

Older Floridians Handbook



Laws and Programs Affecting Older Floridians

**CARLTON
FIELDS**
ATTORNEYS AT LAW

Florida Justice
Institute



Fifth Edition

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

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Preface

This fifth edition of the Older Floridians Handbook was edited and revised by the 2007 summer associates and attorneys at the Miami office of the law firm of Carlton Fields. 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, Director, Elder Rights Unit, & Legal Services Developer at the Department. Additional funding for the publication and distribution of the Handbook came from several local Area Agencies on Aging. 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 including Ben Reid, Gary Sasso, Chuck Rosenberg, and Kathy McLeroy. The Institute is primarily funded by the Interest on Trust Accounts program administered by The Florida Bar Foundation. The Florida Bar Foundation's continued financial support on this and other projects is deeply appreciated and for that we thank in particular Jane Curran, Paul Doyle, and the Foundation's officers and boards of directors.

We extend our gratitude to the 2007 summer associates and attorneys at Carlton Fields who have helped make this edition possible. The summer associates from Carlton Fields that made contributions were: Matthew Elish, Naomi Massave, Nicole Neustein, Yolanda Paschal, Vanessa Pi, Padmini Raghavan, and Raul Reichard. The attorneys at Carlton Fields who supervised the summer associates were Ana Harris, Basha Hicks, Marsha Madorsky, and Terry Rigsby.

The cover's photographs and design, and typesetting are courtesy of the Graphic Arts Department at the Florida Department of Elder Affairs and Mamatey Graphic Design. We are very appreciative of the final review of the Handbook by Mary Haberland, Managing Attorney of Bay Area Legal Services' Florida Senior Legal Helpline, Carol Moody, Managing Attorney of Bay Area Legal Service's Senior Advocacy Unit, and Shoshanna Ehrlich, Project Manager, AARP Foundation.

The Handbook is at <http://elderaffairs.state.fl.us/english/OLDER/ofh.html> on the web site for the Florida Department of Elder Affairs. We are hopeful that as a result many more people will have access to this publication.

The attorneys and staff at the Florida Justice Institute that contributed to this effort were Randy Berg (Editor) and Jessica Pla, Tania Rabasa, Eva Villanueva, Bethel Forbes, and Patrick Maier. The Editor-In-Chief while an intern at the Institute during the summer of 2007 was David Podein. David's hard work and dedication to completing the Handbook in an exemplary manner is deeply appreciated.

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

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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 over sixty years of age, 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 which 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 web site for free legal services for those who financially qualify at **www.FloridaLawHelp.org**.

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Financial Assistance The Basics of Social Security and Supplemental Security Income

Introduction to Social Security

Most American workers are accustomed to seeing the FICA deduction on their paychecks. The letters “FICA” stand for Federal Insurance Contributions Act, the official name for the federal laws which established the Social Security Program in 1935. Social Security provides an 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 qualify for Social Security benefits, a worker must have worked in employment **covered** by Social Security. Nine out of ten jobs in the United States are covered. The worker also needs to have accumulated a certain number of **quarters of coverage**. As of 2007, a worker earns a quarter of coverage for each \$1,000 of wages earned. Under the present system, four quarters or credits may be credited to a worker in any given year.

The exact number of quarters needed to attain insured status and become eligible for benefits depends on a worker’s age (or whether the worker is disabled), and the type of benefits sought. In order to be fully insured, there is a requirement of 40 credits, or ten years of coverage.

You have the right to request a statement of your record from the Social Security Administration. In fact, it is advisable to check from time to time to make sure you

have been credited with the proper number of quarters. You should obtain your Personal Earnings and Benefits Statement by calling or writing the Social Security Administration as it may be beneficial to you to apply for benefits before reaching age 65, depending upon how long you worked and how much you earned. If you call, the number is **1-800-772-1213**, and is open from 7:00 a.m. to 7:00 p.m. It is often easier to get through in the early morning hours. Recorded information is available 24 hours a day, including weekends and holidays. If you choose to write, the address is: Social Security Administration, Wilkes-Barre Data Center, P.O. Box 20, Wilkes-Barre, PA 18711-2030. You should request a Form SSA-7004 (also available at your local Social Security office). Fill out the form and return it. The publications are also available on the Internet at **www.ssa.gov**.

A worker who has earned all the required quarters of coverage may retire at any time after reaching age 62. However, the retirement age for full benefits is 65, and retiring before the full retirement age will result in a permanent reduction of monthly benefits. The reduction of monthly benefits will depend on how soon after age 62 a worker retires. A worker who retires after the full retirement age of 65 will receive a special credit for each year of work between ages of 65 and 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.

Survivor benefits, including a special one-time death benefit, are available to eligible family members of workers who have died and who have earned sufficient credit for coverage at death. Among those who may be eligible are: surviving unmarried children under 18 (or 19, if attending elementary or secondary school full time), a widow or widower and dependent parents aged 62 or older. Even a surviving divorced spouse may be eligible under certain circumstances. A more detailed explanation of eligibility is beyond the scope of this Handbook. For more information you should contact the Social Security office nearest you.

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. A person must have also attained insured status at the time the disability began.

A person is deemed disabled if the person is unable to engage in any substantial gainful employment - a job that pays \$900 or more a month is considered "substantial" employment - due to a physical or mental impairment that either:

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

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. In general, to get disability benefits, you must meet two tests - a recent work test based on your age at the time you become disabled; and a duration of work test to show that you worked long enough under Social Security. For example, if you are disabled at age 31 or later, you had to have worked during 5 years out of the ten year period ending with the quarter of the year your disability began. Also, if you are age 60, you generally need 9.5 years of work in order to qualify for benefits under the duration test. For more infor-

mation regarding disability benefits, contact the Social Security Administration at **1-800-772-1213**. You can also apply for benefits at www.socialsecurity.gov.

Note: Blind persons should contact their local Social Security Office to learn about special benefits for blind people.

How Much To Expect At Retirement

The size of your monthly Social Security checks will depend on your **average yearly earnings**. The exact amount of your retirement cannot be figured until you apply for benefits, but to get an estimate, you may call or visit any Social Security office. (See Reference and Referral Information section for locations). The **average monthly benefit** of an individual retired worker in 2006 is **\$1,044** and the average monthly benefit of a married couple is **\$1713**. If there has been an increase in the cost-of-living, your benefits will be automatically increased in January of the subsequent year.

Working After Retirement

If you retire and later go back to work, your earnings may affect your Social Security benefits. If you are 70 or older, your earnings will not affect your Social Security benefits. As of 2007, if you are the full retirement age (65), you may earn \$34,440 per year (\$2870 per month) without affecting your benefits but the Administration will withhold \$1 for every \$3 you earn above the exempt amount. If you are under the full retirement age of 65 you may earn \$12,960 per year (\$1080 per month) without affecting your benefits but the Administration will withhold \$1 for every \$2 you earn above the exempt amount. Your Social Security benefits may be subject to federal income tax if ½ of your benefits added to your other income exceeds \$25,000 for an individual, or \$32,000 for a couple.

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 must 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 can also be designated the representative payee.

This process 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 filed. The Social Security Administration then determines whether or not the individual is capable of receiving their checks. NOTE that a power of attorney is not effective for Social Security purposes.

Any appointment can be challenged. For more details, call or visit the Social Security office nearest you. (See Reference and Referral Information for locations).

Supplemental Security Income (SSI) Introduction

If you have little or no income and only a few assets, you may be eligible to receive monthly cash benefits through the Supplemental Security Income (SSI) program. SSI is a national program designed to assure a minimum level of income for 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 need, not employment.

Eligibility Requirements

To qualify, 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 assets requirements. In 1996, the SSI program changed its eligibility rules as they apply to non-citizens. If your SSI benefits have been or are 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:

- 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.

During 2007, you will be eligible if you are an individual with assets of \$2,000 or less and have a monthly income of less than \$623. A couple may have assets of \$3,000 and a monthly income of \$934 or less. If your actual income and assets exceed these levels, you may still be eligible for SSI benefits after asset and income adjustment.

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.
- insurance policies, if their total face value on any one person is \$1,500 or less (if it is more, only the cash surrender value counts).
- household goods and personal effects.
- a burial account worth up to \$1,500.

The following income will not affect SSI 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.
- Food Stamps:
- Food or shelter you get from private nonprofit organization;
- Home energy assistance

As of 2007, the maximum SSI monthly payment is \$623 to individuals and \$934 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 will increase every January in which the cost of living has increased 3% 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** get medical assistance (Medicaid). Medicaid will cover charges **not covered** by Medicare, and it pays for dental care, eyeglasses and medicines.

Right to Appeal

If you apply for Social Security benefits or Supplemental Security Income (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. Here are the required steps:

- You must ask in **writing** for reconsideration within 60 days of receiving notice in writing from the Social Security Administration of any determination concerning your benefits.
- 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 from the date you receive notice of the result of the reconsideration.
- If you disagree with the results of the hearing you may request a review by the Appeals Council in Washington, D.C. You must do so in writing within 60 days of receiving notice of the results of your hearing. 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 action in the United States District Court in your area within 60 days of notice of the Appeals Council's decision.

Forms are available from Social Security offices to use in your appeal.

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 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% 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 for location and phone number).

Optional State Supplementation (OSS)

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

- receive either federal Supplemental Security Income (SSI) or are determined to be eligible by the Florida Department of Children and Families; and
- reside in an ALF (Assisted Living Facility) that accepts state clients, in a foster home, family placement, or other specialized living arrangement.

The State will supplement your income to provide for 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 2006, the combined benefits will not exceed \$681.40 for a single person). 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, Aging and Adult Services Office.

Financial Assistance Food Stamps

Introduction

The purpose of the federal Food Stamp Program is to guarantee 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 stretching your resources to cover your nutritional needs. The Food Stamp Program will increase your purchasing power and enable you to obtain the foodstuffs you need for a more balanced diet.

Food Stamps are issued, **free of charge**, to eligible households. To find out if you are eligible, you should contact the Food Stamp office closest to you. In Florida, the program is administered by the Department of Children and Families (formerly known as HRS).

Eligibility Requirements

Eligibility is determined on the basis of your household's income, resources and immigration status. You will be considered a household, and **your** income and resources **alone** will be taken into account, if you either live by yourself, or you live with others but purchase your food and prepare your meals **separately**. Otherwise, when determining eligibility, 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) is counted.

If you are age 60 or older, your household will qualify if the value of the liquid and non-liquid assets owned by the household does not exceed \$3,000, and your household's **gross** monthly income is within the limits set by law:

For a Household of:	**Maximum Gross Monthly Income	Maximum Monthly Coupon Allotment
1	\$1,062	\$155
2	1,430	284
3	1,799	408
4	2,167	518
5	2,535	615
6	2,904	738
7	3,272	816
8	3,640	932
Each additional member	369	117

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

Remember, **only** your local Food Stamp office can determine **accurately** if you are eligible or not. Contact the Food Stamp office at the Department of Children and Families (DCF) office nearest you for further information.

How To Apply

To apply for Food Stamps you must file an application form and be interviewed by a Public Assistance Specialist. You may obtain a form at your local DCF office in person, by mail, on line at **www.dcf.state.fl.us/ess/**, or by telephone. Even if you don't have all the information you need, you should complete the first page of the application and file it immediately because if you are found to be eligible, you may receive benefits from the date of filing. If you do not have all the required information available, do not delay applying. The Food Stamp office will accept the first page of the application with just your name, address, telephone number and signature, and you can furnish them with the rest of the information at a later date.

After you file your application, the Food Stamp office will interview you or another member of your household. Although most interviews are held at the Food Stamp office, if you are 65 or older or mentally or physically handicapped, you have the **right** to request that the office interview be waived. You will then be interviewed either by telephone or at your home. An office interview also may be waived if you are ill, are actively taking care of another household member, or if your working hours conflict with available interview times. If you require an interview at home, the interview must be scheduled in advance.

The Food Stamp Program features a service which allows the recipient to do all business by mail if disabled or over the age of 60. This means that you are able to apply by mail, receive stamps by mail, update by mail, and complete all other requirements by mail.

In addition, another convenience has been implemented by the Department of Children And Families. Now you can pick up your stamps at any office, regardless of where you made your application or where you live. You do not have to travel to any particular office to receive your stamps.

