by a will. Marital agreements assure that property will pass to one's heirs as desired. Florida law recognizes the validity of marital agreements only if certain requirements are met.

A contract waiving all or any of a spouse's marital rights must be in writing and signed before two witnesses if both parties signing are Florida residents. The contract can be entered into before or after the marriage. If the contract is made after marriage, the spouse relinquishing these rights must be given fair disclosure in advance of the property owned by the other spouse. If the contract is entered into before marriage, however, a spouse is not required to disclose all of his or her property assets to the spouse relinquishing his or her marital rights. Where the agreement provides for a property settlement in the event of death or divorce, unless the property settlement provides to the contrary, a waiver of "all rights" means a waiver of all rights to elective share, homestead property, exempt property, intestate share, preference in appointment as

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personal representative of an intestate estate, and family allowance, and also a renunciation of all benefits that would pass to the waiving party by intestate succession or by a will executed before the property settlement.

### **What Happens When You Die Without a Will?**

If you should die without a will, all of your property will be distributed among your surviving relatives, as set forth in the law. According to Florida law, the property of a person who dies without a will passes as follows:

#### **IF DECEASED IS SURVIVED BY:**

- Spouse and no lineal descendants, Spouse receives entire estate.
- Spouse and Lineal Descendants (who are also descendants of spouse), Spouse receives entire estate.
- Spouse and Lineal Descendants (who are not descendants of spouse):
  - » one-half of the intestate estate to spouse,
  - » and remainder to the descendants.
- Spouse and Lineal Descendants who are also descendants of spouse and spouse has lineal descendants who are not descendants of deceased:
  - » one-half of the intestate estate to spouse,
  - » and remainder to the descendants of deceased only.
- Lineal Descendants but No Spouse, Estate is distributed among descendants as follows:
  - » To decedent's lineal descendants in equal shares;
  - » if none, to decedent's father and mother equally, or to the survivor of them;

- » if none, to decedent's brothers and sisters and descendants of deceased brothers and sisters.

In Florida, any property distributed among lineal descendants (children, grandchildren, etc.) is distributed *per stirpes* or by representation. *Per stirpes* means that the children of a deceased beneficiary receive equal shares. If a child of a deceased has died before his or her parent, the children of that child will receive the share to which their parent would have been entitled. For example, Jane Smith has three children: Ann, George, and Paul. Her spouse is dead. George dies before his mother leaving two children of his own, John and Mary. Upon Jane Smith's death, any property to be distributed among her lineal descendants will go as follows: one-third will be distributed to her daughter Ann, one-third will be distributed to her son Paul, and the one-third that would have gone to her son George will be distributed to his children, John and Mary (one-sixth to each).

An adopted child is considered a lineal descendant of the adopting parent and natural kin of all members of the adopting parent's family. In most circumstances, an adopted child is not considered a lineal descendant of his or her natural parents nor an heir of any member of his or her natural parent's family. An exception is made when a child is adopted by a natural parent's spouse. This adoption has no effect on the relationship between the child and the natural parent or the natural parent's family.

A person born out of wedlock is a lineal descendant of his or her mother and natural kin of all members of his mother's family. This child is also a lineal descendant of the father and natural kin of all members of the father's family if the natural parents marry after the birth of the child. A child born out of wedlock also may inherit from his or her father if the paternity of the father is established by adjudication in court before or after the father's death or if the father acknowledges paternity of the child in writing.

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If you are concerned about the distribution of your estate, you should seek legal advice. If you cannot afford legal assistance, contact your nearest legal services, legal aid, or bar association low fee or pro bono referral panel (see the Reference and Referral Information section of this Handbook).

### ***Descent of Homestead***

Florida law also covers what happens to homestead property when a spouse dies intestate. In short, if not lawfully devised, the homestead property shall descend in the same manner as other intestate property; but if the decedent is survived by a spouse and one or more descendants, the surviving spouse shall take a life estate in the homestead, with a vested remainder to the descendants in being at the time of the decedent's death.

In lieu of a life estate, the surviving spouse may elect to take an undivided one-half interest in the homestead as a tenant in common, with the remaining undivided one-half interest vesting in the decedent's descendants in being at the time of the decedent's death.

The right of election may be exercised in the following manner:

- By the surviving spouse; or
- With the approval of a court, by an attorney in fact or guardian of the property of the surviving spouse.

Before approving the election, the court shall determine that the election is in the best interests of the surviving spouse during the spouse's probable lifetime. The election must be made within six months after the decedent's death and during the surviving spouse's lifetime. The time for making the election may not be extended except in the following cases:

- Through a petition by an attorney or by a guardian of the property of the surviving spouse for approval to make the election, filed within six months after the decedent's death and during the surviving spouse's life-

time. If the petition is timely filed, the time for making the election shall be extended for at least 30 days after the rendition of the order allowing the election.

- Once made, the election is irrevocable.
- The election shall be made by filing a notice of election containing the legal description of the homestead property for recording in the official record books of the county or counties where the homestead property is located.

### ***Wills and Life Insurance***

If you have life insurance policies that are payable to your estate after your death, the proceeds will be distributed as part of your probate estate according to your will. On the other hand, if you have named beneficiaries in the policies, the proceeds will be directly paid to the beneficiary specified in the policies and effectively bypass any creditor's claims against the estate. Therefore, if you wish to change the beneficiaries of your policies, you must do so with the insurance company. Your will has no effect on the proceeds, unless they are payable to your estate.

### ***Inheritance and Estate Taxes***

An inheritance tax is a tax imposed upon the privilege of receiving property. An estate tax is a tax imposed on the transfer of property at death. Currently, Florida does not have either an inheritance or estate tax. However, a federal estate tax is imposed on all taxable estates presently in excess of \$5.45 million dollars (i.e., there is a credit against the estate tax for estates up to \$5.45 million, which amount is adjusted annually for inflation). The gross estate consists of all property owned at death plus any lifetime transfers in which an interest was retained by the deceased for his or her life, including jointly-held property interests, life insurance (if the proceeds go to the estate), annuities, and many other assets and property rights. There is an unlimited marital deduction for the value of all assets passing to a citizen spouse. Therefore, any amount of

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assets can be transferred to a citizen spouse without having to pay the federal estate tax.

There is also a federal gift tax on any gifts made during life in excess of, presently, \$5.45 million dollars (adjusted annually for inflation). The federal gift tax is imposed on the person making the gift (the “donor”). The gift tax rates are the same as the estate tax rates: currently the maximum rate is approximately 40 percent. The receipt of a gift or a distribution from an estate is not taxed as income for federal income tax purposes and the recipient does not have to pay gift or estate taxes on receipt of the gift or distribution.

If the value of the property you own exceeds (or comes close to exceeding) the amounts listed above, you should consult an attorney who specializes in estate planning. The attorney’s advice may help to reduce not only your estate taxes, but your income taxes as well.

### ***Property Distribution When Someone Dies***

Any assets that are not automatically transferred to others (such as jointly held property, trusts, homestead property, etc.), must go through probate. Probate is the court process through which approval is given to distribute property owned by someone who dies (the “deceased” or the “decedent”) to his or her heirs.

If the deceased left a will, it usually names an executor, which Florida law calls a “personal representative.” The personal representative is responsible for administering the estate and should be notified immediately of the testator’s death. If the deceased did not name an executor or personal representative by will, the court will appoint one. It is the personal representative’s duty to settle and distribute the decedent’s assets as Florida law dictates. Before any distribution is made, however, the will, if any, must be deposited with the Probate Court. Any person having possession of the original will must deposit it with the court within 10 days after learning of the decedent’s death. If a will has been left, the Probate Court will determine its validity. A

lawyer should be contacted to handle the probate legal proceedings.

During probate, the property in the estate is inventoried and valued, and taxes or other debts (including attorneys’ fees, personal representatives’ fees, and estate administration costs and final expenses) are paid from the proceeds of the estate. Once this is completed, the remaining property is distributed among the beneficiaries, as set forth in the will, if any, or according to the intestacy laws if the decedent did not have a will. The length of time that it will take to probate the decedent’s assets depends on the size and complexity of the estate. In those cases in which the size of the estate is relatively small, the probate proceedings are simplified and quicker, but in no event will they be less than six months (the time period for claimants to file a claim). Sometimes there is no need to appoint a personal representative and the time involved is minimal. A lawyer can advise you on which procedure would be best for you.

### ***Real Estate Transfers***

There are two major ways to transfer title to real estate while you are alive so that you will still retain some rights over the property but the property will not have to go through the probate process. These are titling property in a joint tenancy or in a life estate. In a joint tenancy, you transfer title to someone else but also retain title in your name. In a life estate, you transfer full title to someone else but you retain the right to use or possess the property (i.e., live in it, rent it, etc.) for your life. Property transfers by either method will not be subject to probate and will not be considered part of your estate for the purposes of satisfying any creditor’s claims against your estate. Also, both joint tenancies with rights of survivorship and life estates receive the homestead tax exemption. Some of the relative advantages and disadvantages to each method are below.

### ***Joint Tenancies***

If you wish to create a joint tenancy so that another person who is not your spouse will

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obtain full title to real property upon your death, the deed must specify that the property is owned with rights of survivorship. Property owned jointly by spouses is owned by the entirety, and thus it is presumed to include the right of survivorship unless the deed provides otherwise.

### ADVANTAGES

- Upon your death, title passes automatically and immediately to the surviving owner and does not pass through probate.
- If the joint owner dies before you, you become the sole owner again since you are the surviving joint owner.
- If the joint owner is living at the time of your death, he or she will be certain to get the property. In contrast, if a home is left by will to a non-relative, there is always the danger that it may have to be sold in order to cover debts or expenses of the estate. It should be noted that any mortgage or lien on the property remains.

### DISADVANTAGES

- You lose sole control of your property. If you should wish to sell the property or give it to someone else, you need the joint owner's permission.
- If the joint owner should become incompetent, difficulties may arise because you may need to establish a guardianship to obtain their permission to transfer or mortgage the property.
- A co-owner can demand a partition or sale of the property, and half of the property would be subject to claims of creditors of the co-owner.

### *Life Estate Method*

#### ADVANTAGES:

- When you hold a life estate in property, you have basically the same advantages as in a joint tenancy, but the remainder owners can never force you out of the home while you're living. Even if the title owner decides to sell

the property, the new title owner takes the property subject to your life estate.

### DISADVANTAGES

- You lose full and sole control of your property or home. Without very specific language in the deed (often known as a "Lady Bird Deed") a life tenant cannot sell the property (at least not without the cooperation of those people who will take the property upon your death). This can be a burden as taxes/assessments increase or when a life tenant may want to sell the property in order to move to a more appropriate housing arrangement.
- If the title owner dies before you, title passes to the heirs or beneficiaries named in the will of the remainder beneficiary, and the change of titleholder could cause additional difficulties in the enjoyment of your life estate.
- If the title owner should become incapacitated, you could encounter difficulties in dealing with a guardian.