If the Food Stamp office determines that you are eligible, you will receive a notice and a Food Stamp identification card within 30 days from the filing of your application. If you need help immediately and cannot wait until your application is processed, you should inform the office. You will receive the stamps within 5 days from date of application 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 stamps, you should notify the Food Stamp 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 tele-

phone. At the hearing you can explain why you disagree with the action taken. You may want to take a relative, friend or an attorney to help you with your appeal. 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 toward the end of this Handbook.)

One Final Word

Remember, the purpose of the program is to guarantee an adequately nutritious diet. You need not be destitute to qualify. If you are having problems stretching your food dollars, **do not** hesitate to contact your local Food Stamp office.

Financial Assistance

Veteran's Benefits

Those persons (and their dependents) who have served in the United States Armed Forces, the National Reserves, the National Guard, or are on active duty service may be eligible for a wide range of benefits provided by the Veterans Administration. 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 V.A. office. Call **1-800-827-1000** to get the location of the V.A. 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 \$115 to \$2,471 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 service, or who died as a result of his 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 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 home already specifically adapted for use of a wheelchair;
- life insurance;
- mortgage life insurance for home specially adapted for use of a wheelchair (up to \$90,000);
- death benefits for survivors of a disabled veteran (including parents in some cases);
- 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 V.A. medical facility or is receiving V.A. benefits at the time of his death.

Financial Assistance

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 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 prevailing party. If you wish to report it to the Department of Labor, you should check in the white pages of your telephone directory under United States Government, Department of Labor, for the office nearest you. To file suit, you should seek legal advice from an attorney.

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 \$4,000 a year to a tax deferred retirement account or \$5,000 if you were age 50 or older by the end of 2006. A married couple

may contribute up to \$4,000 each for a total of \$8,000 even if one spouse had little or no income. A married couple may contribute as much as \$10,000 a year if both spouses are over age 50. Taxes are deferred until the money is withdrawn. A worker may contribute to an IRA up to the age of 70one-half. One must begin to withdraw from the IRA and thus pay taxes by April 1, of the year following the year that one turns 70 ½. All workers who have **earned** income and are under age 70 ½ as of the end of the year are eligible to establish IRA accounts.

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 59½) and (3) the owner of the Roth IRA is not required to withdraw any money from the Roth IRA during his/her lifetime. Assets currently kept in a traditional IRA can be rolled over into a Roth IRA, however, it is **strongly recommended** that you consult with a financial planner to discuss if 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 or plan manager for further details.

Financial Assistance 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 \$25,000 from the assessed value of the home. For example, if the home is assessed at \$75,000, the owner pays taxes only on \$50,000 once the homestead deduction has been claimed. 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% 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 a \$25,000 senior citizen exemption. Real property owned by a quadriplegic, paraplegic, hemiplegic, a person who is legally blind or a person dependent on a wheelchair for mobility is exempt from property tax, but not from fees such as those assessed for waste or street lights, if 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**. 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. 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 the property appraiser's offices can be found at <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 defer a portion or all of your property taxes and any non ad valorem assessment. 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:

- You sell your home.
- Homeowners and fire insurance are not maintained.
- Change of property use occurs and it is not eligible for homestead exemption.
- 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 a household income of no more than \$20,000 (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 deferral plan if your taxes exceed 5 percent of your household income, or if your income is less than \$10,000 you may defer all taxes.
- You must provide proof of eligibility for homestead exemption, fire and homeowners' insurance on the property, and 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 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** being 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 telephone the Internal Revenue Service (IRS) at 1-800-829-1040. You may also request income tax information from the AARP by writing to: AARP, 601 E. Street N.W., Washington, D.C. 20049.

Everyone is entitled to a personal exemption regardless of age. The 2007 (income taxes for the 2006 calendar year) personal exemption is \$3,300. For 2008 and later years this amount could increase.

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 financial circumstances. As of 2007 (income taxes for the 2006 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. If a joint return is filed and each spouse qualifies for the deduction then the deduction will be \$12,300. If a joint return is filed and only one of the spouses qualifies, then the deduction will be \$11,300. If you and your spouse file separate returns and both spouses qualify, then the deduction will be \$7,150 and if only one of you qualifies, the deduction will be \$6,150. If you are filing a return as a single person (and not a surviving spouse,) your deduction will be \$6,400. If you file as head of household, your deduction will be \$8,800. If either you or your spouse is blind, you are entitled to an additional standard deduction.

In addition, you are entitled to a standard deduction which will vary according to your filing status. For taxes filed for calendar year 2006, the standard deduction is:

Joint Return	\$10,300
Married (filing separately 65 or over)	6,150
Married (filing separately under 65)	5,150
Qualifying Widower	7,550
Head of Household	7,550
Single	5,150

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.

How much of your social security benefits are taxable depends on your total income and marital status. Generally, if social security benefits were 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, filing jointly, the base amount is \$32,000. If your status is single, head of household, qualifying widow with a dependent, or married filing separately, then the base amount is \$25,000. Unemployment compensation benefits are always taxable. For further information on federal income tax benefits for older Floridians, contact the IRS (1-800-829-1040) or at their Internet web-site, **www.irs.gov**.

Financial Assistance

Reverse Mortgage

Another way to ease the financial pressures that often accompany retirement is a reverse mortgage. A reverse mortgage works much like a standard mortgage loan, only in reverse. By placing a mortgage on your home (which must be debt free or nearly so), a senior (62 or older) can receive monthly payments for a fixed period or as long as the senior lives in his home. Seniors can also establish a personal line of credit using a similar financial vehicle. To be eligible for most reverse mortgages, you must own your home and be 62 years of age or older. The amount of reverse mortgage benefit for which you may qualify will depend on your age at the time you apply for the loan, the 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 differs from a "home equity loan," in that a home equity loan requires monthly loan payments, and a reverse mortgage does not. Because a reverse mortgage requires no payments while you are living in the home, there is no minimum income amount needed to qualify for a reverse mortgage. 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.

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, Supplemental Security Income, and Food Stamps.

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 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. It is important to check with the appropriate government agency providing benefits to determine if the reverse mortgage will affect eligibility. However, you have the right to change your mind about getting a reverse mortgage up to 3 days after the loan is closed.

The Federal National Mortgage Association ("Fannie Mae") invested \$2 billion in a program which allows FHA-approved private banks to issue reverse mortgages. For more information on reverse mortgages, visit www.FannieMae.com or call **1-800-732-6643**. Also, for a Guide on reverse mortgages, visit www.aarp.org/money/revmort or write to:

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

Financial Assistance

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. These are some of the many kinds of help which may become available in your area:

- food stamps;
- 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 or repair your home, business or personal property);
- tax refunds; and
- individual and family 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, volcanic 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 Administration has a National 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 premiums for insurance against losses from physical damage caused by flood related damage. If you are outside specifically designated flood zones, you may still purchase the insurance but your premiums will not be subsidized.

Flood insurance is sold through regular insurance agencies which participate in the program. For additional information, contact your insurance agent or the National Flood Insurance Program, toll free: 1-800-638-6620, or 1-800-462-9029 for disaster relief.

Health Care Medicare, HMOs, and Hospitals

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 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 the choice to receive Medicare benefits under the traditional Parts “A” & “B”, or 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%) and general revenues (75%). To be eligible for Part D, one must be entitled to Part “A” benefits and/or enrolled in Part “B”.

Eligibility

Hospital Insurance (Part “A”)

If you are **65 or older**, you are eligible if:

- 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 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:

- You have been receiving Social Security or Railroad Retirement Act Disability benefits for 24 months;
- 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, **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.

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.

Medicare Medical Insurance (Part “B”)

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 (5) 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** when you turn 65, you will be automatically enrolled. You will receive a package in the mail 2 to 3 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 Plan To Retire At 65** contact Social Security three (3) months before your 65th birthday to sign up for Medicare and for Social Security benefits.
- **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 (3) 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 (3) months before your 65th birthday to apply.
- **If You Are Disabled And Under 65** you will automatically receive the Medicare enrollment package about three (3) 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. Addi-

tionally, if you purchase coverage under Part “A” you will be required to purchase coverage under Part “B” as well. These premiums, beginning in 2007, 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 (5) years before you can purchase Medicare.) If interested, you should contact Social Security for more detailed premium information, or visit:

www.medicare.gov/MedicareEligibility/Home.asp?dest=NAVHome|GeneralEnrollment|PremiumCostInfo#TabTop

- **If You Are Under 65 and Used To Be Entitled To 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 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, beginning in 2007, are based on your income level. For premium information, visit: **www.medicare.gov/default.asp**, or contact Social Security.

Enrolling If You Are Receiving Social Security or Railroad Retirement Act Benefits

The “enrollment package” that is mailed to you 2 or 3 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 – Part “A”). Complete instructions are given in the 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 if 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 (3) 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 1st through March 31st of each year. Your insurance coverage won’t start until the following July. Your monthly

premium will be 10% higher for each 12-month period 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 Hospital Insurance (Part "A")

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, which you pay**. For days 61 through 90, hospital insurance pays for all "covered services" **except** for the **co-insurance amount, which you also pay**.

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).

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.

Examples of what Medicare hospital insurance pays for when you are in a hospital are: 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, which you are required to pay**.

Examples of what Medicare pays for when you are in a skilled nursing facility: semi-private room and all meals; regular nursing services; 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 2007, you pay a copayment of up to \$5 for outpatient prescription drugs and 5% 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 and one 30-day period of hospice care. These benefit periods may be used consecutively, for a total of 210 consecutive days of hospice care. If Medicare hospice benefit periods are exhausted and if a person still wants and medically needs hospice services, the hospice must continue care.

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.

Note: In the event a patient exhausts available Part “A” benefits or receives a denial of services from the Peer Review Organization (PRO), Part “B” may pay for some of the ancillary services received.

Medical Insurance Benefits (Part “B”)

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. For the current deductible amount, visit: www.medicare.gov/default.asp, or contact Social Security.

Physician’s Services

Medicare medical insurance covers many services you receive from a physician. Examples of **physician’s services covered** by Medicare Part “B” are: 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 Medicare will cover prescription drugs under the new Medicare Advantage Program (Part “C”) and the new 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 Medi-

care” visit which must be provided within 6 months of eligibility for Part “B”), and most dental care. Furthermore, any item or service which could reasonably be expected to be covered by worker’s compensation, an insurance liability policy, or other group health plan is excluded until the other entity has reached the end of its liability. As a general rule, Medicare is the secondary payer.

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).

Examples of what Medicare medical insurance 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 biologicals (except osteoporosis drugs); meals or homemaker services; transfusions; or prosthetics.

Other Services

Examples of **other services covered** by 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; ambulance transportation; 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 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% 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. 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% of the Medicare approved rate.**

To obtain a list of doctors who have agreed to accept assignments (“participating physicians”), contact your Social Security office, or your local senior service center.

Another possibility now exists for payment of 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 their Medicare payments for all patients for the next two years. You, the patient, will be responsible for full payment of the bill.

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” (This is 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 visit: www.medicare.gov/default.asp and follow the Frequently Asked Questions (FAQ) link.

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, 2007, the claim must be submitted by December 31, 2008.

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/Basics/ClaimsOverview.asp.

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 a 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 www.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 insurance.

If You Have Health Care Protection From The Indian Health Service, A Federal Employee 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. Compare different policies to make sure that the policy you are buying is not a duplicate of your Medicare coverage. The Social Security office nearest you can provide **you with a free pamphlet entitled Guide to Health Insurance for People with Medicare**. This pamphlet describes various kinds of supplemental insurance and explains how each relates to Medicare. This pamphlet is also available online, in both English and Spanish, visit:

www.medicare.gov/Publications/Search/Results.asp?PubID=02110&Type=PubID&Language=English.

Medicare Advantage (Part "C")

Effective January 2006, the Medicare Advantage program replaced the Medicare + Choice program as Part "C", although it retained many of its key features. Under Medicare Advantage, if you are eligible under 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" & "B"), or through one of Medicare Advantage's managed care plans. Medicare Advantage is designed to give you, the beneficiary, increased choice by allowing you to choose between a variety of Health Maintenance Organizations (HMO), Preferred Provider Organization (PPO) plans, fee-for-service plans, or medical savings account plans.

Options Under Medicare Advantage

A plan under Part "C" may be any one of the following types: Coordinated Care Plans, Medical Savings Account Plans, or a Private Fee-for-Service Plan.

- **Coordinated Care Plans** are required to have a network of health profession-

als and must satisfy all requirements for access, availability, service area and quality assurance. For Example:

- **HMOs** with or without a point-of-service option (the option to seek healthcare services and items from entities that do not contract with the plan);
 - **Provider-Sponsored Organization (PSO) plans** which provide a substantial portion of services directly to enrollees, as opposed to contracting out for such services. A PSO is an entity established, organized and operated by a health care provider or group of providers which maintain a majority interest;
 - **Preferred Provider Organization (PPO)** Plans which are generally larger network organizations that afford greater choices of providers.
- **Medical Savings Account Plans** combine a High-Deductible Medicare Advantage plan with a contribution to a Medical Savings Account.
 - **Private Fee-for-Service Plans** pay providers a pre-determined rate for services on a for-service basis. You are free to choose your provider, so long as the provider accepts the plans terms and conditions.

Eligibility

If you are eligible for Medicare Part “A” (unless your eligibility is based on end stage renal 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” plan. If you choose a Part “C” plan, you need only file the appropriate form with the Medicare Advantage organization. Contact your Social Security office for more details, or visit: www.medicare.gov/Choices/Advantage.asp.

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 plan (Part “A” & “B”), subject to the rules of your provider.

Furthermore, there are several forms of cost-sharing under Part “C” plans, including premiums, deductible, copayments, and coinsurance. However, plans are not allowed to impose any cost-sharing on flu or pneumonia shots. You should closely look at the cost-sharing provisions of any Medicare Advantage plan you consider.

Medicare Prescription Drug Coverage (Part “D”)

Medicare now offers optional prescription drug coverage for Medicare beneficiaries enrolled in Part “A” and/or 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/pdp-basic-information.asp 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 1st 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 (November 15th—December 31st).

You can search plans by state at www.medicare.gov/medicarerereform/local-plans-2007.asp. 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/pdp-things-to-consider.asp, 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. If you choose not to enroll during 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 three (3) months before you turn 65 through three (3) 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% of the average cost of a prescription drug plan for every month you could have been enrolled, but were not.

Switching Medicare Prescription Drug Plans

Coverage for each plan begins on January 1st. You can choose to switch your current plan from November 15th through December 31st 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;
- Read your Medicare handbook;

- Call the Medicare helpline at **1-800-MEDICARE**.

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 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:

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

Complaints

Complaints about hospital bills 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.

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 and www.cms.hhs.gov.

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

- **Medicare**; or **The Medicare Handbook** – 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 (HMO)

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.

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.

Health Care 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), and helps eligible persons receive needed medical care they could not otherwise afford. The Medicaid program is not related to the Medicare program, which is run by the Centers for Medicare and Medicaid Services (CMS). Medicare recipients can also receive Medicaid assistance, when they meet the financial criteria. Medicaid pays providers – doctors, hospitals, pharmacies, etc. – for many types of medical services.

Eligibility

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

- WAGES (Work and Gain Economic Self-Sufficiency);
- Federal Supplemental Security Income (SSI);
- Temporary Assistance to Needy Families (TANF) - related Medical Assistance, available only for families and children, or
- 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% of the federal poverty level), Medically Needy, Hospice, Institutional Care Program (Medicaid for the aged and disabled to help pay for nursing home care), and Qualified Medicare Beneficiaries];
- Refugee Program (for eligible aliens);

- HCBS (Home and Community Based Services).

Nursing Home Medicaid

Medicaid may also help pay for nursing home care, if you meet the eligibility requirements in regard to income, assets and transfers of assets. To qualify for this assistance in Florida, you (and possibly your spouse) must have income and assets below a stated threshold level. All of your income, less a personal expense allowance of \$35.00, will be used to pay for your nursing home care. Medicaid pays the difference between your income and the actual cost of the nursing home. For more information on the current income and asset thresholds, contact the Department of Children and Families at **1-866-762-2237** or visit: www.dcf.state.fl.us/ess/.

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.

A couple can have up to \$100,000 in assets and still qualify for Nursing Home Medicaid, where one spouse enters a nursing home and the other does not. Certain assets, such as a home or one car, do not count toward the asset limit. In general, however, you can not transfer any assets for less than fair market value within the 36 months prior to applying for Medicaid (or 60 months if the transfer was made after February 8, 2006), without risking a period of ineligibility.

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 want to apply for, or make inquiries about, WAGES, SSI-related medical assistance, WAGES-related Medicaid or Nursing Home Medicaid, contact your local Department of Children and Families office in person, by letter or telephone. 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

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, MediPass (Medicaid Provider Access System), MPN (Minority Physician Network), or PSN (Provider Service Network). 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 deter-

mined 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. Information is available about Medicaid managed care choices through Florida Medicaid's Enrollment Broker, Medicaid Options. Go to: www.medicaidoptions.net/, or call the toll-free Medicaid Options HelpLine at 1-888-367-6554 for enrollment information and choices. To disenroll from a Medicaid HMO, call the state's toll-free disenrollment number at **1-888-ENROLL-4**. To enroll or disenroll from the MediPass program, contact your local Medicaid office. For more information on the two plans, consult either your local Medicaid office, your local Agency for Health Care Administration office, or your local Department of Elder Affairs office. You can also visit: www.fdhc.state.fl.us/medicaid/medi-pass to learn more about the MediPass plan.

Expenses Covered by Medicaid

Generally, if you are eligible Medicaid will cover the following, within established dollar limits: 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 8th. From the 1st day of the 3rd month prior to June 8th (March 1st), Mrs. Smith has incurred medical bills amounting to \$88. Mrs. Smith meets all eligibility requirements currently and has met them during the March 1st - June 8th period. 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 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

You may wish to appeal if you feel you have been unfairly denied Medicaid eligibility or the level of benefits that you receive is incorrect or unfair. This is your right. The appeal may be made verbally or in writing to your social worker, or 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 adverse decision. 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. For their address and telephone number, look in the "white pages" of your telephone directory for "Children & Families, Department of" under the listing "Florida -- State of." 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.

Health Care

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:

- A policy may provide at least 24 months of nursing home coverage, but as of July 1, 2006, policies are no longer required to offer this feature.
 - 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 is 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," 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 insurance companies must deliver benefits when they deem that the insured is unable to perform three or more basic functions of daily living or is mentally impaired.
 - All long-term care insurance policies are required to bear a stamp on the first page 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 insurance works care 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)**. The Department can also tell you whether an insurance agent or company is licensed.

Health Care Nursing Homes/ Long-Term Care Facilities

Introduction

There are several types of long-term care facilities, each type being staffed and equipped to deliver a different level of care. Assisted living facilities (ALFs), also known as board and care homes in some states, are discussed in the section of the Handbook entitled **Housing**.

Skilled Facilities (SNFs) provide skilled nursing care on a 24-hour basis. Skilled nursing care is comprehensive, planned medical care that 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 obtain a license in order 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 minimum

requirements in order to be certified for Medicare and Medicaid programs as skilled nursing and/or intermediate care facilities. In order to be certified, nursing homes must meet standards for housekeeping, staffing, diagnostic, dietary and nursing procedures. However, you should not rely exclusively on the fact that a nursing home is licensed, or even certified under state requirements or Medicare and Medicaid standards, 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, it would be wise to consider the following:

- Take time to determine the medical and physical needs of the prospective resident. This information will provide some basic guidelines which can aid in making decisions. The prospective resident, the resident's physician, and the resident's family and friends should participate in this process.
- Consider most seriously 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. The Council, which is made up of local volunteers, serves as an independent advocate for the rights of nursing home patients. You can check the white pages under "Florida--State of" for the phone number of your local council.
- 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: <http://ahcaxnet.fdhc.state.fl.us/nhcguide>
- 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.

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, do not hesitate to ask questions. It is important not only to ask questions but 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 are 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 that the report be readily available for public inspection. 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. 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? Is the resident required to use the staff physician or may s/he elect to use only his/her own physician?

- **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 (See below). 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 that you allow them to obtain all medication. This is convenient and provides for quick emergency services. Obtaining medications through the home, though, may be more costly, and the patient may wish to purchase his own. 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.
 - **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? 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 things such as window sills, counter tops and bedside tables for dirt and dust. These can be telltale signs that the home is in financial trouble and is cutting corners by 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 that should be considered when looking at a nursing home. Flowers, pictures, seasonal decorations and general orderliness are important in providing a happy and comfortable 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 to be happy, interested and involved with what is going on?

Privacy and respect are very important to all individuals in a nursing home. Residents are entitled to be treated with respect and to be afforded as much privacy as possible. 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 toward their jobs and the

home residents. 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 90 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 for more information.)

Medicaid, the program jointly administered by the federal government and the state, also pays for care in some nursing home facilities, specifically skilled nursing and intermediate care facilities. A physician must certify the level of care needed, and the patient must be eligible for Medicaid benefits. (See the Medicaid chapter.) Some nursing homes certified to accept Medicaid patients may be unwilling to do so because the amount Florida pays for the care of Medicaid patients is insufficient. This fact becomes critical when a patient's Medicare coverage runs out and Medicaid money becomes the only way that he or she can pay for nursing care. As mentioned before, be certain that the nursing home will retain a patient whose funding source may switch from private or Medicare funds to Medicaid.

Residents' Rights

While many nursing homes are excellent facilities providing quality care, it is necessary to protect residents from irresponsible institutions. A person who enters a nursing home is not stripped of civil and property rights guaranteed by the Constitution and state and federal laws just because of his or her residence there. There are laws which specifically forbid abuse of patients' rights. Awareness of these rights will help insure protection and enforcement. By law, all nursing home facilities must adopt and make public the rights and responsibilities of the residents.

To be licensed in Florida and to participate in Medicare and Medicaid, nursing homes are required to establish patients' rights policies. 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; assurances that patients can participate in religious activities; limitations upon the ability of nursing homes to discharge patients; limitations upon the ability of facilities to require 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 have at their disposal 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 intentionally or negligently caused by employees to residents of the home. You should report any physical abuse at the following toll free number: **1-800-96-ABUSE.**

Enforcement actions should be a last resort. They require a good deal of time and money, and 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.

NOTE: The State of Florida has a Long Term Care Ombudsman Council that investigates resident's complaints. The telephone

number for your local Ombudsman Council is listed in the Reference and Referral Information section. You may also contact the Department of Children and Families office nearest you. You can find that telephone number by looking in the "white pages" of your telephone directory under "Children and Families, Department of" under the listing "Florida--State of" or, in case of emergency, call their TOLL-FREE NUMBER: **1-800-96-ABUSE.**

Health Care

Institutionalization of the Mentally Ill

In Florida, you cannot be placed in a treatment facility for the mentally ill against your will unless all of the following conditions are met:

- You must be mentally ill;
- You have refused voluntary placement for treatment after sufficient and conscientious explanation and disclosure of the purpose of placement for treatment, or you are unable to determine for yourself whether placement is necessary; and
- You are manifestly incapable of surviving alone or with the help of willing and responsible family or friends (including available alternative services), and without treatment, are likely to suffer from neglect or refuse to care for yourself, and such neglect or refusal poses a real and present threat of substantial harm to your well-being or there is substantial likelihood that in the near future you will inflict serious bodily harm on yourself or another person, as evidenced by recent behavior causing, attempting, or threatening such harm; and
- All less-restrictive alternatives have been judged inappropriate.

The involuntary placement process begins with the filing of a petition in circuit court. To determine if these conditions exist, a judge will order you to be examined and evaluated by a psychiatrist and a clinical psychologist or another psychiatrist. In counties with a population of less than 50,000 where no clinical psychologist or psychiatrist is available to provide the second opinion, a licensed physician with training in diagnosing mental and nervous disorders or a psychiatric nurse may provide the second opinion. If the evaluators find that the conditions are met, their opinions are submitted to the court along with a recommendation for placement prepared by the administrator

of the facility where you have been placed, or will be placed. A hearing before the court will then follow.

You have the legal 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 will be involuntarily placed at a treatment facility **if and only if** the court concludes that you meet the criteria for involuntary placement.