### **Basic Facts About Trusts**

A trust enables individuals to transfer their property to others via a legal document. However, a trust is very different from a will. Wills are only in effect after the death of the testator, but a trust may be in effect prior to one's death.

A trust is established by a settlor (sometimes also called the "grantor" or "trustor"), the person who transfers property to the trust via the written document. These assets become the corpus (the "body" or "principal") of the trust. Ownership of the corpus is then given to a trustee for beneficiaries selected by the settlor in the trust agreement. Although title to the corpus rests with the trustee, the trustee's ownership is merely a fiduciary function. The settlor may select a trusted friend or relative or a financial institution to serve as trustee of the trust. Financial institutions charge an annual fee to administer the trust, while individuals generally do not.

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The settlor can direct the trustee to distribute the trust income and corpus in a variety of ways. The structure of the trust can be tailored to meet your specific needs and circumstances. The amount of control you retain over the trust property will vary depending upon what type of trust you choose and how you design the trust. There are different tax consequences depending on which form of trust you select. The creator of a trust may limit the investment vehicles in which the assets of the trust may be invested.

There are basically two types of trusts: an inter vivos or living trust, and a testamentary trust. A living trust is operational while the settlor is alive and may be designed to continue after his or her death. The settlor may designate himself or herself as one of the beneficiaries of the trust. The testamentary trust is usually established because of a provision in a person's will requiring a trust to be created. Often, a trust which operates in conjunction with a will is the most effective vehicle for asset distribution.

In Florida, a trust must be written and signed by the creator in the presence of two attesting witnesses in order to be valid. For more information about trusts, consult an attorney who specializes in estate planning.

## **Basic Facts About Gifts**

If you estimate that your net estate will exceed the credit for estate taxes (thus making it a taxable estate), one way to lower or avoid estate taxes and to avoid probate is to dispose of some of your property by gift during your lifetime. Before making a gift, be certain you have sufficient assets and income to meet your own needs, taking careful account of the expenses associated with aging (i.e., large medical expenses). To make a transfer that will be legally recognized as a gift you must (1) clearly show your intent to make a gift; (2) ensure that the gift is a "complete gift" and not merely a loan; and (3) give the other person possession of the property.

There are some tax consequences you should be aware of before you dispose of your property by gift. In 2016, you can give away up to \$5,450,000 in your lifetime, plus another \$14,000 per year per person to anyone you want, without negative tax consequences. These amounts are adjusted annually for inflation. Accordingly, by planning your giving, with the help of a qualified professional, you can reduce the estate tax liability of your heirs and beneficiaries.

It is important to make provisions for the distribution of your property. Failure to make plans will result in a distribution dictated by Florida law and will almost certainly result in a distribution you would not have preferred.

## ***A Word of Warning***

Although distributing your estate now may make sense from a tax standpoint, retaining control of your property ensures that you will not be taken advantage of or neglected, especially if you have a sizable estate. Control of your property often allows you to keep control over decisions which affect your life. If you transfer full title of your property to someone else without any additional provisions, you give up all rights to the property. Remember, you could even be forced to move out of your home by the very person to whom you transferred title to, and you would have a difficult time setting aside the transfer.

## **One Final Word of Caution**

This section is only intended as a very brief and broad overview. If you are considering changing title to your property, you should seek legal advice. Depending on the actual circumstances of your case, there may be additional advantages and disadvantages that must be considered. You will have to weigh your alternatives and decide accordingly. Remember, your rights to your property may be permanently altered by any transfer you make. Therefore, you should not act in haste. If you have an attorney, contact him or her. For the legal services office nearest you, see the Reference and Referral Information section toward the end of the Handbook.



# Organizing Your Personal Records

Getting your records in order will save time and energy in your daily affairs. Basic personal information is necessary for almost any legal transaction and application for benefits. Financial records can be useful for budgeting your income, making investments, or retirement and estate planning.

You could be at a high risk of failing to meet your legal responsibilities if your personal documents are not adequately maintained. Organizing your records can also alleviate your loved ones from bureaucratic burdens. During an emergency situation, a friend or relative will spend less time digging for papers if he or she knows the location of the necessary documents.

A simple way to organize your records is to write down an inventory of important papers. Include a description of the document and its location, whether in a safe deposit box at the bank or a file box in your closet. Location is particularly important when referring to your will (remember you do not have to reveal the contents of wills or trusts), birth certificates, and certificates of marriage and citizenship.

The following is a list of basic items that your personal and financial records file should contain.

### ***Personal Records:***

- Full legal name
- Social Security number
- Legal residence
- Date and place of birth
- Names and addresses of spouse and children (or location of death certificates if any are deceased)
- Names of parents
- Location of will or trust
- Location of birth certificate and certificates of marriage, divorce, and citizenship
- Names and addresses of other relatives, close friends, doctors, and lawyers or financial advisors
- List of employers and dates of employment
- Education and military record
- Religious affiliation, name of religious place of worship, and name of clergy (if desired)
- Living will, anatomical gifts (i.e., organ donation)
- Preferences or prearrangement for burial

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***Financial Records:***

- Social Security and Medicare information
- Investment income (stocks, bonds, property)
- Sources of income and assets (pension funds, interest income, etc.)
- Insurance information (life, health, and property), with policy numbers
- Bank accounts (checking, savings, and credit union)
- Credit cards
- Location of safe deposit boxes
- Copy of most recent income tax return
- Power of attorney
- Liabilities (what is owed to whom and when payments are due)
- Mortgages and debts (how and when paid)
- Property taxes
- Location of personal items such as jewelry or family treasures

# Power of Attorney and Guardianship

## Power of Attorney

If you are confined to a hospital, have physical problems that make it difficult for you to get around, have a temporary illness that keeps you at home, or cannot easily find or afford convenient means of transportation, you may find it hard to take care of your personal business.

One way of handling this situation is to create a power of attorney. A power of attorney exists when one person, the principal, gives someone else, the attorney in fact or agent, written authority to do some specified act(s) in the principal's name. Florida's power of attorney laws have been significantly changed, effective October 1, 2011. If you executed a power of attorney document before that date, different rules apply than if you executed the power of attorney document today. Consult the help of an attorney, as these laws are quite technical and have evolved over the years.

The attorney in fact must be 18 years of age or older and need not be an attorney-at-law. The document should state who the principal is, who the attorney in fact is, and it should describe with particularity what powers are being given to the attorney in fact. Power of attorney forms are available at most stationery and office supply stores, but these forms should be used with great caution. In Florida, a power of attorney used in transactions which involve recorded instruments (such as a deed or mortgage of real property or a lease for a term longer than one year), must

be filed and recorded in the official records of the county. NOTE: To be recordable, the document granting the power of attorney must be executed with the same formalities as required of a recorded instrument itself, with two witnesses and a notary public.

The person giving the power of attorney, (called the principal), can give another person, called the agent or attorney-in-fact, authority to transact almost any personal business that may require the principal's presence or signature. For example, a person who is physically unable to go to the bank may want to give someone else the power to deposit and withdraw money from his or her account (without making that person a joint owner with survivorship rights—see the section of this Handbook on Wills and Estates). Make the document as specific as possible in describing what authority is being given. Include a statement as to how long the authority lasts; there is danger in not doing so, because if the document is too broad or general, it may not be honored and in addition may lead to an abuse of that power, or to misunderstandings between the principal and the attorney in fact.

Normally the agent is not a lawyer. Rather, it is usually a friend or relative. If you are considering creating a power of attorney, remember that it can be used to your disadvantage. Therefore, you should be very careful in choosing the attorney in fact.

If you already have a recorded power of attorney and wish to terminate it, you should

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file a written termination with the Clerk of the County Court. If the power was not recorded, be sure to notify in writing anyone with whom your attorney-in-fact has done business in your name. A power of attorney is terminated by a written revocation, death, or an adjudication of incompetence of either the principal or attorney in fact.

### **Durable Power of Attorney**

Durable power of attorney makes it possible to plan ahead for the eventuality of serious incapacity. It is the same as a power of attorney set forth above, but a durable power of attorney can be used by the attorney even when the principal is incapacitated, as long as there has not been a court order of incapacity. The document must be signed before two witnesses and a notary public. It also must include the words, "This durable power of attorney is not affected by subsequent incapacity of the principal except as provided in chapter 709, Florida Statutes," or similar words that show the principal's intent.

Property subject to the durable power of attorney can include all real and personal property owned by the principal, the principal's interest in all property held in any type of joint tenancy including a tenancy by the entirety, and all property over which the principal holds a power of appointment.

For example, the family of a person who becomes mentally incapacitated probably would not be able to handle his or her affairs and would have to seek a determination of incompetency and have a guardian appointed to handle the incompetent's affairs. This would require court proceedings which may take time and be costly. (See Guardianship section of this Handbook.) With a durable power of attorney you do not need an adjudication of incompetency. The grantor of the power designates ahead of time who will handle his affairs.

Durable power of attorney is very similar to a regular power of attorney, but there is a difference. In a regular power of attorney,

the power is terminated if the donor becomes incapacitated, regardless of whether or not there has been a formal finding of incompetency by a court. With a durable power of attorney, the power remains valid through the principal's disability or incapacity. The power is revoked only when the donor revokes it, is adjudicated incompetent, or dies. However, there are certain exceptions specified in Florida law when a Durable Power of Attorney may not be used for an incapacitated principal. Most Powers of Attorney granted today are durable. Since Durable Powers of Attorney have specific requirements, it is advisable to contact an attorney.

### **Guardianship**

Many people think that guardianship only applies to young children without parents. While it is certainly true that many guardianships deal with children, guardianships can also involve adults. When a person becomes incapacitated or incapable of caring for himself or of managing his personal affairs, that person can be the subject of a guardianship action.

If a friend or relative is stricken with a serious illness that renders him or her unable to care for him or herself, and you desire to take care of that friend or loved one, you can seek guardianship of that person by filing a petition in a Florida court. A circuit court may grant guardianship over any person who, due to a physical or mental condition, cannot take care of himself or manage his own affairs. This includes individuals who cannot care for themselves due to sickness, excessive use of alcohol or drugs, and mental illness (see the section of this Handbook entitled Institutionalization of the Mentally Ill). The person for whom a guardian is appointed is called a ward.

In granting a guardianship, the Florida court is required to note the exact nature and scope of the person's incapacities, including the specific rights that the person is incapable of exercising.