A court order authorizing your involuntary placement is valid for only six months. (Sufficient improvement of the patient's condition would, of course, lead to release prior to the expiration of the order). If, at the end of six months, the treatment facility determines that you should continue treatment, a new court order must be obtained. Thereafter, the same procedure will be followed at the expiration of each additional six-month period. At each of these subsequent hearings, you are guaranteed the right to representation by counsel. If it is found that 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.

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 while an inpatient, and the release policies of the facility. 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, if the facility determines that you should not be released, it can seek a court order to have you involuntarily committed. If this happens, demand representation by an attorney.

Housing 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. A licensed real estate agent or broker specializing in the neighborhood you have chosen can best answer questions and help identify property according to your direction. An attorney can help you negotiate the legal and financial pitfalls of the purchase contract. Consult an attorney before signing a contract bid to purchase property. Generally, an attorney will charge standard fees, and a broker/agent will earn a small percent of the purchase price as commission.

Your long-term budget is a primary consideration. Be mindful that future budget stress may be triggered by increases in property taxes and other expenses such as utilities, water and trash collection, association fees, if applicable, and any adjustable interest rate or delayed balloon payment on a mortgage. Most purchase contracts require a substantial down payment. Other costs may include various closing fees such as for inspections, title insurance, recording fees, and fees associated with mortgage financing, if any.

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 assure that your offer is contingent on an acceptable home inspection and clear title, and will provide alternative strategies if inspections reveal unacceptable conditions. If your property is governed by a home owners' 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 your use of the property for pets and children.

Once your bid to purchase is accepted, proceed with your contracted 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 will be able to recommend reputable inspectors and appraisers. Your attorney will conduct the title investigation.

Title insurance inquiry safeguards your ownership rights against defects in the title and assures that the property is lien-free. A related due diligence search should reveal any existing violations of governmental regulations or unpaid municipal liens, confirm that the zoning code permits your intended use, and identifies the property's flood classification, etc. Also, arrange separately to purchase home owner's insurance, liability and casualty insurance. These policies should insure the structure of your home itself, interior fixtures, and your personal belongings against disasters such as fire, windstorm, water, and flood. Solicit competitive bids for insurance.

If you are considering mortgage financing, beware of predatory lenders. In order to receive the fairest financial 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, seek the advice of a lawyer to review the fine lines of the mortgage agreement, provide you with advice, as necessary, and close the transaction on your behalf. Your real estate attorney overseeing the purchase transac-

tion will generally be capable of handling the mortgage aspect as well.

Traditional Forms of Ownership

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

- **Individual Homes or Properties.** Traditional homes (single-family or town home). May be independent or part of a gated community, self-standing or connected and with or without the benefits and obligation to pay assessments to a homeowner association (which may include costs such as security, paving, street lighting, landscaping, drainage management, and employee salaries). Homeowner associations are governed by elected, volunteer community residents and have differing rules and regulations. 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, 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, retirement communities, or have no

restrictions at all.

- **Timeshares.** Timeshare properties have multiple owners, each with a right to use the property for one- or two-week increments per year. This type of property is vacation-oriented and not suitable for a permanent residence.

Other Types of Communities for the Elderly

- **NORCs (Naturally Occurring Retirement Communities).** 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, as and 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 U.S. Department of Housing and Urban Development (HUD) and state regulations require that 80% of the residents of age-restricted communities be 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 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. Also, rentals to anyone under 55 are prohibited.

Florida's Homestead Exemption - What You Need to Know

Register with the appropriate county tax authority as soon as you occupy a home as your primary residence. The Florida Homestead Exemption provides the following three important benefits to homeowners:

- **Reduces the property taxes on the home.**

The Florida property tax homestead exemption reduces the assessed value of a home for property tax purposes by \$25,000. Additionally, the "Save Our Homes" program caps property tax assessments at 3% per year or the rate of inflation, whichever is greater. Beginning in 2008, homeowners may be able to reap greater savings than the approximately \$500 saved from the \$25,000 homestead property exemption by opting for a proposed super-sized homestead exemption. A potential drawback of the super-sized exemption, however, is that it may eliminate the Save our Homes 3% cap on property tax increases. Ask about changes to the homestead property tax exemption. In the future, you may have to choose which program is most advantageous for you. Claim the homestead exemption by filing an application at the local property appraiser's office, and present qualifying proof of residence by a copy of your recorded deed immediately upon acquiring a primary residence.

- **Protects the home from a forced sale before and at death.**

Florida has one of the most protective homestead exemptions in the United States as it provides no limit to the value of a home that can be protected from creditors. There are only a few limitations: (1) the homestead property must occupy less than ½ acre within a municipality, or 160 acres outside of a municipality, and (2) the following creditors can still force the sale of a homestead to collect debts owed to them: (a) the State of Florida and its coun-

ties and municipalities, to collect past due property taxes; (b) the IRS, for past due federal income taxes; (c) parties to whom the property was specifically pledged as collateral for a mortgage; and (d) workmen who are owed money for materials supplied or work performed in repairing or improving the property. This benefit applies automatically upon the establishment of a primary residence in Florida.

- **Protects the home for a surviving spouse or minor child.**

Florida homestead also protects a spouse by (1) restraining a homeowner from selling homesteaded property without a spouse's approval, 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 devising the property by will if the homeowner is survived by a spouse or minor child. In both of these situations, the surviving spouse is permitted to continue living in the primary residence for his or her lifetime while the person named in the will receives ownership after the surviving spouse or child dies. However, the surviving spouse or child is required to pay all expenses related to the homestead property during his lifetime. If either the surviving spouse or child or the person named in the will wishes to sell the property, both parties must agree and each receives a percentage of the proceeds based on the age of the life share owner.

Normally, this benefit applies automatically upon the establishment of a primary residence in Florida.

Other Property Tax Exemptions

In **addition to** the Homestead Property Tax Exemptions discussed above, the following property tax exemptions, as applicable, 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 annual household income does not exceed \$20,000.

- **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 totally and permanently disabled may qualify for a \$500 disability exemption.
- **Disability Exemption for Ex-Service Members.** An ex-service member with a war or service-connected disability of 10% 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

Keep abreast of changes in property tax laws, and manage your budget to accommodate fluctuations in property taxes. 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).

Housing 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 when they do not have to do so. Also, without a written lease, the landlord may require that you vacate on short notice. **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 memorialize your agreed-upon terms in a written lease.**

Some Duties of the Tenant

- Pay rent and other agreed-to charges on time.
- Keep rental unit clean and sanitary.
- Comply with all obligations imposed on tenants by 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 the 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 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 7 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:
 - Extermination [if the tenant is forced to vacate the unit because of extermination, the landlord is required to [abate the/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 running 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 7 days **written** notice before terminating a week-to-week tenancy, if the lease is oral.

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 to or do not understand.
- **Keep records:** receipts of rent payments, copies of lease agreements, records of damages 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 7 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:

- 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 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, 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 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, 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. Be sure to provide your landlord with a forwarding address. 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. 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 for any retaliatory motive. Examples of tenant conduct for which a landlord may not retaliate include situations where:

- 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 other means.
- Remove outside doors, locks, roof, walls, or windows of the unit except for repair or replacement.
- 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 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. In order to evict a tenant for non-payment of rent, the landlord must first give the tenant a 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 then file a lawsuit in the county court. The landlord can also evict a tenant for reasons other than non-payment of rent, such as for violations of the 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 that the landlord serve the tenant with notice of the lawsuit by delivery of a copy of the complaint requesting 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 in writing. Also, upon receipt of 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 only entitled to recover the costs 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.

Housing 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 on 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% to 40% 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/pih/pha/contacts/states/fl.cfm, or by calling your PHA Regional Director at **1-404-331-4111**.

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. PHA's may give preference to a family who is (1) homeless or living in substandard housing; (2) paying more than 50% 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 authorized 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 for whom the lack of adequate housing is a primary factor in the separation, or threat of imminent separation of children from their families or in the prevention of reunifying the children with their families, and to assist post-foster care youths 18-21

years of age. 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 replacement 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 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 are available to non-elderly families with a disabled person who do not currently receive housing assistance in certain developments where owners establish preferences for, or restrict occupancy to, elderly families.
- **Welfare to Work Vouchers (WtW)** are awarded to families attempting to transition 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 home heating or cooling and other 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 be provided 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:
- A documented heating or cooling emergency;
- At least one individual age 60 or older in the home; and
- A net household annual income equal to or less than 150% 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 1715 z Home Ownership Subsidy Program

Section 1715 z 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 which 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% of the median income of the area, as determined by the Secretary of HUD, with adjustments for family size. The Secretary of HUD may establish higher or lower income tests on the basis of findings that adjust for prevailing construction costs or other factors.

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 income needs of the home owner, the total amount of the mortgage payment and vary according to locality.

Housing

Assisted Living Facilities

(ALF)

Introduction

Florida's version of a board and care facility is called an Assisted Living Facility (ALF). An ALF is a popular long-term care housing alternative licensed by the state. An ALF is defined by law as a building, residence, private home, boarding home or home for the aged, operated for profit or not, which provides for a period exceeding 24 hours, housing, food service and one or more personal services for four or more adults, not related to the owner of the facility by blood or marriage. Personal services include assistance with eating, bathing, grooming, dressing, ambulation, and house-keeping; supervision of self-administered medication; arrangement for or provision of social and leisure services; and arrangement for appropriate medical, dental, nursing, or mental health services. However, "personal services" do not include provision of medical, nursing, dental or mental health services by the ALF staff. ALFs, therefore, are not nursing homes.

Contract Requirements

Exercise care in choosing an ALF and carefully review the contract before signing. By law, the contract must be in writing and state:

- the services and accommodations to be provided;
- the rates;
- a provision for at least 30 days' notice prior to any rate increase;
- whether the facility has any religious organization affiliation and the organization's responsibility to the facility;
- the rights, duties and obligations of the residents; and

- the purpose for any advance payment and the refund policy for such payment. The refund policy should be prorated on the daily rate for any unused portion beyond the termination date after all charges and damages have been paid to the owner. Refunds are computed in accordance with the notice of relocation requirements, which may not be more than 30 days.

The contract should also include provisions for placing advance payments into an interest-bearing escrow account, with interest payable to the resident, to protect the resident in the event the ALF experiences financial difficulties.

Inspecting ALF Records Before Placement

The ALF industry is licensed and regulated by the Agency for Health Care Administration (AHCA). The Department of Children and Families (DCF), the Department of Elderly Affairs, and the Department of Health also participate in the oversight of the ALFs. Information, including copies of inspection reports, should be requested from AHCA or other agencies and reviewed **before signing a contract**. The most recent inspection report must be posted in a prominent, accessible location within a facility. Upon request, an applicant must be given a copy of the latest inspection report. Anyone may obtain a list of ALFs which are currently in violation of statutes or regulations from AHCA, DCF, the Department of Health, the Agency for Persons with Disabilities, the area agencies on aging, the Florida Statewide Advocacy Council, and the state and local ombudsman councils.

Additional criteria to consider in the selection of an ALF are similar to those found in

the section of this Handbook entitled “Health Care -- Nursing Homes.”

Criteria for Admission and Residence

An individual must meet the following minimum criteria in order to be admitted to a facility holding a standard, limited nursing or limited mental health license:

- Be at least 18 years of age.
- Be free from signs and symptoms of any communicable disease which is likely to be transmitted to other residents or staff; however, a person who has human immunodeficiency virus (HIV) infection may be admitted to a facility, provided that he/she would otherwise be eligible for admission according to this rule.
- Be able to perform the activities of daily living, with supervision or assistance if necessary.
- Be able to transfer, with assistance if necessary. The assistance of more than one person is permissible.
- Be capable of taking his/her own medication with assistance from staff, if necessary.
 - If the individual needs assistance with self-administration, the facility must inform the resident of the professional qualifications of facility staff who will be providing this assistance, and if unlicensed staff will be providing assistance, the facility must obtain a written informed consent to assist, as required under Florida Statutes Section 429.256, from the resident or the resident’s surrogate guardian, or attorney-in-fact.
 - The facility may accept a resident who requires assistance with medication if the facility has a nurse to provide this service, or if a licensed third party is contracted by the resident or the resident’s legal representative, designee, surrogate, guardian, or attorney-in-fact.
- Special dietary needs can be met by the facility.
- Pose no danger to self or others as determined by a physician or mental health practitioner licensed under Florida Statutes Chapters 490 or 491.
- Not require licensed professional mental health treatment on a 24-hour a day basis.
- Not be bedridden.
- Not have any stage 3 or 4 pressure sores. A resident with a stage 2 pressure sore may be admitted provided that:
 - The facility has a LNS license and services are provided pursuant to a plan of care issued by a physician, or the resident contracts directly with a licensed home health agency or a nurse to provide care;
 - The condition is documented in the resident’s record; and
 - If the resident’s condition fails to improve within 30 days, as documented by a licensed nurse or physician, the resident must be discharged from the facility.
- Not require any of the following nursing services:
 - Oral, nasopharyngeal, or tracheotomy suctioning;
 - Assistance with tube feeding;
 - Monitoring of blood gases;
 - Intermittent positive pressure breathing therapy; or
 - Treatment of surgical incisions or wounds, unless the surgical incision or wound and the condition which caused it have been stabilized and a plan of care is developed.
- Not require 24-hour nursing supervision.
- Not require skilled rehabilitative services

as described in Florida Administrative Code Rule 59G-4.290.

- Have been determined by the facility administrator to be appropriate for admission to the facility.

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:
 - Live in a safe and decent living environment, free from abuse and neglect.
 - Receive considerate and respectful treatment, with due recognition of personal dignity, individuality, and the need for privacy.
 - Retain and use his/her own clothing and other personal property.
 - Enjoy unrestricted private communications.
 - 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 reasonable opportunity to exercise and be outdoors.
 - Exercise civil and religious liberties.
 - Access adequate and appropriate health care.
 - Receive at least 45 days' prior notice of relocation or termination, unless medically necessary at an earlier date. The notice and reasons must be in writing.
- 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 in a prominent place in each ALF facility and be read or explained to residents who cannot read. This notice must include the name, address, and telephone numbers of the local ombudsman council and central abuse hotline and, when applicable, the Advocacy Center for Persons with Disabilities, Inc., and the Florida local advocacy council, where complaints may be lodged. The ALF facility must ensure a resident's access to a telephone to call the local ombudsman council, central abuse hotline, Advocacy Center for Persons with Disabilities, Inc., and the Florida local advocacy council.
- An inspection of the ALF occurs every 2 years, and must include private, informal conversations with a sample of the residents and the ombudsman council.
- ALF facilities may not hamper residents from exercising their rights.
- An ALF may not force residents to leave the premises or take retaliatory actions against residents for exercising their rights or filing an action or notifying authorities regarding 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 regarding an ALF enjoy immunity from prosecution unless submitted in bad faith or maliciously.

Other Resident Rights

An assisted living facility must provide care and services appropriate to the needs of residents accepted for admission to the facility.

- **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, 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. The facility must demonstrate residents' participation through one or more of the following methods: resident meetings, committees, a resident council, suggestion box, group discussions, questionnaires, or any other form of communication appropriate to the size of the facility.
- 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:
 - Assist residents in making appointments and remind residents about scheduled appointments for medical, dental, nursing, or mental health services.
 - Provide transportation to needed medical, dental, nursing or mental health services, or arrange for transportation through family and friends, volunteers, taxi cabs, public buses, and agencies providing transportation for persons with disabilities.
 - 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 by each resident. Residents shall be encouraged to be as independent as possible in performing their daily activities.

- **Nursing Services.**

- The facility may employ or contract with a nurse to:
 - > Take or supervise the taking of vital signs;
 - > Manage pill-organizers and administer medications;
 - > Give prepackaged enemas pursuant to a physician's order; and
 - > Maintain nursing progress notes.
- The nursing services listed in paragraph (a) 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, and for residents to recommend changes to facility policies and procedures. The facility must be able to demonstrate that such procedure is implemented upon receipt of a complaint.
- 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; the Advocacy Center for Persons with

Disabilities, **1-800-342-0823**; the Florida Local Advocacy Council, **1-800-342-0825**; 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, for example, 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 house-keeping 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 a minimum, at an hourly wage consistent with the federal minimum wage law.
- The facility must provide residents with convenient access to a telephone to facilitate the resident's right to unrestricted, private communication. The facility shall not prohibit unidentified telephone calls to residents. For facilities with a licensed capacity of 17 or more residents in which residents do not have private telephones, at a minimum, there must be an accessible telephone on each residential floor of each building where residents reside.
- 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 6 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 residents' representatives may not be prohibited from independently arranging, contracting, and paying for services provided by a third party of the resident's choice, including a licensed home health agency or private nurse, or receiving services through an out-patient clinic, provided the resident meets the criteria for continued residency, and the resident complies with the facility's policy relating to the delivery of services in the facility by third parties. The facility's policies may require the third party to coordinate with the facility regarding the resident's condition and the services being provided. The facility shall provide the resident with the facility's policy regarding services provided to residents by non-facility staff.

In Florida, residents have a private right of action against ALFs that violate this law. Actual and punitive damages may be recovered, along with reasonable attorneys' fees if the resident wins. The State Attorney, AHCA, DCF and/or the Long-Term Care Ombudsman Council should be contacted for a suspected violation of the Resident Bill of Rights. The toll-free number for the Long Term Care Ombudsman Council is **1-800-96-ABUSE.**

Housing

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. 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 resident through a continuing care contract in return for money or property. Florida law requires that such contracts state:

- whether the care is for one or two persons and list 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 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 rescind a continuing care contract and receive a full refund of any funds paid, without penalty or forfeiture, within 7 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 **7 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 be unable to pay. Persons considering becoming guarantors should take special care to understand the obligations they may incur.

General Information

Protecting Yourself From Crime

Remedies

Crime can strike anyone at any time. For many elderly adults -- particularly those who suffer from various illnesses or who have other physical disabilities -- crime can be especially frightening. There are ways to protect you from becoming a victim. For one thing, 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 more common crimes from happening to you.

Robbery

Robberies and purse snatchings are difficult to prevent, but there are things that you can do to protect yourself against loss of property, severe injury or loss of life. You can reduce the chances you will be a victim by doing the following:

- Do not carry large sums of money. Credit cards and checks can be replaced. Currency 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 doors when driving or riding in a car or when you leave your car unattended.
- Avoid walking alone. If you must walk alone, a dog can provide good protection. Even a gentle dog will bark if you are attacked, and may even bite your attacker.

In the event of a holdup, do not resist.

If your purse is snatched, let it go. The contents of your purse are replaceable; your life and health are not.

Burglary

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

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. When you plan to be away for a long time, ask a friend or neighbor to check your home each day and turn on different lights. Outside lights near doors and large windows are recommended to discourage burglars.

Cancel deliveries, newspapers, and mail when you are away. Newspapers piled up near your door or mail overflowing from your mailbox tell a burglar you are not home. Have a friend or neighbor check your home each evening to pick up handbills and other unscheduled deliveries left at your door.

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.

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

If a portion of the door is glass, you should 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 easier 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 where burglars often search first;
- store all valuable property such as jewelry and other small items in a closed area -- preferably a locked closet or a safety deposit box; and
- do not put valuable items near windows where they are visible from the street.

Install an alarm system if you can afford one. Many companies offer installment payment plans. If you can't afford an alarm system, consider obtaining a dog, still one of the most effective methods of crime prevention. Even if the dog is not ferocious, would-be criminals are often scared away by the sound of a barking dog.

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. If at all possible, avoid carrying a purse.

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

Be fully dressed when delivery men or others come to your home. Do not allow any strangers in your home. Ask for identification if it is necessary to let someone inside. When possible have delivery men 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. For example, if you are alone at the movies, be conscious of whom you sit beside. Also, 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.

Do not hide a door key under the doormat, behind the shutter or in a mailbox. Everyone knows these tricks. If you want an extra key, leave it with a trusted neighbor.

Do not volunteer any personal information to strangers during a phone conversation. If you have an answering machine, ask a male family member or friend to record the outgoing message. Instruct him to say that "we are not available," not "I am not at home."

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

- 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.
- When walking at night, stay in well-lighted areas and take the most direct route.
- Notice stores or establishments that stay open at night and places to go where you can get help.
- If you have to be 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. Consider carrying a cell phone so friends and family can communicate with you while you are away from your home.
- 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 you are being followed while driving, go to the nearest open gas station or police station and honk your horn.
- Ask someone to call for help when your car is disabled; do not get out of the car.
- Drive with car doors locked at all times. Keep your windows up if possible.
- Choose driving routes that avoid dangerous neighborhoods if possible.
- 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, including the next of kin of homicide victims, are entitled to the right to be informed and to be present and to be heard when relevant, at all crucial stages of criminal proceedings, to the extent that these rights do not interfere with the constitutional rights of the accused.

Florida Law provides guidelines for the fair treatment of victims and witnesses in the criminal justice and juvenile justice systems. It authorizes a direct-support organization to assist victims of adult and juvenile 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.

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. Tallahassee-area residents should dial 414-3300.

In addition, victims may also contact the Division of Victim Services 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 caretaker, 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 rights; **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 any form 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.

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 which 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.

General Information

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 we have consumer protection legislation, 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.

Consumer-conscious senior citizens in Florida have the opportunity to volunteer their time and energy to help the Attorney General's Office fight back against con artists who typically prey on their number. They can become part of a statewide program known as "Seniors vs. Crime." The program uses retired citizens not only to educate Floridians on consumer fraud, but also to help in some consumer investigations. In addition, the volunteers regularly conduct seminars on how seniors can protect themselves from becoming crime victims. For program information, consumer inquiries, consumer complaints, or to schedule a Consumer Seminar, please call **1-800-203-3099**, or visit their web site at: **www.seniorvscrime.com**.

Contracts and Credit Buying

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 a workman 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 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 service if paid for in cash at the time of purchase.
- **Finance Charge** (also carrying charge or price-differential): The price you have to pay for the privilege of paying 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 plus finance charge equals 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.

If you have a department store, bank or oil company credit card, you normally pay a monthly finance charge on the unpaid balance of your account. In Florida, the maximum monthly finance charge is 1 one-half% of your unpaid balance, or 18% per

year. (This rate does not apply to credit cards.) It is unlawful for any person or entity to charge you more than 18% except as provided by statute. Since interest rates vary, be sure to shop around. Choose the lender who will charge you the lowest annual percentage rate.

The Federal Truth-in-Lending Act requires persons and businesses who extend credit to advise consumers of the cost of credit. When you buy on credit, you must be told the finance charge and the annual percentage rate of interest. Customers may sue lenders who fail to make the necessary disclosures. Lenders may be liable for any actual damage the customer suffered plus twice the amount of the finance charge -- from a minimum of \$100 to a maximum of \$2,000, depending on the type of transaction -- as well as court costs and attorney's fees. If lenders willfully and knowingly disobey the law and are convicted, they could be fined up to \$5,000 or be imprisoned for one year, or both.

When shopping for credit, remember the following tips:

- The most important items to look for are the finance charge and the annual percentage rate;
- To save money, choose the lender who charges you the lowest annual percentage rate; and
- 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?
- 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 on credit, am I satisfied with the price I am paying for the loan?

- What kind of protection do I have in the way of guarantees and warranties? (Buying something "as is" means no warranty.)

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 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.

Types of Purchases Subject To The Cooling-Off Rule

In Florida, if you contract for services to be rendered in the future on a continuing basis, you are entitled to a three day cooling-off period. You are also entitled to cancel a contract for future services if you can no longer physically receive the services, or the services are no longer available as originally offered. Likewise, if you purchase goods or services during the course of a "home solicitation sale", you maintain a three day right to cancel. There are certain exceptions to these general rules. If you are in doubt as to whether you have the right to cancel, you should contact consumer agencies such as the Florida Department of Agriculture and Consumer Services, the Attorney General's Office, or your local consumer agency.

Door-to-Door Sales

Beware of the door-to-door salesman. Even the most strong-willed customer occasionally falls prey to an enterprising door-to-door salesperson. If you are not pleased with such a purchase, there is something that you can do about it.

If your purchase is for **more** than \$25, you have the **right** to cancel the sale within three days. 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.

Once the merchant receives your notice, he 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 a reasonable time (40 days) in which to pick up the products. You are not required to take any steps to return them. If the seller fails to pick them up within 40 days, the products are yours and you have no obligation to pay for them.

Florida also has a law specifically designed to protect older person from unfair and deceptive sales tactics. The law applies to protect persons 60 years of age or older. If any salesperson willfully uses methods that victimize an older consumer, that salesperson may be liable for up to \$15,000 in civil penalties.