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A guardianship may, if the Court determines it is warranted, deprive the ward of rights, including the right to vote, marry, personally apply for government benefits, hold a driver's license, travel, or seek or retain employment. Other rights that a court may remove from a ward which may be delegated to a guardian include the right to contract, sue and defend lawsuits, apply for government benefits and manage property. A ward, however, retains some rights, including the right to be treated humanely, be free from discrimination because of his or her incapacity, have access to courts, receive visitors and communicate with others, and privacy. A judicial order of incapacity and the appointment of a Guardian is a drastic action to take and may be an emotionally painful experience for everyone involved. If you consider becoming a guardian over an adult, you must make sure that it is absolutely necessary and that you are prepared for the responsibility.

### **Limited Status**

Florida's guardianship laws intend to permit incapacitated people to participate as fully as possible in all decisions affecting them while providing assistance that least interferes with their legal capacity to act on their own behalf. To ensure the ward has an increased opportunity for self-determination, the guardian of an incapacitated person is limited to exercise only those rights that have been removed from the ward and delegated to the guardian.

Accordingly, Florida law requires that before a court grants an order declaring someone to be incapacitated and appointing a guardian, the court must find that alternatives to guardianship (such as powers of attorney, trusts, supportive or protective services, or volunteer services) were considered and that no alternative to guardianship will sufficiently address the problems and needs of the ward.

A guardianship of the person is created when the court determines that the ward is, in whole or part, incapable of taking care of himself or herself. A guardian of the person is entrusted with the duty of taking care of the ward's

person, to the extent the court determines necessary. A guardian of the person may neither control the ward's property nor legally obligate the ward. A guardian of the person is required by law to file an annual report stating the ward's condition and progress and, among other things, to honor the reasonable preferences of the adult ward's place of residence and standard of living. The guardian of the person can exercise only those duties delegated by the court.

A guardianship of property is created when the court has determined the ward is incapable of managing all or part of his property. A guardian of the property is entrusted with the duty to protect, preserve, and prudently invest the ward's property. The court may place all or less than all of the ward's property under the guardianship. The guardian must account for the ward's property faithfully and file an annual report with the court explaining how the ward's property has been invested or spent. The guardian of the property must obtain a court order to use any assets of the ward, even if it for the ward's care. The same person or entity may be both guardian of the person and property.

Any person who is the subject of guardianship proceedings has many rights, including the right to an attorney. If you cannot afford an attorney, the court will appoint an attorney to represent you.

### **Voluntary Guardianship**

A voluntary guardianship does not require a finding of incapacity. The petition is filed by the prospective ward when, as a result of age or physical infirmity, one finds that he or she cannot manage his or her property. A person may request the appointment of a guardian of his or her choice to manage his or her property. If requested, the court may direct the guardian to take possession of part of the ward's property. A certificate from a licensed physician stating that the petitioner has been examined and found competent to understand the nature of the guardianship and his or her delegation of authority must be filed

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with the petition for voluntary guardianship. A voluntary guardianship may be terminated by the ward if competent to do so, by filing a notice with the court that the voluntary guardianship is terminated.

### ***Pre-need Guardian***

Florida law allows a competent adult to name a pre-need guardian. To name a guardian, you will need to make a written declaration that names someone to serve as guardian in the event of the declarant's incapacity. The written declaration must reasonably identify the declarant and pre-need guardian and be signed by the declarant in the presence of at least two attesting witnesses present at the same time. If the declarant files the declaration with the clerk of the court, the clerk will produce the declaration if and when a petition for incapacity is filed. This creates a rebuttable presumption (presumed unless

proven otherwise) that the pre-need guardian is entitled to serve as guardian. By following this procedure, an individual can have peace of mind knowing that if he or she becomes incapacitated, someone they know and trust and someone whom they appointed will take care of them.

### ***Termination of Guardianship***

The court will end the guardianship when the ward dies; when the ward and/or guardian move to another state and that state's court has appointed a new guardian; when in a guardianship of the property, the assets are exhausted; when competency is restored; or, in the case of a voluntary guardianship, when the ward, if competent, terminates the guardianship.

# Health Care Advance Directives

An advance directive is a witnessed, written document or oral statement by a person expressing his or her instructions about health care, through documents including, but not limited to, the following:

- Designation of the health care surrogate,
- A living will, or
- A do-not-resuscitate order.

A competent adult has the fundamental right of self-determination regarding decisions pertaining to his own health, including the right to choose or refuse medical treatment. This right is subject to certain interests of society, such as the protection of human life and the preservation of ethical standards in the medical profession. If one is unable to provide or withhold consent to a medical procedure, one can delegate these decisions to another person (a “surrogate”) to direct the course of his or her medical treatment, or make a living will.

The execution of an advance directive does not affect the sale, purchase, or issue of the terms of any policy of life insurance, or modify the terms of an existing policy (in spite of provisions to the contrary). A person cannot be required to make or waive an advance directive as a condition for obtaining or receiving health care services or insurance.

Should you decide to write an advance directive, be sure to advise your family, friends, and physician that such a directive has been made.

You can write your own advance care directive by using the forms that follow. To be certain you are complying with Florida law, you may want to seek the advice of an attorney.

An advanced directive may be revoked by a competent principal at any time by a signed and dated writing; physical cancellation or destruction of the document; an oral expression of intent to revoke; or by a materially different subsequently executed declaration.

## Health Care Surrogate

A written designation of a health care surrogate may, but need not be, in the form suggested by Florida Statutes, found on pages 112 and 113.

A health care surrogate shall, unless the designation provides otherwise, have the authority to act for the person during his or her incapacity including, but not limited to, the right to the following:

- Consult with health care providers;
- Make health care decisions;
- Provide informed consent;
- Provide written consent when required;
- Have access to necessary medical and financial records;
- Authorize admission to/transfer from a health care facility; and

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- Apply for public benefits (i.e., Medicare/Medicaid).

Unless the principal expressly delegates the authority in writing or court approval has been obtained, a health care surrogate or proxy may not provide consent for abortion; sterilization; electroshock therapy; psycho-surgery; experimental treatments (except as allowed by federal standards); or the withholding or withdrawing of life-prolonging procedures from a pregnant patient prior to viability.

A principal may designate a separate surrogate to consent to mental health treatment in the event that the principal is determined by a court to be incompetent to consent to mental health treatment and a guardian advocate is appointed. However, unless the document designating the health care surrogate expressly states otherwise, the court shall assume that the health care surrogate authorized to make health care decisions is also the principal's choice to make decisions regarding mental health treatment.

It is the duty of the health care surrogate to make the health care decisions the surrogate believes the principal would make under the circumstances if he or she were capable of making the decision. A surrogate steps in and makes decisions **only** after the principal is incapacitated and unable to make health care decisions. Once the principal regains capacity, the surrogate's decision-making authority ceases.

## **The Living Will**

The artificial prolongation of life for a person with a terminal condition may be a precarious and burdensome existence, while providing nothing medically necessary or beneficial. If desired, a person may make an advanced directive, commonly referred to as a **living will**. A living will is a legal document that specifies what actions should be taken for a person's health if they are no longer able to make decisions for themselves because of illness or incapacity. The document must be signed by the principal in the presence of two

subscribing witnesses, one of whom is neither a spouse nor a blood relative of the principal. A "life prolonging procedure" means any medical procedure, treatment, or intervention which utilizes mechanical or other artificial means to sustain, restore, or supplant a spontaneous bodily function (including the provision of nutrition and hydration). The living will instructs the principal's physician to provide, withhold or withdraw life-prolonging procedures, or to designate another to make the treatment decision for him, in the event that such person should be found to be incompetent and diagnosed as suffering from a terminal condition.

By directing that life prolonging procedures be withdrawn or withheld, the writer of a living will is **not** instructing that medical procedures which provide comfort or alleviate pain be withheld. A suggested form from Florida Statutes can be found on page 107.

A **living will** may contain additional specific instructions, including situations when life-prolonging procedures should be withheld or withdrawn. The designation of a surrogate for the purpose of a living will does not grant the surrogate the right to make all health care decisions unless the designation specifically grants the surrogate such power.

Florida does not authorize mercy killing or euthanasia. The withholding or withdrawal of life-prolonging procedures from a patient in accordance with the statute does not, for any purpose, constitute a suicide.

## ***If a Patient Has No Advance Directive or Designated Surrogate***

If a patient has not executed a living will and does not have a designated surrogate, health care decisions may be made for the patient by a proxy. A proxy must make a decision that the proxy reasonably believes the patient would have made under the circumstances. If the proxy has no indication of what the patient would have chosen, the proxy should consider

*Continued on page 115*



# Designation of Health Care Surrogate

I, \_\_\_\_\_, designate as my health care surrogate under s. 765.202, Florida statutes:

Name (*of health care surrogate*): \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

If my health care surrogate is not willing, able, or reasonably available to perform his or her duties, i designate as my alternate health care surrogate:

Name (*of alternate health care surrogate*): \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

## Instructions for Health Care

I authorize my health care surrogate to:

\_(Initial here) receive any of my health information, whether oral or recorded in any form or medium, that:

1. Is created or received by a health care provider, health care facility, health plan, public health authority, employer, life insurer, school or university, or health care clearing-house; and
2. Relates to my past, present, or future physical or mental health or condition; the provision of health care to me; or the past, present, or future payment for the provision of health care to me.

I further authorize my health care surrogate to:

\_(Initial here) make all health care decisions for me, which means he or she has the authority to:

1. Provide informed consent, refusal of consent, or withdrawal of consent to any and all of my health care, including life-prolonging procedures.
2. Apply on my behalf for private, public, government, or veterans' benefits to defray the cost of health care.
3. Access my health information reasonably necessary for the health care surrogate to make decisions involving my health care and to apply for benefits for me.
4. Decide to make an anatomical gift pursuant to part v of chapter 765, Florida statutes.

\_(Initial here) specific instructions and restrictions:

While I have decision-making capacity, my wishes are controlling and my physicians and health care providers must clearly communicate to me the treatment plan or any change to the treatment plan prior to its implementation.

To the extent I am capable of understanding, my health care surrogate shall keep me reasonably informed of all decisions that he or she has made on my behalf and matters concerning me.

This health care surrogate designation is not affected by my subsequent incapacity except as provided in chapter 765, Florida statutes.

Pursuant to section 765.104, Florida statutes, I understand that I may, at any time while I retain my capacity, revoke or amend this designation by:

1. Signing a written and dated instrument which expresses my intent to amend or revoke this designation;
2. Physically destroying this designation through my own action or by that of another person in my presence and under my direction;
3. Verbally expressing my intention to amend or revoke this designation; or
4. Signing a new designation that is materially different from this designation.

My health care surrogate's authority becomes effective when my primary physician determines that i am unable to make my own health care decisions unless i initial either or both of the following boxes:

If I initial this box [ ], my health care surrogate's authority to receive my health information takes effect immediately.

If I initial this box [ ], my health care surrogate's authority to make health care decisions for me takes effect immediately. Pursuant to section 765.204(3), Florida statutes, any instructions or health care decisions I make, either verbally or in writing, while I possess capacity shall supersede any instructions or health care decisions made by my surrogate that are in material conflict with those made by me.