Consumers and Home Repairs

Whenever you must hire someone to do 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. Also, check references before you hire.

After you decide upon a contractor, ask that your agreement be written down. If you

do not get down all the important terms in writing, you are asking for trouble. Terms such as the price, a complete description, time frame for completion, and guarantee of the work to be done should be part of the agreement signed by the contractor. This will help to avoid arguments after the work is completed.

If you plan to pay for work on your home in installments and then you default on the payments, the contractor can place a mechanic's lien on your house. A mechanic's lien is an encumbrance on your home which must be satisfied before you can sell your property. **Caution:** If you mortgage your home to make home improvements and are unable to meet your mortgage obligations, the holder of the mortgage can foreclose on you and you may lose your home. Remember, you have three business days after you make any agreement in which to cancel it if the work has not begun during that time.

Collection Activities and Garnishment

When you are paying for a product or service over time and get behind on your payments, the law in Florida protects you and your family from harassment. If a collection agency or **any** person harasses you, you may take action against them. Send a certified letter to the agency notifying them of your desire not to be harassed further. Under the Fair Debt Collection Practices Act, the agency or person must stop the harassment immediately. You also can report any harassment to the Division of Consumer Services of the Florida Department of Agriculture and Consumer Services, or to the Consumer Protection Agency nearest you, or on the internet at www.800helpfla.com. Some of the practices prohibited by law are the use or threat of force or violence, use of profane, obscene, vulgar or willfully abusive language, or the mailing of communications in envelopes with printing or writing calculated to embarrass the debtor.

Garnishment is a remedy available to a judgment-creditor whereby a debtor's property or money can be seized, but only after

you have your day in court and a court judgment is entered against you. For instance, if you owe \$100 to a creditor, the creditor may garnish your wages (this means that the \$100 debt will be deducted from your paycheck). Florida law, however, protects the wages of the head of the family. These wages cannot be garnished except under some limited circumstances, (e.g., in money owed for alimony and child support). The head of a family is also entitled to an exemption of \$1,000 worth of personal property. If the debtor owns more than \$1,000 worth of personal property, the debtor can choose which property to claim as exempt. Also, your homestead is exempt from seizure except for mortgage foreclosure or other instances where your home is security for the debt.

Unemployment compensation benefits, Social Security benefits and Veterans Administration benefits are also exempt from garnishment. If the judgment-creditor attempts to garnish your assets, however, the burden is on you to give notice of your exception. If you find yourself in this situation, seek legal counsel immediately.

One final word of advice: Florida does not have a debtor's prison. Therefore, if you are sued for money you owe, you will not have to go to jail. Instead, the court may simply enter a written judgment against you ordering you to pay what you owe.

Schemes, Frauds and Rip-Offs

Unscrupulous dealers and businesses have many ways of getting you to part with your hard earned money. You may pay unreasonably high interest rates for credit purchases, or be stuck with shoddy merchandise. 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 used to take advantage of the unwary and unsuspecting buyer. Some schemes involve certain 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 himself (or herself) and informs the victim that he 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 money to the thief and expects to receive his windfall later, but never does. These cons sometimes sound believable, **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 in fact many just duplicate the coverage that you already have.

When buying health and 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** means

that it 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) is usually overpriced and normally not a very good deal for consumers.

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.

With regard to health insurance, make certain that all of those mail solicitations and 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.

When 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 your 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.

Consumer Remedies

If you have consumer problems, there are several numbers you may call. The Florida Department of Agriculture and Consumer Services maintains a toll-free line to answer consumer complaints. The number is **1-800-435-7352**. You may also call the Better Business Bureau to report consumer problems. Look in the “white pages” of your telephone directory under “Better Business Bureau” for the office nearest you.

Many cities and counties also maintain local consumer affairs offices. To see if one exists in your area, look in the white pages of your telephone directory under county or city listings.

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 \$15,000 or less, the consumer may initiate a legal action in small claims court.

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 under provisions of Florida law. 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 if the amount involved is over \$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. This cancellation also must be in writing and sent to the store, business or individual with which you dealt.

Small Claims Court

If you have not received a satisfactory response to your inquiry or complaint you may seek relief through a small claims court when the dispute involves \$15,000 or less. 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; for example, small claims court filing fees in Miami-Dade County range from \$55 for claims involving amounts less than \$100 and up to \$255 for claims involving amounts in excess of \$2,500); (2) the procedure is informal; and (3) you do not need an attorney (though you or your opposing party may have one).

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 the county: (1) where the person or company you are suing resides or is located; or (2) the county where your cause of action accrued (for example, if you purchased something from a door-to-door salesman, your cause of action accrued in your county of residence). The clerk will assist you with filling out a simple form and will answer any procedural questions you 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 the cost of a service fee for summoning each party to court. There are two methods which you may use to summon the other party or parties to court: a) the sheriff or a certified process server may serve the summons and a copy of your lawsuit on a defendant for a fee. (To obtain a list of process servers in your county, you should contact the Administrative Office of the Courts); or b) you may attempt service of a summons on parties within the State of Florida by certified mail-return receipt requested. A deputy clerk can assist you with this procedure at any of the filing locations. There is no fee for this except the actual cost of mailing.

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

- Organize relevant materials (bills, receipts, letters, etc.) so that at the hearing you can make a complete and orderly presentation of your case.
- 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 the facts in your case.
- Determine what witnesses, if any, you want to have 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, served on the witness by someone not interested in the case, and then file an affidavit with the court showing 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 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, be prepared to have the case heard in the event your settlement offer 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, but 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 or fails to tell you in writing what the finance charge or annual percentage interest rate on the contract will be, you can file a lawsuit to recover up to \$2,000 against the seller, depending on the nature of the transaction (See Contracts and Credit Buying). 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.

When all other remedies fail, and if small claims court is not available to you because the amount in controversy is over \$15,000, you may still want to pursue your case in court. Discuss the 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 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 litigation.

Identity Theft

Everyone has a “paper identity” consisting of a social security number, birth date, address, bank account numbers, credit card numbers and pins, etc. Identity theft is the wrongful obtaining and using of someone else’s personal data in some 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).
- **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 PO Box, use that instead of your home address. If you do not have a PO 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.

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 (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/idtheft or call **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.usps.com/websites/depart/inspect/**.
- 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.: 1-800- 766-0008
Experian: 1-888-397-3742
Transunion: 1-800-680-7289
- Florida has a law allowing for a “security freeze,” which will prevent thieves from using stolen information to open and use credit cards. The freeze makes your credit information unavailable to vendors who check credit records before making unsolicited credit offers. There are no fees for victims of identity theft (with an investigative report) and seniors aged 65 years and older. 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: **www.consumersunion.org/pdf/security/securityFL.pdf**

Internet Fraud

The term “Internet fraud” refers generally to any type of fraud scheme that uses one or more components of the Internet - such as chat rooms, e-mail, message boards, or Web sites - to present fraudulent solicitations to prospective victims, to conduct fraudulent transactions, or to transmit the proceeds of fraud to financial institutions or to others connected with the scheme.

In general, the same types of fraud schemes that have victimized consumers and investors for many years before the creation of the Internet are now appearing online (sometimes with particular refinements that are unique to Internet technol-

ogy). 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:

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 mailbox or posted on message boards or Web sites, 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 Web site looks - doesn’t mean it’s true. The ready availability of software that allows anyone, at minimal cost, to set up a professional-looking Web site means that criminals can make their Web sites look 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 with-

out 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, nonsecure messages to unknown recipients are not.

- **Be Especially Careful About Online Communications with Someone Who Conceals His True Identity.** If someone sends you an e-mail in which he refuses to disclose his 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 them later if you have a dispute over undelivered goods for which you paid. As a result, you should be highly wary 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 need to 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. Legitimate startup "dot.com" companies, of course, may not have the brand-name recognition of long-established companies, and still be fully capable of delivering what you need at a fair price. Even so, using the Internet to research online companies that aren't known to you is a reasonable step to take before you decide to entrust 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 Fraud Complaint Center (www.ifccfbi.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)
- **Consumer Fraud:**
Federal Trade Commission
(www.ftc.gov/bcp/consumer.shtml)
- **Securities Fraud:**
SEC Enforcement Division Complaint Center
(www.sec.gov/complaint.shtml)
or the Florida Securities Commission:

Florida Office of Comptroller
Department of Banking
101 East Gaines Street
Plaza Level, The Capitol
Tallahassee, FL 32399-0350
(850) 410-9805

General Information

Age Discrimination

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 prohibits discrimination based solely on age by employers having more than 20 employees during at least 20 weeks per year. The Act is designed to protect persons who are 40 years of age and older. This law protects persons who are employed, persons who have been forced to retire involuntarily, and those who are applying for employment. (Employment agencies are prohibited from refusing to refer prospective employees on the basis of age.) However, the Act does not prohibit discrimination if age is an occupational qualification reasonably necessary for the employment in question.

In addition to the protection afforded by the Age Discrimination in Employment Act, Floridians also are protected by state law. 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 charge with Equal Employment Opportunity Commission to that effect.

The discrimination charge should describe the alleged violation and must name the person who committed it. In some cases, you have a choice whether to file a state or federal claim, or both. To file a federal discrimination claim, contact the Equal Employment Opportunity Commission, which has offices in Miami at:

One Biscayne Tower
2 S. Biscayne Blvd.
Suite 2700
Miami, Florida 33133

and in Tampa at:

501 East Polk Street,
Suite 1000,
Tampa, Florida 33602.

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

2009 Apalachee Parkway
Suite 100
Tallahassee, FL 32301

the phone number is 850-488-7082.

If you are filing a complaint, you must do so within 365 days of the occurrence of the discriminatory practice. After your charges are filed with the respective commissions, the federal and state agencies 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, refuse to rent, sell or negotiate, or 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.”
- “55 or over housing.”

The “55 or over housing” exemption is the most often used exemption for property owners’ associations. To qualify, 80% or more of the units must have at least one occupant who is 55 years old 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 modification to housing, at their own expense, if the changes are necessary for the tenants to fully enjoy their units. In some 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 make accommodations in their rules, policies, practices, and services to allow people with disabilities equal opportunity to use and enjoy their homes.

It is also 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 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 the you (the complainant).

If your case is heard by a HUD Administrative Law Judge, 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 ranging up to \$50,000, depending on the existence and number of prior discriminatory housing practices. If your case is heard by a District Court judge, you may be awarded punitive damages -- civil penalties are not available.

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

Ageism

Not all of the 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 should contact the Gray Panthers. The Gray Panthers is a national, inter-generational grassroots organization, working to promote positive attitudes toward aging and on many other social programs. There are two Florida chapters of the Gray Panthers. They can be contacted at:

North Dade

Dorothy Fleisher
861 North Venetian Drive
Miami, FL 33139
(305) 374-8240

South Dade

Norman Saxe
10725 SW 82nd Avenue
Miami, FL 33156
(305) 595-0594

In addition, **AARP** has a number of programs available to its members, including an Medicare Supplemental insurance plan, a pharmacy, prescription drug plans, travel assistance, a veterans plan, and a motor-ing 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:

400 Carillon Parkway
Suite 100
St. Petersburg, FL 33716
(866) 595-7678

3350 SW 148th Avenue, Suite 120
Miramar, FL 33027
(866) 595-7678

200 West College Avenue, Suite 305
Tallahassee, FL 32301
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General Information

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 from their website (www.fema.gov/areyouready/) and also by calling **1-800-480-2520**. FEMA also has a toll free disaster assistance line **1-800-621-FEMA**. The handbook contains a wealth of information.

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 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. 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. Fill your bathtub and other large containers with water. For more important household preparation tips and specialized information on how to further secure your home, visit **My Safe Florida Home** on the Internet at www.mysafefloridahome.com or by telephone **1-866-513-6734**.

In addition to securing and protecting the outside of your home, it’s 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.

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 / juices
 - 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** (with some small bills) and **Credit Cards** - Banks and ATMs may not be available for extended periods
- **Telephones** - Fully charged cell phone with extra battery and a traditional
- **Keys**
- **Important documents** - in a water-proof container or watertight resealable plastic bag
 - insurance, 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 / medications
 - ample supply of food and water
 - a carrier or cage
 - muzzle and leash

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.

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 that 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 reference section).

Florida Special Needs Registry

Florida has set up a special 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, equipped with trained healthcare professionals and generator power for energy dependent medical equipment. Transportation may also be provided, such as lift gate buses and other specialized forms, to take registered participants from their home 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 (see also reference section).

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
- www.petswelcome.com
- www.pets-allowed-hotels.com
- www.ohs.state.ga.us

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. Even if there is a lull in storm activity, it is likely the eye of the storm, 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 down 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 (**800-621-3362**, TTY **1-800-462-7585** for people with speech or hearing disabilities).

Note: After a hurricane you may also qualify for Food Stamps, please refer to the Financial Assistance Chapter section on Food Stamps for more information.

Planning For The Future

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), their 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 you can use so that your property at death (called the estate) passes in accordance with your wishes.

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

- the maker, (called the testator for a man, or testatrix for a woman) must be at least 18 years or an emancipated minor;
- the testator 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**;
- the witnesses do not need to know the contents of the document, but they must acknowledge that the testator knows he is signing his will, and the competent witnesses must sign the will in the presence of each other and of the testator; and
- it is also advisable to have your will notarized in Florida. This makes the probate process simpler.

If you move, 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** prior to your death, but you must follow specific legal procedures. In Florida if you change or revoke your will through the use of another will or written instrument, the new will must be executed 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, changes in your property holdings, or other important matters.

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 cancel a will and the only valid way to alter your will is the execution of another will or separate written instrument, signed and witnessed. Note: The same formalities required for the execution of a will are required for an instrument which revokes or alters a will. 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, 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. **A homestead may not be devised** by the owner if he or she is survived by his or her spouse or any minor children. If you do not make a will, your spouse will have the right to reside in your home for his or her life and then your children will own it. 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 distributed 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 survivor becomes the sole owner of all the jointly owned property. You can change the devise of 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 held in joint ownership 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's proceeds.

Remember, using joint ownership as a means of helping your family to 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 is wise to consult an attorney.**

What are the Property Rights of a Surviving Spouse?

The surviving spouse of a deceased Florida resident is entitled to certain property rights whether given by will or not. In addition to the right to homestead property for his or her life, a surviving spouse has the rights: (1) to a family allowance during probate not to exceed \$18,000; (2) up to \$10,000 in net value of the deceased spouse's home furnishings and appliances not secured by creditors; (3) to 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.

The elective share consists of 30% 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 realty outside of Florida is also excluded. 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 2 years after date of death, if notice is not received regarding the will.

An exception to this six month 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 or by intestacy. 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. (Intestate share).

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

Marriages between senior citizens who have children through previous marriages are very common. Consequently, there is a concern with **marital or prenuptial** agreements. It is important to understand that the law provides surviving spouse remedies, such as an elective share, that may disrupt provisions made by a will. **Marital** agreements assure that property will pass to heirs as desired. Florida law recognizes

the validity of these contracts 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 told in advance of all 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 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 & No Lineal Descendants:**
Spouse receives entire estate
- **Spouse & Lineal Descendants:**
(who are also descendants of spouse):
Spouse gets the first \$60,000 of the intestate estate
plus the balance of the estate
The rest, if any, to the descendants

- **Spouse & Lineal Descendants:**
(*who are not descendants of spouse*):

½ of the intestate estate to spouse

and remainder to the descendants

- **Lineal Descendants But No Spouse:**

Estate 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 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 John Smith's death any property to be distributed among her lineal descendants will go as follows: 1/3 to her daughter Ann, 1/3 to her son Paul, and 1/6 to each of George's children, John and Mary.

An adopted child is considered a lineal descendant of the adopting parent and a natural kin of all members of the adopting parent's family; the 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 to this is 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 a natural kin of all members of his mother's family. This child is also a lineal descendant of the father and a 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.

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 References and Referral Information.)

Wills and Life Insurance

If you have life insurance policies and they are payable to your estate after 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 privilege of **transferring** the property at death. Currently, Florida does not have an inheritance or estate tax. However, a federal estate tax is imposed on all **taxable estates** in excess of \$2 Million Dollars (there is a credit against the estate tax for estates up to \$2 Million). (There is a 12-month repeal of the estate tax in 2010, but on January

1, 2011, the top estate tax rate and unified credit revert back to today's tax law, unless Congress makes further changes to these laws before December 31, 2010. Since it is impossible to know if you will die in 2010, it is best to plan the transfer of your estate according to current tax law.

The gross estate consists of all property owned at death plus 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 a marital deduction for the value of all assets passing to a citizen spouse.

There is also a federal gift tax on any gifts made during life in excess of \$1.0 Million Dollars. The gift tax rates are the same as the estate tax rates. The receipt by a donor of a gift or by a beneficiary of an estate is not taxed as income for federal income tax purposes.

If the value of the property you own might exceed the amounts listed above, you may wish to 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 the property passing under the terms of the will to the beneficiaries of the will.

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. A lawyer should be contacted to take care of the legal proceedings. It is the personal representative's duty to settle and distribute

the estate as Florida law dictates. Before any distribution is made, however, the will must be deposited with the Probate Court. Any person having possession of the original will must deposit it with the Court within ten days after learning of the death.

If a will has been left, the Probate Court will determine its validity. During probate, the property in the estate is inventoried and valued, and taxes or other debts (including attorneys' and personal representative's fees and estate administration costs) 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, or according to the intestacy laws if the decedent did not have a will. The length of time that it will take to probate 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 less than five 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 by which you can transfer title to real estate while you are alive so that it will not have to go through the probate process, yet still retain some rights over the property. These are a **joint tenancy** and 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 or 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 as follows:

Joint Tenancies

If you wish to create a joint tenancy so that another person who is not your spouse will obtain full title to real property upon your death, the deed must specify that the property is owned with right 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. For example, 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 could 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. You cannot change your mind and withdraw from a life estate arrangement. Thus, there may be certain things you will not be able to do with your property.
- 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 that 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. In Florida, a trust must be written, and signed by the creator in the presence of two attesting witnesses in order to be valid.

A trust is established by a settlor (sometimes also called the grantor or trustor), the one who transfers property to the trust via the written document. These assets become the corpus (body) 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 over the trust. Financial institutions charge an annual fee to administer the trust.

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 the 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: the inter vivos or living trust and the 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 as one of the beneficiaries of the trust.

The testamentary trust is usually established because of a provision in the 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.

For more information about trusts, consult an attorney who specializes in estate planning.

Basic Facts about Gifts

If you estimate 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 which will be legally recognized as a gift you must: (1) clearly show your intent to make a gift; (2) the gift must be a 'complete gift' not merely a loan; and (3) you must 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 2007, you can give away up to \$1,000,000 in your lifetime, plus another \$12,000 per year per person to anyone you want, without negative tax

consequences. Accordingly, by planning your giving, with the help of a qualified professional, you can reduce the estate tax liability of your heirs and beneficiaries.

NOTE: Make provisions for the distribution of your property. **How** you decide to distribute it is not as important as seeing that it is distributed as **you** wish. 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

While distributing some of your estate now may make sense from a tax standpoint, if you have a sizable estate, however, retaining control of your property is one way to insure that you will not be taken advantage of or neglected. Control of your property often means you are more likely to have control over decisions which affect your life. If you should transfer title to your property and you do not keep your name on the deed, you give up all right to the property. Remember, you could even be forced to move out of the home by the person to whom you transferred title, 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.

Planning for the Future

Organizing Your Personal Records

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

People are at a high risk of failing to meet their legal claims and responsibilities when their 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 caring for your health or legal affairs 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. Describe the document and include its location, whether it is 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.

Depending on your personal situation, there will be additional items you should include in your document inventory. 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 church or synagogue, and name of clergy (if desired)
- Living will, anatomical gifts
- Preferences or prearrangement for burial

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

Planning for the Future

Powers 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. The attorney in fact must be over the age of 18 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. 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 the instrument itself, usually two witnesses and a notary public.**

A principal can give an 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 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 attorney in fact 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 wish to terminate a power of attorney which has been recorded, you should 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

The **durable power of attorney** is a device available to Floridians that makes it possible for a person 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 in fact even when the principal is incapacitated, as long as there has not been a court order of incapacity. The durable power of attorney must be executed with the same formalities required for the conveyance of real property by Florida law, (currently, it must be signed before two witnesses and a notary public) and must include the words, "This durable power of attorney is not affected by subsequent inca-

capacity of the principal except as provided in §709.08, Florida Statutes”; or similar words that show the principal’s intent that the power conferred on the attorney in fact is exercisable from the date specified in the instrument, notwithstanding a later disability or incapacity of the principal, unless otherwise provided by statute.

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, a person who becomes mentally incapacitated probably will not be able to handle their affairs. The family, therefore, 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). With a durable power of attorney the need for an adjudication of incompetency is avoided. The grantor of the power designates ahead of time who will handle his affairs. It is a device very similar to a regular power of attorney except for the fact that incapacity has the effect of terminating a regular power of attorney, regardless of whether or not there has been a formal finding of incompetency by a court. Whereas, 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.

For information on powers of attorney, contact an attorney.

Guardianship

Many people think that the relationship called guardianship is something that 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 and incapable of caring for himself and/or managing some or all of his personal affairs as the result of

an illness or injury, or advanced age, that person can be the subject of a guardianship action.

If a friend or relative is stricken with a serious illness that renders them unable to care for themselves, and you desire to take care of that friend or loved one, you can seek, through petition to a Florida court, to be appointed guardian for that person.

A guardianship can be granted by the circuit court over any person who is incapable of caring for themselves or of managing their property by reason of mental illness (see the section entitled Institutionalization of the Mentally Ill), sickness, excessive use of alcohol or drugs, or other mental or physical condition. In a judicial order to determine a person incapacitated and appoint a guardian, a Florida court is required to note the exact nature and scope of the person’s incapacities, the exact areas in which the person lacks capacity to make informed decisions, the specific legal disabilities to which the person is subject, and the specific rights that the person is incapable of exercising. A **ward** is the person for whom a guardian has been appointed.

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 if 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 representation by an attorney. If he cannot afford an attorney the court will appoint an attorney to represent the person.

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 their choice to manage his or her property. If requested, the court may direct the guardian to take possession of less than all 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 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 by making a written declaration that names such guardian to serve 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.

Planning for the Future Health Care Advance Directives

An advance directive is a witnessed written document or oral statement by a person expressing their instructions about health care, through documents including, but not limited to, the:

- 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 by making 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, 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 following form suggested by Florida Statutes:

DESIGNATION OF HEALTH CARE SURROGATE

Name: _____
(Last) (First) (Middle Initial)

In the event that I have been determined to be incapacitated to provide informed consent for medical treatment and surgical and diagnostic procedures, I wish to designate as my surrogate for health care decisions:

Name: _____ Address: _____

Zip Code: _____ Phone: _____

If my surrogate is unwilling or unable to perform his duties, I wish to designate as my alternate surrogate:

Name: _____ Address: _____

Zip Code: _____ Phone: _____

I fully understand that this designation will permit my designee to make health care decisions, except for anatomical gifts, unless I have executed an anatomical gift declaration pursuant to law, and to provide, withhold, or withdraw consent on my behalf; to apply for public benefits to defray the cost of health care; and to authorize my admission to or transfer from a health care facility.

Additional instructions (optional): _____

I further affirm that this designation is not being made as a condition of treatment or admission to a health care facility. I will notify and send a copy of this document to the following persons other than my surrogate, so they may know who my surrogate is:

Name: _____ Name: _____

Signed: _____ Date: _____

Witnesses:*** 1. _____ Witnesses:*** 2. _____

* 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.

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:

- 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
- 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. A person may make an advanced directive, commonly referred to as a living will. A **living will** is a witnessed written declaration providing instructions concerning life-prolonging procedures in the event such person suffers from a terminal condition. It may also be a witnessed oral statement made by the person expressing his or her instructions. 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 follows:

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 attending or treating 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.

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.

Nothing in Florida Statutes may be construed to condone, authorize, or approve mercy killing or euthanasia, or to permit any affirmative or deliberate act or omission to end life other than to permit the natural process of dying. The withholding or withdrawal of life-prolonging procedures from a patient in accordance with the statute does not, for any purpose, constitute a suicide.

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, 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.