Signatures:

\_\_\_\_\_  
(Signature) (Print Name) (Date)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City) (State)

First Witness

\_\_\_\_\_  
(Signature) (Print Name) (Date)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City) (State)

First Witness

\_\_\_\_\_  
(Signature) (Print Name) (Date)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City) (State)

*The declaration remains in effect until revoked by the principal unless the termination date is specified in the document.*

*In the absence of a living will, the decision to withhold or withdraw life-prolonging procedures from a patient may be made by a health care surrogate unless the designation limits the surrogate's authority to consent to the withholding or withdrawal of life-prolonging procedures.*

*The surrogate may not be a witness.*

# LIVING WILL

Declaration made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_. I, \_\_\_\_\_, willfully and voluntarily make known my desire that my dying not be artificially prolonged under the circumstances set forth below, and I do hereby declare that if at any time I am incapacitated and (initial) I have a terminal condition, or (initial) I have an end-stage condition or (initial) I am in a persistent vegetative state and if my primary physician and another consulting physician have determined that there is no reasonable medical probability of my recovery from such condition, I direct that life-prolonging procedures be withheld or withdrawn when the application of such procedures would serve only to prolong artificially the process of dying, and that I be permitted to die naturally with only the administration of medication or the performance of any medical procedure deemed necessary to provide me with comfort care or to alleviate pain.

It is my intention that this declaration be honored by my family and physician as the final expression of my legal right to refuse medical treatment or surgical treatment and to accept the consequences for such refusal.

In the event that I have been determined to be unable to provide express and informed consent regarding the withholding, withdrawal, or continuation of life-prolonging procedures, I wish to designate as my surrogate to carry out the provisions of this declaration:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

I understand the full import of this declaration, and I am emotionally and mentally competent to make this declaration.

Additional instructions (optional): \_\_\_\_\_

Signature \_\_\_\_\_

Witness\*: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Witness: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

*\* Must be signed in the presence of two witnesses, one of whom is neither the spouse or blood relative of the maker.*

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the patient's best interests. If the proxy decides to withdraw treatment, he or she must prove by clear and convincing evidence that this is what the patient would have wanted or, if there is no indication of what the patient wanted, that withdrawing treatment is in the patient's best interest.

Any of the following individuals may serve as a proxy, in the following order of priority:

- A judicially appointed guardian or guardian advocate if such guardian has previously been appointed;
- Spouse;
- Adult child, or a majority of the adult children who are reasonably available if the patient has more than one adult child;
- Parent;
- Adult sibling, or a majority of the adult siblings who are reasonably available, if the patient has more than one sibling;
- Adult relative who has exhibited special care and maintained contact with the patient and who is familiar with the patient's activities, health, and religious or moral beliefs;

- A close friend of the patient; or
- A clinical social worker

### **Do-Not-Resuscitate Order**

In addition to designating a surrogate and executing a living will, a person may choose to issue a do-not-resuscitate order. Emergency medical service personnel will honor a do-not-resuscitate order if the appropriate Department of Health Do-Not-Resuscitate Order form, or "yellow form," is signed by the individual or the individual's health care representative and is presented to the emergency medical services personnel when responding to a call for assistance. Unless it is revoked, it is legally valid and does not need to be periodically renewed. Every person is presumed to consent to the administration of cardiopulmonary resuscitation in the event of cardiac or respiratory arrest, unless there is consent to the issuance of a do-not-resuscitate order as provided by Florida law.

# Hospice Home Care

Often terminally ill patients want to spend their remaining time at home where they can enjoy their families, friends, pets, familiar rooms, music, possessions, and smells. Hospice home care affords the terminally ill this alternative to traditional hospital care. Hospice incorporates a compassionate attitude in caring for the dying so that the patient is pain free and maintains quality and dignity of life until death. The program emphasizes care and counseling for both patient and family.

Hospices focus on pain management instead of providing curative treatment to which a patient no longer responds. Pain management alleviates the pain as well as the depression, anxiety, and insomnia associated with pain. Various drugs are administered to avoid the recurrence of pain; however, the patient remains coherent and alert.

To be eligible for hospice home care, the primary or treating physician must consent to the program and must certify that the patient has a life expectancy of six months or less. Once admitted to the program, a coordinator assembles a hospice team consisting of a physician, nurse, nurse's assistants, social worker, volunteers, and a chaplain or counselor. By law, hospice cannot impose any religious beliefs on the patient or family; however, if requested, the program will include bereavement counseling for the family after the patient's death. The program will also furnish therapists, pharmacists, and dieticians if necessary. Someone from the hospice team remains on call 24 hours a day, seven days a week.

When symptoms cannot be managed at home, or when family or caregivers require a rest, the patient can be admitted to a hospice in-patient facility. Most in-patient hospices provide a homelike decor that is lively and brightly colored. Usually a patient may bring some personal belongings to the hospice. Family members of all ages are allowed to visit and may even spend the night.

Hospice care often costs less than traditional hospital care. Most private insurance companies provide for hospice care, as does Medicare. In addition, the hospice will make provision for the care of indigent persons based on a sliding ability-to-pay scale.

Hospice care centers must report annually to the Department of Elder Affairs and are licensed by the Agency for Health Care Administration.

# Planning Your Own Funeral

There are good reasons for making and paying for your own burial arrangements. You relieve your next-of-kin of a financial burden at a time when they are most vulnerable, as bereaved family members often feel guilty about economizing on a funeral of a relative. Furthermore, you can guarantee your funeral will be carried out in accordance with your wishes.

Although most funeral directors and cemetery representatives operate ethically, some do not. Some funeral directors may try to insist that you purchase services you do not need to increase their profits. Even the wisest person is vulnerable to exploitation at a time of loss. It is always wise to consult someone who is not grieving when making decisions concerning funeral arrangements. Do not allow yourself to be rushed into making decisions. You have the right to take all contracts and informational brochures home with you for close examination. Never sign anything that you have not examined closely or that you do not fully understand.

### **Funeral Expenses**

The ceremony you choose can be based upon religious and practical considerations. For many, the simplest and least expensive way is by cremation with your ashes either returned to your next of kin or scattered.

If you choose a traditional burial, you may need to make two contracts – one with the funeral home and one with the cemetery. Many cemeteries operate their own funeral

homes, enabling you to take care of funeral requirements with only one contract and eliminating secondary and hidden costs. Funeral home expenses are usually divided into two portions – charges for professional services (such as preparation of the body) and the cost of a casket. Embalming is not required by law. Because professional service fees vary, you should shop around for a funeral home. Ask to see the least expensive casket if you wish, as it may not be on display. How expensive the funeral is will be largely determined by the price of the casket you choose. The price of a casket ranges from \$700-\$20,000. In addition to the casket, the funeral home will charge you for removal of the body, embalming, any private viewing, transportation to and from funeral services outside the funeral home, and transportation to the cemetery and for attendants. Funeral directors are required by Florida law to give you an itemized cost breakdown of all funeral expenses. Be sure to ask for it before you contract for services.

### **Cemetery Expenses**

Many people choose below-ground burial. This type of interment is costly because it includes expenses for opening and closing the grave, \$900, grave vault or liner, \$800, marker for the grave, \$500, and endowment care (future grave-site maintenance fees). (Note: All prices are estimates to provide an approximate cost. Prices may vary.)

The grave site is priced according to its location in the cemetery. The gravestone can be purchased at a private monument firm, but

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make sure that it meets cemetery specifications. The cemetery will charge a setting fee.

### **Different Ways of Paying**

As you can see, traditional below-ground burial is costly (approximately \$5,000) and can require complex decision making by your family at a time of great emotional stress. Accordingly, you may want to consider cremation to protect your survivors from both financial and emotional distress. As with every other contract you enter into, a burial contract needs to be negotiated very carefully to make sure that the final payment is not more than anticipated. Take a friend with you for support when you go to the funeral home so that you are not intimidated into spending more than planned.

### **PRE-NEED CONTRACT:**

Florida law requires that all money paid for preplanned funerals be placed in trust. The money from the trust fund will be paid to the funeral director upon receipt of proof that services were carried out in conformance with your wishes. By law you must be able to get your money back from the trust if you decide to cancel the contract within 30 days. Thereafter the refund may be subject to liquidated damages in certain percentage amounts allowable by state law and stated in the contract. Likewise, if the funeral services are not performed, the entire amount shall be reimbursed within 30 days.

### **MEMBERSHIP IN A BURIAL SOCIETY:**

There are both for-profit and not-for-profit burial societies that provide simple ceremonies (usually cremation) for a membership fee. The balance of the purchase price can be negotiated either as a pre-paid or post-paid contract, with the bulk of the money to be paid out of your estate after death.

### **One More Thing**

Remember to update your burial instructions as necessary. Be certain that the person who needs to know is aware of the location of your funeral instructions.

### **Organ and Body Donation**

You can perform a public service and avoid costs by donating your body to a medical school and your organs to someone that needs them. Organ donation means that you can live on in a special way by saving the life of someone in need of an organ transplant. You may be able to donate a heart, kidneys, or some other organ if you so request. Organ transplants are done at no cost to the donor; the recipient hospital will cover the cost of donation. Following organ donation, the family of the deceased may hold funeral and memorial services. To become part of the donor program, you should visit [www.donatelifeflorida.org](http://www.donatelifeflorida.org) and register to become an organ donor. You may also indicate such intent on your driver's license at time of renewal. You may change your mind at any time.

# Steps to Take When Someone Dies

### **Report Death**

After death occurs, it must be reported immediately to the registrar of vital statistics at the county health department. A certificate must be registered with the local registrar of the District in which the death occurred within five days and before removal of the body from the state. This is usually accompanied by taking or mailing a copy of the death certificate signed by the doctor to the local registrar at the county health department in the county where death occurs.

### **Death Certificates**

You can obtain certified copies of the death certificate in person from the county's Office of Vital Statistics located in the county where the death occurred, or by mail from the State Office of Vital Statistics. Certified copies have original markings such as a raised seal. There are two types of death certificates available: with or without cause of death. Death certificates with cause of death are needed for insurance claims. Death certificates without cause of death are needed for filing with the Clerk's office.

### **Check With Deceased's Employer**

If the deceased was employed, call the deceased's employer to find out whether the estate is entitled to any unpaid salary, unsettled expenses, bonuses, or accrued vacation pay. Check on retirement plan benefits. Ask about options – whether the spouse is entitled to choose between a lump sum or an annuity.

An annuity will usually pay the spouse the income in monthly increments over a specified period of time. The advantage of an annuity is that if the spouse lives to a very old age, he or she will have a fixed income to rely on. The drawbacks are that the spouse is not in control of the retirement plan benefits, and if inflation rises, the spouse will not be able to take advantage of higher interest rates.

### **Gathering Important Papers**

One of the most difficult tasks that falls to the spouse, or to the bereaved person responsible for handling the deceased's affairs, is that of going through the papers. It needs to be done before the funeral in order to see if there are any burial instructions. Help your family or friends by making a complete statement of your assets and where your important papers can be found. Make sure they know where the statement is. The section of this Handbook on Organizing Your Personal Records should prove helpful. If the deceased made no statement or compilation of records, this section will inform what documents to gather.

### **Burial Arrangements**

If the deceased did not make burial arrangements and has not left instructions for the funeral, you can look in the "Yellow Pages" or online under "Funeral." Keep receipts of all burial expenses.

### **Probating the Estate**

The person having the will should deposit it with the Probate Court within 10 days of the death.



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If the estate needs to be probated in court, you will likely need a lawyer. If the estate is not large, simplified probate procedures are available. If you do not have a lawyer, the local bar association lawyer referral service can provide the names and telephone numbers of lawyers who are licensed to practice in Florida and are members in good standing of the Florida Bar who specialize in probate law and estate planning. If the local bar association has no lawyer referral service, the Florida Bar has a statewide service for those areas not covered by a local referral service. Their toll free number is 1-800-342-8011. The Florida State Courts also provide helpful information at [www.flcourts.org](http://www.flcourts.org) and search for “information for elders.” Please be aware that these lawyer referral services only provide the names and telephone numbers of licensed Florida attorneys and cannot recommend a specific attorney.

Your attorney should make it very clear to you exactly what the attorney intends to do for you and what you are expected to take care of yourself. Make certain that you carefully review the retainer agreement (contract) with the attorney prior to signing. If you do not understand certain provisions, ask the attorney to explain them to you. To determine if the estate needs to go through probate, see the Wills and Estate Planning section of this Handbook.

## **Taxes**

Inheritance and estate taxes may need to be addressed when someone dies. They are covered in the “Wills and Estate Planning” section of this Handbook.

## **Notifications**

Whom should you notify of the death? Generally, you should inform anyone who has an interest in the deceased’s financial affairs, including the following:

- Bank,
- Deceased’s employer,

- Social Security Administration,
- Department of Motor Vehicles,
- Issuers of credit cards/charge accounts, and
- Title holders to mortgages.

## **Check With Insurance Companies**

To collect the money from a life insurance policy, notify the company of the policy holder’s death, and get a claim form. Complete the form and file it with the insurance company together with proof that you are the named beneficiary on the policy, a certified copy of the death certificate, and a copy of the policy.

Be aware that you cannot change the designated beneficiary of your insurance policy merely by naming a new beneficiary in your will. The person named on the policy gets the money.

If you get divorced, remember to change the name of the beneficiary if appropriate. Forgetting to do this can cause wrenching problems for the surviving spouse, especially if the named beneficiary, usually a former spouse, is dead.

## **Social Security Administration**

You must notify the Social Security Administration to report the death of the Social Security/SSI beneficiary. You may do so by calling 1-800-772-1213. If you continue to receive checks, you will have to pay the money back when they find out – and they will find out. You are entitled to a lump sum death benefit of \$255 if you are the surviving spouse and were living together at time of death, or, if living apart, if you were receiving certain Social Security benefits on the deceased’s record. The Social Security Administration will tell you what benefits you are entitled to. Take the following documents with you when you go:

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- Certified copy of death certificate,
  - Affidavit of Right or Letters of Administration if the estate is probated, and
  - Proof of relationship to deceased.

## **Check With Veterans Administration**

You are entitled to a gravestone and flag if the deceased was a veteran, or to burial in a national cemetery. You do not have to be a family member to request these items and services for the deceased.

The Veterans Administration will require the following:

- A certified copy of death certificate,
- Proof of funeral and burial expenses, and
- Proof of the veteran's military service.

The person paying burial expenses is also entitled to up to \$300 (depending on the circumstances) toward funeral costs if the deceased:

- Was in receipt of VA pension;
- Was in receipt of compensation for service-connected disability; or
- Died in a VA hospital, in which case the VA will pay up to \$700; or
- Died in a VA hospital, but was not buried in a national cemetery, in which case the VA will pay up to \$700 for a burial plot and internment.

If you are a spouse of a deceased veteran, you may be entitled to a small pension that supplements all other income up to a maximum amount per month. It is imperative that you contact a VA office to find out what benefits you may be entitled to (1-800-827-1000). Only a representative of the Veteran's Service Office has the knowledge to inform

you about the specific benefits to which the survivor is entitled.

## **Getting the Car Transferred**

If the deceased died intestate (without a will), an application for a certificate of title may be made by an heir of the deceased previous owner. The applicant must file an affidavit that the estate is not indebted and the surviving spouse, if any, and the heirs, if any, have amicably agreed upon a division of the estate. You can do it yourself by taking a copy of the car title and registration to the Department of Highway Safety and Motor Vehicles.

If the deceased died with a will, the DMV will need an application and a certified copy of the will, if probated, and an affidavit that the estate has sufficient assets to pay all claims. If the will is not being probated, the applicant must provide a sworn copy of the will and an affidavit that the estate is not indebted.

## **Guarding Your Credit Responsibility**

To make arrangements to settle the debt on credit cards and charge accounts, you can call the card issuer or the credit department of the store. The telephone number will be on the monthly statements. You may then want to establish accounts in your own name.

If installment credit or deferred payment terms were granted to you and your deceased spouse jointly, you should notify the creditors so that names can be changed on their billing records. If you are jointly on the account, you are still responsible for payment and should continue to repay the credit.

On a home loan it is likely that both you and your deceased spouse signed the promissory note and mortgage, and that you hold title as tenants by the entirety. If so, you acquire your spouse's share of the property, and you continue to be liable for the balance of the loan. Remember to make your mortgage payments regularly, or you could forfeit the property.

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You should change the name on your homeowners' insurance to yours alone.

### **Notifying Creditors**

When an estate passes through probate, the personal representative of the estate is normally responsible for notifying creditors of the death and for paying them out of an estate, after they have filed claims with the probate court. If you are the beneficiary of an estate that goes through summary administration (streamlined procedure for small estates), you are responsible for settling the debts. In a

probate administration, the personal representative named in the will is responsible for paying the creditors, after they have filed claims in the probate court.

### **A Final Word**

Beware the "flimflam" man. Such people prey on the relatives of a deceased person whose name has been obtained from the obituary column. The victim receives authentic-looking bills which are paid without question. Verify all questionable bills.

# Referral and Information

There are numerous agencies and programs providing services and benefits to older Floridians. A wide variety of social, economic, educational, medical, and nutritional programs are available. The following list is being included for your convenience, but it is by no means exhaustive of all the programs available. If you have any questions about programs not listed in this section, the best possible source to contact is your Area Agency on Aging. Every county is served by an Area Agency on Aging, which is responsible for planning and funding services for senior citizens in the local area. Each Area Agency on Aging also serves as an Aging and Disability Resource Center (ADRC), a single, coordinated system for information and access to long-term care resources. To reach your local Area Agency on Aging, please call 1-800-96-ELDER (1-800-963-5337).

## Transportation

Free or low-cost transportation to obtain medical treatment, buy groceries, pick up food aid, or for other purposes may be available in your area for the elderly and the disabled.

For information, call the Florida Department of Elder Affairs or the Aging and Disability Resource Center nearest you. For the telephone number of the office serving your county, see the section in this chapter entitled “Services for Older Floridians.”

Many municipalities also offer discounted fares to senior citizens who use local public

transportation. For more information, contact your county or city bus service.

## Housing

Whether maintaining your current home, seeking more affordable housing, or exploring other long-term care options, the process of finding affordable housing can often be difficult. The following resources are available to help you meet your housing needs.

**Local Government:** State Housing Initiatives Partnership Program (SHIP) funds are allocated to local governments statewide to produce and preserve affordable homeownership and multifamily housing. The program is intended to serve very low, low, and moderate-income families. Examples of the type of things SHIP funds may be used for include but are not limited to emergency repairs, new construction, rehabilitation, special needs housing, and down payment and closing cost assistance. You may locate your SHIP local government contact at: [www.floridahousing.org](http://www.floridahousing.org). You may also call Florida Housing Finance Corporation at (850) 488-4197 for more information.

**U.S. Department of Housing and Urban Development (HUD):** The Housing Choice Voucher Program (Section 8) is a HUD program to assist low-income families, the elderly, and persons with disabilities to rent safe, decent, affordable housing in a community. The Section 8 program is administered by local public housing agencies (PHAs). The Section 8 program provides rental assistance only.

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Contact your local public housing agency for more information on this program and other programs they administer. Statewide public housing agencies, including Florida-specific information, are listed at [www.hud.gov](http://www.hud.gov). You may also call HUD's Information Resource Center at 1-800-955-2232 for more information.

HUD sponsors housing counseling agencies throughout Florida that can provide advice on defaults, foreclosures, credit issues, and reverse mortgages. Its website allows you to select a list of agencies nearest you. You may also call 1-800-569-4287 for the name and location of a HUD-approved housing counseling agency near you.

The HUD website also provides information on steps to take when you may be unable to pay the mortgage on your home. Topics include contacting your lender, talking to a housing counseling agency, prioritizing debts, and exploring loan workout solutions (such as forbearance or mortgage modification). Reverse mortgages are a special type of home loan that lets a homeowner convert the equity in his or her home into cash. You may access this information at [www.hud.gov](http://www.hud.gov).

HUD also maintains a Multifamily Housing Clearinghouse toll-free complaint line at 1-800-MULTI-70 (1-800-685-8470). This hotline takes complaints about matters such as poor maintenance, dangers to health and safety, mismanagement, and fraud. You may reach staff Monday through Friday, 9:00 a.m. to 5:00 p.m. (Eastern time).

**Affordable Rental Housing:** Florida Housing Finance Corporation's website, [www.floridahousing.org](http://www.floridahousing.org), maintains detailed information on affordable rental housing in Florida. You may also obtain this information by calling Florida Housing Finance Corporation at 877-428-8844.

**55 and Older Communities:** The Florida Commission on Human Relations maintains a list of Florida's "55 and Older Communi-

ties" on its website at <http://fchr.state.fl.us>. You may review these communities online or contact the commission at (850) 488-7082 or 1-800-342-8170.

**Homeowners' Insurance:** The Florida Market Assistance Plan (FMAP) Online Referral Service is a free property insurance referral service designed to match consumers who cannot find property insurance with Florida licensed agents and insurers who are writing new business. You may access its website at <http://fmap.org>. You may also call FMAP at 1-800-524-9023 (TTY 1-800-955-8771).

**Property Tax Exemptions:** An overview of property tax exemptions available to Florida's elders and various other categories of Floridians can be found on the Florida Department of Revenue's website at <http://dor.myflorida.com>. You may also contact the Department of Revenue, Property Tax Oversight Program Office at (850) 717-6570.

**Continuing Care Retirement Communities:** Continuing Care Retirement Communities (CCRCs) (also commonly referred to as "life care facilities") are communities that provide a continuum of care ranging from independent live-in houses or apartments to assisted living facilities to skilled nursing facilities. These facilities usually enter into contractual agreements with individuals and agree to provide a living arrangement that meets the person's needs. For more information on CCRC's, please review the "Long-Term Care" guide for consumers located on the Department of Financial Services website at [www.myfloridacfo.com](http://www.myfloridacfo.com). You may also call the Department of Financial Services Consumer Helpline at 1-877-MY-FL-CFO (1-877-693-5236) to obtain a copy of this publication.

**Assisted Living Facilities and Nursing Homes:** In evaluating the most appropriate care consistent with an elder's health care and housing needs, one must consider the scope of the services required (for instance, assessing the type and frequency of the services need-

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ed and whether the health care facility can provide those services).

Assisted living facilities (ALFs) and adult family care homes (AFCH) are licensed to provide housing, meals, and personal services. Personal services include such activities as assistance with walking, bathing, dressing, eating, grooming, toileting, and other similar activities. Such residents, however, cannot require 24-hour nursing supervision.

Nursing homes are licensed to provide nursing care, personal care, custodial care, and rehabilitative care to persons who are sick or recovering from surgery. There are two types of nursing homes in Florida: skilled nursing facilities and skilled nursing units. A skilled nursing facility is typically thought of as a nursing home. Skilled nursing units, however, are hospital-based nursing facilities. Skilled nursing units are either located within a hospital or in a separate building associated with the hospital. Skilled nursing facilities and skilled nursing units can provide rehabilitative care after hospitalization.

The Florida Agency for Health Care Administration has brochures and guides that can help you learn more about assisted living facilities and nursing homes. You can also search on its website for Florida assisted living facilities, adult family care homes, nursing homes, and many other health care facility types and service providers. You may access this information on the Agency's website at <http://www.floridhealthfinder.gov> or obtain these publications by calling 1-888-419-3456.

The Florida Agency for Health Care Administration's Division of Health Quality Assurance also has the responsibility of ensuring that health care facilities comply with licensure laws and regulations. To file a complaint against a health care facility, call 1-888-419-3456.

**Area Agencies on Aging / Aging and Disability Resource Centers (ADRC):** The Florida Department of Elder Affairs (DOEA)

administers programs and services for elders in Florida through contractual agreements with Area Agencies on Aging, also known as ADRCs, throughout the state. You may contact the local ADRC for the county in which you reside to obtain help with your housing needs. You may do this by accessing the DOEA website [www.elderaffairs.org](http://www.elderaffairs.org). You may also call (850) 414-2000 or the Elder Helpline at 1-800-963-5337 for this information.

## **Department of Elder Affairs (DOEA)**

The Department of Elder Affairs (DOEA) was created to focus on aging issues and to better serve older Floridians. Its vision is to see all Floridians age with dignity, purpose, and independence.

In 1992, DOEA became the officially designated "state unit on aging" in accordance with the Older Americans Act. It was responsible for contracting with local Area Agencies on Aging for four programs that were transferred from the former Department of Health and Rehabilitative Services (HRS). These programs include the Older Americans Act, the Community Care for the Elderly Act, the Alzheimer's Disease Initiative, Home Care of the Elderly, and the Federal Home Energy Assistance Program.

The DOEA contracts with 11 Area Agencies on Aging and many local service providers in Florida. Its programs include Long-Term Care Ombudsman Program, Office of Public and Professional Guardians, Communities for a Lifetime, SHINE (Serving Health Insurance Needs of Elders), CARES (Comprehensive Assessment and Review for Long-Term Care Services), and many more programs and services as listed on the DOEA website, [www.elderaffairs.org](http://www.elderaffairs.org).

The DOEA provides innovative and progressive ways to fund aging programs and respond to the critical need for improvement to the long-term care system. The DOEA has established an office of volunteer community

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services as an information clearinghouse on aging issues and resources, administratively houses Florida's Long-Term Care Ombudsman Program, and promotes intergenerational relationships and activities.

### **SHINE Program**

The SHINE program is a program of the Florida Department of Elder Affairs and is operated locally through the Aging and Disability Resource Centers. The acronym SHINE stands for Serving Health Insurance Needs of Elders. Volunteers of the SHINE program can help you understand your Medicare benefits, determine which Medicare Prescription Drug Plan best fits your needs, answer your questions about Medigap, long-term care insurance policies, and other programs available to you. Specially trained volunteers help Medicare beneficiaries, their families, and caregivers to understand their health care options. SHINE volunteers are trained to offer free, unbiased, and confidential information and counseling concerning Medicare. The SHINE program's statewide network of volunteer counselors are also trained to assist elders in specific areas such as home health benefits, Medicare claims and appeals, and other Medicare issues. The SHINE program can also give you details about benefits available in your area and refer you to other helpful programs that may save you money. SHINE can also offer educational presentations or public speeches on a variety of health insurance topics.

To receive help from SHINE, individuals may schedule appointments at designated SHINE Counseling Sites, attend enrollment events in their local communities, or arrange to speak with a trained SHINE Counselor at 1-800-ELDER (1-800-963-5337). For a listing of SHINE Counseling sites and events, please visit [www.floridashine.org](http://www.floridashine.org).

### **Elder Abuse Prevention Program**

The Elder Abuse Prevention Program is designed to increase awareness and meet the needs of the elder population who may be vulnerable to abuse. It provides education and outreach to identify and prevent elder

abuse, neglect, and exploitation. This outreach and education takes place locally by the Area Agencies on Aging throughout the state. Trainings and presentations can be arranged by calling the Elder Helpline at 1-800-96-ELDER (1-800-963-5337) and asking to speak with a local elder abuse prevention coordinator.

### **AARP**

AARP has a number of programs available to its members, including a Medicare Supplemental Insurance Plan, a pharmacy, prescription drug plan, travel assistance, a veterans plan, and a motoring plan. There are three AARP offices that serve Floridians: one in St. Petersburg, one in South Florida, and a state legislative office in Tallahassee. These can be contacted at the following:

#### **St. Petersburg:**

400 Carillon Parkway  
Suite 100  
St. Petersburg, Florida 33716  
(866) 595-7678

#### **South Florida:**

3350 SW 148th Avenue, Suite 120  
Miramar, Florida 33027  
(866) 595-7678

#### **Tallahassee:**

200 West College Avenue, Suite 304  
Tallahassee, Florida 32301  
(866) 595-7678

### **Guardianship**

This area is discussed more in detail in the "Planning for the Future" Chapter. Guardianship, often confused with the Guardian Ad Litem program, involves a process that is designed to protect and to carry out the legal rights of individuals whose functional limitations prevent them from being able to make their own decisions, and who have not made plans for such a time in their life. People who need guardianship may have dementia, Alzheimer's disease, a developmental disability, chronic mental illness, or other such conditions that generally cause func-

tional limitations. Before a guardianship is established, it must first be determined that the alleged incapacitated person (AIP) meets the statutory definition for incapacity or the ability or competence to make decisions in one or more areas of their life.

Generally, there are three types of guardians in Florida. If a court determines a person needs a guardian and that person has family or friends that can serve, then the court may appoint that family member or friend. These people are considered non-professional (family) guardians. If the incapacitated person does not have a loved one that can and will serve but they do have assets, the court may appoint a professional guardian. If the incapacitated person does not have family or friends that can and will serve and is of limited financial means, then the court may appoint a public guardian, if available. In Florida, the Office of Public and Professional Guardians (OPPG) designates local public guardian offices to provide guardianship services. The State currently contracts with 17 local public guardian offices. The OPPG is also charged with education, registration, and investigating complaints made against professional guardians.

A current list of local public offices may be found on the Office of Public and Professional Guardians website at [elderaffairs.org/doesal/spgo.php](http://elderaffairs.org/doesal/spgo.php) or by calling (850) 414-2381.

Further Questions: If you have further questions about public or professional guardianship or would like information on how to become a professional guardian, you may contact the Office of Public and Professional Guardians at (850) 414-2381 or at this address:

Office of Public and  
Professional Guardians  
4040 Esplanade Way  
Tallahassee, Florida 32399-7000  
[www.elderaffairs.org](http://www.elderaffairs.org)

### **Elder Helplines**

The DOEA has a unique support network for older Floridians. The Elder Helpline Information and Referral Service provides access

to information about senior programs and referrals to organizations for services including home care and placement, referrals for in-home medical services, Medicare and Medicaid information, food stamps information, housing, transportation, and emergency relief.

The Elder Helpline is part of an information and referral network providing people with information about choices and opportunities.

One of the practical goals of the program is to empower elders, their families and caregivers to make informed decisions about aging in place in an elder-friendly environment with security, purpose, and dignity. All the Elder Helpline Services are available by calling 1-800-96-ELDER (1-800-963-5337). Elder Helplines can be accessed through the Florida Relay Service for the hearing impaired by dialing 711 or 1-800-955-8771.

Below is a listing of Elder Helpline telephone numbers by county in Florida:

Alachua.....	(800)262-2243
Baker .....	(888)242-4464
Bay.....	(866)467-4624
Bradford.....	(800)262-2243
Brevard .....	(321)504-2038
Broward .....	(954)745-9779
Calhoun.....	(866)467-4624
Charlotte.....	(239)652-6901
Citrus.....	(800)262-2243
Clay .....	(888)242-4464
Collier.....	(239)652-6901
Columbia.....	(800)262-2243
DeSoto.....	(239)652-6901
Dixie.....	(800)262-2243
Duval.....	(888)242-4464
Escambia.....	(850) 494-7100
Flagler.....	(866)467-4624
Franklin.....	(866)467-4624
Gadsden.....	(866)467-4624
Gilchrist.....	(800)262-2243
Glades.....	(239)652-6901
Gulf.....	(866)467-4624



Hamilton .....(800)262-2243  
 Hardee .....(800)336-2226  
 Hendry .....(239)652-6901  
 Hernando .....(800)262-2243  
 Highlands.....(800)336-2226  
 Hillsborough .....(800)336-2226  
 Holmes ..... (866)467-4624  
 Indian River.....(772)453-2151  
 Jackson..... (866)467-4624  
 Jefferson ..... (866)467-4624  
 Lafayette .....(800)262-2243  
 Lake.....(800)262-2243  
 Lee .....(239)652-6901  
 Leon..... (866)467-4624  
 Levy.....(800)262-2243  
 Liberty ..... (866)467-4624  
 Madison..... (866)467-4624  
 Manatee.....(800)336-2226  
 Marion.....(800)262-2243  
 Martin ..... (772)233-4028  
 Miami-Dade.....(305)670-4357  
 Monroe.....(305)670-4357  
 Nassau ..... (888)242-4464  
 Okaloosa..... (850)494-7100  
 Okeechobee .....(866)377-8796  
 Orange.....(407)839-4357  
 Osceola .....(407)839-4357  
 Palm Beach..... (561)214-8600  
 Pasco.....(800)861-8111  
 Pinellas.....(727)217-8111  
 Polk.....(800)336-2226  
 Putnam.....(800)262-2243  
 Santa Rosa ..... (850)494-7100  
 Sarasota..... (239)652-6901  
 Seminole .....(407)839-4357  
 St. Johns..... (888)242-4464  
 St. Lucie.....(772)409-1041  
 Sumter .....(800)262-2243  
 Suwannee.....(800)262-2243  
 Taylor..... (866)467-4624  
 Union .....(800)262-2243  
 Volusia ..... (888)242-4464  
 Wakulla ..... (866)467-4624

Walton ..... (850)494-7100  
 Washington ..... (866)467-4624

## **DISTRICT LONG TERM CARE OMBUDSMAN COUNCILS**

Florida has a Long-Term Care Ombudsman Council in each district to identify, investigate, and resolve resident concerns pertaining to long-term care facilities, (nursing homes, assisted living facilities and adult family care homes). Council services are free of charge. All complaints are confidential. The following is a listing of the addresses and phone numbers of the Long-Term Care Ombudsman Councils for each district. The counties that each office serves are listed. You may also contact any council through the Long-Term Care Ombudsman statewide toll-free number 1-888-831-0404 or visit the program's website at <http://ombudsman.myflorida.com>.

### **NORTHWEST**

1101 Gulf Breeze Parkway  
 Building 3, Suite 5  
 Gulf Breeze, FL 32561  
 (850) 916-6720  
 Serving: Escambia, Santa Rosa,  
 Okaloosa, & Walton

### **PANHANDLE**

4040 Esplanade Way  
 Tallahassee, FL 32399  
 (850) 921-4703  
 Serving: Holmes, Jackson, Washington,  
 Bay, Calhoun, Gadsden, Liberty,  
 Gulf, Franklin, Leon, Madison,  
 Taylor, Jefferson, & Wakulla

### **NORTH CENTRAL**

1515 E Silver Springs Blvd., #203  
 Ocala, FL 34470  
 (352) 620-3088  
 Serving: Hamilton, Suwannee, Columbia,  
 Lafayette, Dixie, Levy, Union, Putnam,  
 Alachua, Bradford, Gilchrist, Marion,  
 Citrus, Hernando, Sumter, & Lake.

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## FIRST COAST

210 N. Palmetto Ave., Suite 403  
Daytona Beach, FL 32114  
(386) 226-7846  
Serving: Nassau, Baker, Duval, Clay,  
St. Johns, Volusia, & Flagler

## WEST COAST

11351 Ulmerton Road, Suite 303  
Largo, FL 33778  
(727) 588-6912  
Serving: Pasco & Pinellas

## WEST CENTRAL

701 W. Fletcher Avenue, Suite C  
Tampa, FL 33612  
(813) 558-5591  
Serving: Hillsborough & Manatee

## EAST CENTRAL

400 W. Robinson Street, Ste. N110  
Orlando, FL 32801  
(407) 245-0651  
Serving: Orange, Seminole,  
Brevard, & Osceola

## SOUTHWEST

2295 Victoria Ave., Room 152  
Ft. Myers, FL 33901  
(239) 338-2563  
Serving: Sarasota, Desoto, Charlotte,  
Glades, Lee, Hendry, & Collier

## PALM BEACH

111 S. Sapodilla Avenue, #125A-B-C  
West Palm Beach, FL 33401  
(561) 837-5038  
Serving: Palm Beach, Indian River,  
Martin, Okeechobee, & St. Lucie

## BROWARD

8333 W. McNabb Road, Suite 231  
Sunrise, FL 33351  
(954) 597-2266  
Serving: Broward

## MIAMI-DADE

7270 N.W. 12th Street, Suite 520  
Miami, FL 33126  
(786) 336-1418  
Serving: N. Miami-Dade (North  
of Flagler St., All of Hialeah &  
N.E. and N.W. addresses)

## MIAMI-DADE, MONROE, & THE FL KEYS

7300 N. Kendall Drive, Suite 780  
Miami, FL 33156  
(305) 671-7245  
Serving: Monroe & S. Miami-Dade (South  
of Flagler St., all S.E. & S.W. addresses)

## SOUTH CENTRAL

200 N. Kentucky Avenue, #224  
Lakeland, FL 33801  
(863) 413-2764  
Serving: Polk, Highland, & Hardee

# Services for Older Floridians

Many social, economic, educational, medical, and nutritional programs designed for older Floridians are administered by the Department of Elder Affairs (DOEA) in cooperation

with the Federal Administration on Aging. They are usually coordinated by the local Area Agencies on Aging which are listed below.

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<i>Counties</i>	<i>Address and Telephone No.</i>
Escambia, Okaloosa, Santa Rosa, and Walton	Northwest Florida Area Agency on Aging 5090 Commerce Park Circle Pensacola, Florida 32505 850-494-7100
Bay, Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Madison, Taylor, Wakulla, and Washington	Area Agency on Aging of North Florida, Inc. 2414 Mahan Drive Tallahassee, Florida 32308 850-488-0055
Alachua, Bradford, Citrus, Columbia, Dixie, Gilchrist, Hamilton, Hernando, Lafayette, Lake, Levy, Marion, Putnam, Sumter, Suwannee, and Union	Elder Options—Mid-Florida Area Agency on Aging 5700 S.W. 34th Street, Suite 222 Gainesville, Florida 32608 352-378-6649
Baker, Clay, Duval, Flagler, Nassau, St. Johns, and Volusia	ElderSource—Area Agency on Aging for Northeast Florida 4160 Woodcock Drive, 2nd Floor Jacksonville, Florida 32207 904-391-6600
Pasco and Pinellas	Area Agency on Aging of Pasco-Pinellas 9887 4th Street North, Suite 100 St. Petersburg, Florida 33702 727-570-9696

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Hardee, Highlands, Hillsborough, Manatee, and Polk	Senior Connection Center West Central Florida Area Agency on Aging, Inc. 5905 Breckenridge Parkway, Suite F Tampa, Florida 33610 813-740-3888
Brevard, Orange, Osceola, and Seminole	Senior Resource Alliance 988 Woodcock Road, Suite 200 Orlando, Florida 32803 407-514-1800
Charlotte, Collier, DeSoto, Glades, Hendry, Lee, and Sarasota	Area Agency on Aging of Southwest Florida 15201 N. Cleveland Avenue Suite 1100 N. Fort Myers, Florida 33903 239-332-4233
Indian River, Martin, Okeechobee, Palm Beach, and St. Lucie	Area Agency on Aging of Palm Beach/ Treasure Coast, Inc. 4400 N. Congress Avenue West Palm Beach, Florida 33407 561-684-5885
Broward	Aging & Disability Resource Center of Broward County 5300 Hiatus Road Sunrise, Florida 33351 954-745-9567
Miami-Dade and Monroe	Alliance For Aging 760 N.W. 107th Avenue Suite 214 Miami, Florida 33172 305-670-6500
	Florida Department of Elder Affairs 4040 Esplanade Way Tallahassee, Florida 32399 850-414-2000

REGARDING ABUSE, NEGLECT OR EXPLOITATION OF ELDERS, YOU CAN ALSO CALL TOLL-FREE THE ABUSE HOTLINE AT 1-800-962-2873 (1-800-96-ABUSE).

FOR GENERAL INFORMATION YOU MAY CALL THE ELDER HELPLINE AT 1-800-96 ELDER (1-800-963-5337) or visit <http://elderaffairs.state.fl.us/doea/quickguide.php>

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## Legal Problems

If possible, every citizen in Florida should seek representation by an attorney in a civil lawsuit, whether the citizen is suing or being sued. Civil lawsuits are cases other than those in which a citizen is charged with criminal activity. If you have a civil legal problem, but cannot afford to hire a private attorney to represent you, you may be able to obtain an attorney through your local legal aid or legal services organization, which provides free legal services to those in need. In criminal cases, the court will appoint a lawyer for you if you qualify.

Remember, legal problems often have time limits, called statutes of limitations, after the expiration of which you may not be able to pursue your rights in court. Therefore, when you think you have a legal problem, immediately contact a lawyer for assistance. The following are resources you may wish to contact.

### ***The Florida Bar Elderly Referral Panel***

The Florida Bar has an Elderly Referral Panel for older Floridians. Call 1-800-342-8011 and ask for the Elderly Referral Panel in your county. The Florida Bar will refer you to one of their participating attorneys in your area. You will then have to contact the participating attorney for an appointment to see whether they are able to advise you on your legal problem. To qualify for referral under the Elderly Referral Panel, you must be age 60 or older and meet certain income restrictions. If you do not meet these criteria, you may still use the regular Referral Panel offered by the Florida Bar.

Your local county bar association may also offer programs similar to these. Please contact the local bar association lawyer referral service in your community (for example, the Dade County Bar Association or Hillsborough County Bar Association) to learn of the specialty panels in your area and to determine whether you qualify.

## Senior Legal Helpline

The Senior Legal Helpline is a toll-free statewide helpline designed to increase access to legal advice and lawyer referrals for elder Floridians. The helpline serves eligible Florida residents age 60 and older who have questions regarding civil legal matters (1-888-895-7873).

## Legal Services and Legal Aid

Legal Aid and Legal Services offices can advise you in most areas of civil law, for example: consumer cases; employment cases; landlord/tenant cases; food aid cases; health cases; Social Security; public welfare benefits; and family law matters such as dissolutions of marriage.

Legal Aid and Legal Services are meant for persons of low income who cannot afford an attorney. Most Legal Aid and Legal Services offices base their eligibility criteria on both the income of the applicant and the size of the family of the person seeking assistance, and sometimes on other additional criteria, such as being 60 years old or older. In order to determine whether or not you would qualify for Legal Aid or Legal Services, it is necessary for you to contact the local Legal Aid or Legal Services office in your county. Information on Legal Aid or Legal Services offices and whether they handle your particular legal need, including addresses of offices, hours of operation, financial qualifications, and other valuable information, can be found at [www.FloridaLawHelp.org](http://www.FloridaLawHelp.org). Local Legal aid or Legal Services offices by county are also listed below:

### **ALACHUA**

Three Rivers Legal Services, Inc.  
Gainesville  
352-372-0519

### **BAKER**

See Duval County

### **BAY**

Legal Services of North Florida, Inc.  
Panama City  
850-769-3581

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**BRADFORD**

See Alachua County

**BREVARD**

Brevard County Legal Aid, Inc.  
Rockledge  
321-631-2500

**BROWARD**

Coast to Coast Legal Aid of  
South Florida, Inc.  
954-736-2400

Legal Aid Service of Broward County, Inc.  
954-765-8950

**CALHOUN**

See Gadsden County

**CHARLOTTE**

See Lee County

**CITRUS**

Community Legal Services  
of Mid-Florida, Inc.  
Inverness  
352-726-8512

**CLAY**

See Duval County

**COLLIER**

Legal Aid Service of Collier County, Inc.  
Naples  
239-775-4555

**COLUMBIA**

Three Rivers Legal Services, Inc.  
Lake City  
386-752-5960

**DESOTO**

See Lee County

**DIXIE**

See Columbia County

**DUVAL**

Jacksonville Area Legal Aid, Inc.  
Downtown Office (Jacksonville)  
904-356-8371

**ESCAMBIA**

Emerald Coast Legal Aid (formerly known  
as Northwest Florida Legal Services, Inc.)  
Pensacola  
850-432-2336

North Florida Center for Equal Justice, Inc.  
Tallahassee  
850-701-3980

**FLAGLER**

Community Legal Services  
of Mid-Florida, Inc.  
Palatka  
386-328-8361

**FRANKLIN**

Legal Services of North Florida, Inc.  
Tallahassee  
850-385-9007

**GADSDEN**

Legal Services of North Florida, Inc.  
850-875-9881  
Served by North Florida  
Center for Equal Justice

**GILCHRIST**

See Alachua County

**GLADES**

Florida Equal Justice Center  
Fort Myers  
239-277-7060

**GULF**

See Bay County

**HAMILTON**

See Columbia County

**HARDEE**

Florida Rural Legal Services, Inc.  
Lakeland  
863-688-7376

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**HENDRY**

See Charlotte County

**HERNANDO**

Community Legal Services  
of Mid-Florida, Inc.  
Inverness  
352-796-7238

**HIGHLANDS**

See Lee County

**HILLSBOROUGH**

Bay Area Legal Services, Inc.  
Senior Advocacy Unit  
Tampa  
813-232-1343

**HOLMES**

See Bay County

**INDIAN RIVER**

Served by Florida Rural Legal Services, Inc.  
Fort Pierce  
561-466-4766

**JACKSON**

Served by Legal Services of  
North Florida, Inc.  
Quincy  
850-875-9881

**JEFFERSON**

Served by Legal Services of  
North Florida, Inc.  
Tallahassee  
850-385-9007

**LAFAYETTE**

See Columbia County

**LAKE**

Greater Orlando Legal Services, Inc.  
Tavares  
352-343-0815

**LEE**

Florida Rural Legal Services, Inc.  
Lakeland  
863-688-7376

Lee County Legal Aid Society, Inc.  
Fort Myers  
941-334-6118

**LEON**

Legal Services of North Florida, Inc.  
See Jefferson County

Legal Aid Foundation of the  
Tallahassee Bar Association  
Tallahassee  
850-222-3004

**LEVY**

See Alachua County

**LIBERTY**

See Calhoun County

**MADISON**

See Columbia County

**MANATEE**

Legal Aid of Manasota, Inc.  
Sarasota  
941-366-0038

Gulf Coast Legal Services, Inc.  
Bradenton  
941-746-6151

**MARION**

Withlacoochee Area Legal Services, Inc.  
Ocala  
352-629-0105

**MARTIN**

See Indian River County

**MIAMI-DADE**

Legal Services of Greater Miami, Inc.  
Miami (main office)  
305-576-0080

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South Dade Office  
305-576-0080

Legal Aid Society of Dade  
County Bar Association, Inc.  
Miami  
305-579-5733

Florida Justice Institute, Inc.  
Miami (discrimination  
related problems only)  
305-358-2081

**MONROE**  
Legal Services of the Florida Keys  
Key West  
305-292-3566

**NASSAU**  
See Baker County

**OKALOOSA**  
Legal Services of North Florida, Inc.  
Fort Walton  
850-862-3279

Okaloosa County Legal Aid, Inc.  
Shalimar  
850-651-7254

**OKEECHOBEE**  
See Indian River County

**ORANGE**  
Legal Aid Society of the Orange  
County Bar Association, Inc.  
Orlando  
407-841-8310

Greater Orlando Area Legal Services, Inc.  
Orlando  
407-841-7777

**OSCEOLA**  
Greater Orlando Area Legal Services, Inc.  
Kissimmee  
407-847-0053

**PALM BEACH**  
Legal Aid Society of Palm  
Beach County, Inc.  
West Palm Beach  
561-655-8944

Florida Rural Legal Services, Inc.  
West Palm Beach  
561-993-0003

**PASCO**  
Bay Area Legal Services, Inc.  
Dade City  
352-567-9044

New Port Richey  
727-847-5494

**PINELLAS**  
Gulf Coast Legal Services, Inc.  
St. Petersburg  
727-821-0726

Clearwater  
727-443-0657

Pro Bono Program of the  
Clearwater Bar Foundation  
Clearwater  
727-461-5450

**POLK**  
See Hardee County

**PUTNAM**  
Central Florida Legal Services, Inc.  
Palatka  
386-328-8361

**ST. JOHNS**  
See Putnam County

**ST. LUCIE**  
See Indian River County

**SANTA ROSA**  
Served by Northwest Florida  
Legal Services, Inc.  
See Escambia County



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**SARASOTA**

Legal Aid of Manasota, Inc.

Sarasota

941-366-0038

Gulf Coast Legal Services, Inc.

Sarasota

941-366-1746

**SEMINOLE**

Central Florida Legal Services, Inc.

Sanford

407-322-8983

Seminole County Bar Association, Inc.

Altamonte Springs

407-834-1660

**SUMTER**

Withlacoochee Area Legal Services, Inc.

Inverness

352-568-0257

**SUWANNEE**

See Columbia County

**TAYLOR**

See Columbia County

**UNION**

See Alachua County

**VOLUSIA**

Central Florida Legal Services, Inc.

Daytona Beach

386-255-6573

**WAKULLA**

See Jefferson County

**WALTON**

See Okaloosa County

**WASHINGTON**

See Bay County

# Taking Precautions in Times of Natural Disasters

It is important to remember that most natural disasters do not give advanced warning before disrupting our everyday lives. Thousands of residents in Florida have been recently affected by tornadoes, lightning storms, and wildfires, none of which gave any warning. It is more important than ever that citizens, especially elders and their caregivers, take the vital steps to prepare for a natural disaster.

The first step in protecting yourself and your family is to establish a plan. Once you have decided what actions you will take in case of an emergency, it is important to share that information with other family members. With a plan in place, you will be able to organize a disaster preparedness kit that will sustain your family for three to five days. Many residents have specific medical needs, which need to be considered when organizing your kit. It is also important to have up-to-date information during and after a disaster.

Florida's State Emergency Response Team suggests that every home have a portable NOAA (National Oceanic and Atmospheric Administration) weather radio that is both electric and battery-operated. A NOAA weather radio broadcasts National Weather Service warnings, watches, forecasts, and other hazard information 24 hours a day. If the electricity goes out during a disaster, this radio can still function, offering vital information and instruction.

Once you have prepared your family's emergency plan and disaster preparedness kit, it

is important that you check on others who might not be able to prepare. There are over four million older adults living in Florida and approximately two million have a disability. It is critical that as good neighbors, we assist those who might not be able to prepare for a disaster. In times of emergency, we must come together as Floridians to ensure that no person is left without help.

A listing of local emergency management offices for your county is provided below. Please take a moment today and contact your local emergency officials to determine shelter locations and evacuation routes in your community. The best and safest evacuation choices include staying with relatives or friends out of the area, checking into a hotel/motel, or pre-admission into a medical facility if medically necessary. If you have medical issues, where you can best be supported during a disaster or hurricane should be a joint decision of your physician, home health agency, caregiver, family, and yourself.

## **Hurricane Reference Information**

<b>HURRICANE CONTACT INFORMATION NATIONAL OFFICES:</b>	
Emergency .....	911
FEMA .....	800-621-3362
National Flood Insurance Program .....	888-379-9531
Red Cross .....	800-733-2767

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**FLORIDA INFORMATION:**

Florida Division of Emergency  
Management.....850-413-9969  
State of Florida Emergency Information  
24-hour hotline.....800-342-3557  
Elder Affairs Helpline .....800-963-5337  
Florida Volunteer and Donations  
Hotline .....800-354-3571

**COUNTY EMERGENCY  
MANAGEMENT OFFICES:**

Alachua .....352-264-6500  
Baker .....904-259-6111  
Bay.....850-784-4000  
Bradford.....904-966-6336  
Brevard .....321-637-6670  
Broward .....954-831-3900  
Calhoun.....850-674-8075  
Charlotte.....941-833-4000  
Citrus.....352-746-6555  
Clay .....904-284-7703  
Collier.....239-252-8444  
Columbia.....386-758-1125  
DeSoto.....863-993-4831  
Dixie.....352-498-1240  
Duval.....904-255-3110  
Escambia.....850-471-6400  
Flagler .....386-313-4200  
Franklin.....850-653-8977  
Gadsden.....850-627-9233  
Gilchrist.....386-935-5400  
Glades.....863-946-6020  
Gulf .....850-229-9110  
Hamilton .....386-792-6647  
Hardee .....863-773-6373  
Hendry .....863-674-5400  
Hernando .....352-754-4083  
Highlands.....863-385-1112  
Hillsborough .....813-236-3800  
Holmes .....850-547-1112  
Indian River.....772-567-2154  
Jackson.....850-482-9678

Jefferson .....850-342-0211  
Lafayette .....386-294-1950  
Lake.....352-343-9420  
Lee .....239-533-0622  
Leon.....850-606-3700  
Levy.....352-486-5213  
Liberty .....850-643-2339  
Madison.....850-973-3698  
Manatee.....941-749-3507  
Marion.....352-732-8181  
Martin .....772-219-4942  
Miami-Dade.....305-468-5400  
Monroe.....305-289-6018  
Nassau .....904-548-0952  
Okaloosa.....850-651-7150  
Okeechobee .....863-763-3212  
Orange.....407-836-9140  
Osceola .....407-742-9000  
Palm Beach.....561-712-6400  
Pasco.....727-847-8137  
Pinellas.....727-464-3800  
Polk.....863-534-5600  
Putnam.....386-329-0379  
Santa Rosa .....850-983-5360  
Sarasota.....941-861-5000  
Seminole .....407-665-5102  
St. Johns.....904-824-5550  
St. Lucie.....772-462-8100  
Sumter .....352-569-1660  
Suwannee.....386-364-3405  
Taylor.....850-838-3575  
Union .....386-496-4300  
Volusia .....386-736-5980  
Wakulla .....850-745-7100  
Walton .....850-892-8065  
Washington .....850-638-6203

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