Planning for the Future

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 reoccurrence 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 is terminally ill with a life expectancy of six months or less. (Note: Florida defines 'terminally ill' for the purpose of hospice care as 'a life expectancy of one year 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 can not 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 can not 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 for the Future

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 all too often bereaved family members feel guilty about economizing on a funeral of a relative. And 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 you have not examined closely or 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, 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, transportation to the cemetery and for attendants. Funeral directors are required by State 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 (for example, \$1,500 in South Florida). The gravestone can be purchased at a private monument firm, but 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.

Preneed 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. Don't have your body flown back (at great cost) to your birthplace, where you no longer have friends or family, just because your instructions are 30 years out-of-date, unless that is what you want. 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 may sign the State of Florida Organ Donor Registry form in the presence of two subscribing witnesses. It must then be returned to the Department of Motor Vehicle Office or returned to the Tallahassee address on the Florida Organ Registry brochure. That brochure is available online at www.fdhc.state.fl.us/MCHQ/Health_Facility_Regulation/Organ_Donors/Regform.html, or by calling the Agency for Healthcare Administration at **(888) 419-3456**. A donor card can be found online at www.myflorida.gov. You may also indicate such intent on your driver's license at time of renewal. You may change your mind at any time.

Planning for the Future 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 5 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.

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 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 rages, 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. This is what happens when you don't arrange your affairs in an orderly fashion. 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 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.

If the estate needs to be probated in court, a lawyer will likely be required. Where 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. 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 taken care of 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:

- Bank
- Deceased’s employer
- Social Security Administration
- Department of Motor Vehicles
- Issuers of credit cards/charge accounts
- 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:

- Certified copy of death certificate
- Affidavit of Right or Letters of Administration if the estate is probated
- 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.

The Veterans Administration will require:

- a certified copy of death certificate

- proof of funeral and burial expenses
- proof of the veteran's military service

The person paying burial expenses is also entitled to up to \$300 (depending on the circumstances) towards 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.

No VA money is available to contribute to the cost of a plot in a non-national cemetery. 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 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, has 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 testate (with a will), the DMV needs an application accompanied by a certified copy of the will, if probated, and an affidavit that the estate is solvent with sufficient assets to pay all just 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 creditor 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 entireties. 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.

You should change the name on your homeowner's insurance to yours alone.

Notifying Creditors

Where 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, 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.

Reference and Referral Information

There are countless 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 at the local area. To reach your local Area Agency on Aging, please call 1-800-96 ELDER.

Transportation

Free or low cost transportation to obtain medical treatment, buy groceries, pick up food stamps or for other purposes may be available in your area for the elderly and the handicapped.

For information, call the local Department of Children and Families, Aging and Adult Services office or the Area Agency on Aging nearest you. For the number of the office serving your county, see the section in this chapter entitled Services For Older Floridians.

Many municipalities offer discount 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 can often be difficult. The following resources are available to help you meet your housing needs.

Local Government - State Housing Initiatives Partnership Program (SHIP)- State Housing Initiatives Partnership program 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. SHIP funds may be used for emergency repairs, new construction, rehabilitation, special needs housing, down payment and closing cost assistance, and more. You may locate your SHIP local government contact at: <http://www.floridahousing.org>. You may also call Florida Housing Finance Corporation at (850) 488-4197 for this 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, 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 (PHA). The Section 8 program provides rental assistance only. Contact your local public housing agency for more information on this program and other programs they administer. Statewide public housing agencies are listed at: <http://www.hud.gov>. You may also call HUD's Information and 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. The following Web page allows you to select a list of agencies nearest you: <http://www.hud.gov>. You may also call **1-800-569-4287** for the name and location of a HUD-approved housing counseling agency near you.

"Help for Homeowners Facing the Loss of Their Home" is an informative HUD document that discusses 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). You may access this information at <http://www.hud.gov>. You may also call 1-800-569-4287 for the name and location of a HUD-approved housing counseling agency near you.

Reverse mortgages are a special type of home loan that lets a homeowner convert the equity in his/her home into cash. If you are interested in obtaining more information, you may access HUD's Web site at <http://www.hud.gov/buying/rvrsmort.cfm>. To find a counselor near you call **1-800-569-4287**.

HUD 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 them Monday through Friday 9:00 a.m. to 5:00 p.m. Eastern time.

Affordable Rental Housing - Florida Housing Finance Corporation's Web site **www.FloridaHousingSearch.org** maintains detailed information on affordable rental housing in Florida. You may also obtain this information by calling Florida Housing Finance Corporation at **(850) 488-4197**.

55 and Older Communities - The Florida Commission on Human Relations maintains a list of Florida's "55 and Older Communities" on their Web site at **http://fchr.state.fl.us**. You may review these communities on-line or contact the commission at **(850) 488-7082**.

Homeowner's Insurance - The Florida Market Assistance Plan (FMAP) Online Referral Service is a free 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 their Web site at **http://fmap.org/**. You may also call FMAP at **1-800-524-9023**.

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 Web site at **http://dor.myflorida.com/dor/property/exemptions.html**. You may also contact the Department of Revenue, Property Tax Oversight Program Office at **1-850-488-3338**.

My Safe Florida Home Program - The "My Safe Florida Home" program is designed to help Floridians identify how they can strengthen their homes against hurricanes and to reduce hurricane damage exposure. The My Safe Florida Home program offers free wind inspections by qualified hurricane mitigation inspectors to eligible homeowners. Floridians whose homes have undergone wind certification and hurricane mitigation inspections approved by the Department of Financial Services may be eligible to apply for matching grants up to \$5,000. To learn more about this program, please visit the Web site **http://www.mysafefloridahome.com/** or call **1- 866-513-6734**.

Continuing Care Retirement Communities - Continuing Care Retirement Communities (also commonly referred to as "life care facilities"), are a group of living arrangements that include involve several components. The communities provide a continuum of care ranging from independent live-in houses or apartments, assisted living facilities, and skilled nursing facilities. These facilities usually enter into contract 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 "LTC and Other Options for Seniors Guide" located on the Department of Financial Services Web site: **http://www.myfloridacfo.com/Consumers/literature/Long_Term_Care_2006.pdf**. You may also call the Department of Financial Services Consumer Helpline at **1-800-342-2762** to obtain a copy of this publication.

Assisted Living 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 (for instance, assessing the type of services needed and how often) required

and whether the health care facility can provide those services.

Assisted living facilities and adult family care homes 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 tasks. Such residents 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. 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 and nursing homes. You may access this information on the Agency's Web site at: <http://www.floridahealthfinder.gov/reports-guides/reports-guides.shtml>, or obtain these publications by calling **1-888-419-3456**.

You may also access the Florida Agency for Health Care Administration's Web site at <http://facilitylocator.floridahealthstat.com/> to view a statewide listing of Florida assisted living facilities, adult family care homes, nursing homes, and many other health care facility types and service providers.

The Florida Agency for Health Care Administration, Division of Health Quality Assurance 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 **(888) 419-3456**.

Area Agencies on Aging - The Florida Department of Elder Affairs (DOEA) administers programs and services for elders in Florida through contract agreements with area agencies on aging throughout the state. You may contact the local area agency on aging for the county in which you reside to obtain help with your housing needs. You may do this by accessing the DOEA Web site <http://elderaffairs.state.fl.us/>. You may also call **1-850-414-2000** for this information.

Department of Elder Affairs (DOEA)

On October 1, 1991, legislation creating a new agency, the Department of Elder Affairs (DOEA), took effect. The DOEA is intended to create a focus for aging issues and better serve older Floridians. DOEA is separate from and has assumed responsibility for some of the Department of Children and Families' (DCF) elderly programs.

On January 1, 1992, DOEA became the Older Americans Act designated "state unit on aging" and became 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; and the Federal Home Energy Assistance Program**. The DOEA also assumed the functions of the Pepper Commission on Aging.

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 service, serves as an information clearinghouse on aging issues and resources, administratively houses Florida's long-term care ombudsman program and promotes inter-generational relationships and activities.

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, **800-96-ELDER** or 800-963-5337.

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.

Guardianship

Guardianship, often confused with the Guardian Ad Litem program, is the process designed to protect and exercise the legal rights of individuals whose functional limitations prevent them from being able to make their own decisions, and they have not made plans for this 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 functional limitations. Before a guardianship is established, it must first be determined that the alleged incapacitated person (AIP) lacks capacity. 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 or friend. These people are considered non-professional guardians. If the incapacitated person does not have a loved one that can and will serve but they have assets, the court may appoint a professional guardian. If the incapacitated person does not have family or friends and is of limited financial means, then the court may appoint a public guardian, if available. In Florida, the Statewide Public Guardianship Office designates Offices of Public Guardian.

A current list of local offices may be found on the Statewide Public Guardianship Office web page at: <http://elderaffairs.state.fl.us>

Further Questions

If you have further questions about public guardianship or would like information on how to become a professional guardian, you may contact the Statewide Public Guardianship Office at **(850) 414-2000** or write to:

Statewide Public Guardianship Office
4040 Esplanade Way Suite 360-I
Tallahassee, FL 32399-7000
<http://elderaffairs.state.fl.us>

Elder Helpline

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 just one phone call away at **1-800-96 ELDER** (1-800-963-5337):

Elder Helplines can be accessed through the Florida Relay Service for the hearing impaired by simply dialing **711** or 1-800-955-8771.

Alachua	(800) 262-2243
Baker	1-888-242-4464 or (904) 391-6699
Bay	(850) 487-8926
Bradford	(800) 262-2243
Brevard	(321) 631-2747
Broward	(954) 745-9779
Calhoun	(850) 487-8926
Charlotte	(239) 332-3049
Citrus	(800) 262-2243
Clay	1-888-242-4464 or (904) 391-6699
Collier	(239) 332-3049
Columbia	(800) 262-2243
DeSoto	(239) 332-3049
Dixie	(800) 262-2243
Duval	1-888-242-4464 or (904) 391-6600
Escambia	(850) 494-7100
Flagler	1-888-242-4464 or (904) 391-6600
Franklin	(850) 487-8926
Gadsden	(850) 487-8926
Gilchrist	(800) 262-2243
Glades	(239) 332-3049
Gulf	(850) 487-8926
Hamilton	(800) 262-2243
Hardee	(813) 740-3888
Hendry	(239) 332-3049
Hernando	(800) 262-2243
Highlands	(813) 740-3888
Hillsborough	(813) 740-3888
Holmes	(850) 487-8926
Indian River	(561) 383-1112
Jackson	(850) 487-8926
Jefferson	(850) 487-8926
Lafayette	(800) 262-2243
Lake	(800) 262-2243
Lee	(239) 332-3049
Leon	(850) 487-8926
Levy	(800) 262-2243
Liberty	(850) 487-8926
Madison	(866) 487-8926
Manatee	(813) 740-3888
Marion	(800) 262-2243
Martin	(561) 383-1112
Miami-Dade	(305) 670-4357

Monroe	(305) 670-4357
Nassau	1-888-262-4464 or (904) 391-6699
Okaloosa	(850) 494-7100
Okeechobee	(561) 383-1112
Orange	(407) 839-4357
Osceola	(407) 839-4357
Palm Beach	(561) 383-1112
Pasco County	(727) 217-8111
Pinellas	(727) 217-8111
Polk	(813) 740-3888
Putnam	(800) 262-2243
Santa Rosa	(850) 494-7100
Sarasota	(239) 332-3049
Seminole	(407) 839-4357
St. Johns	(888) 242-4464 or (904) 391-6699
St. Lucie	(561) 383-1112
Sumter	(800) 262-2243
Suwannee	(800) 262-2243
Taylor	(850) 487-8926
Union	(800) 262-2243
Volusia	(888) 242-4464 or (904) 391-6699
Wakulla	(850) 487-8926
Walton	(850) 494-7100
Washington	(850) 487-8926

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 and ALFs). 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 in parentheses. 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 FLORIDA - 01

Quietwater Business Park, #119
 1101 Gulf Breeze Parkway
 Gulf Breeze, FL 32561
 (850) 916-6720
phillipsm@elderaffairs.org
 Serving: Escambia, Santa Rosa, Okaloosa, & Walton

PANHANDLE - 02

2002 Old St. Augustine Road, Suite 49
Tallahassee, FL 32301
(850) 921-4703
harveyjt@elderaffairs.org
Serving: Holmes, Jackson, Washington, Bay, Calhoun, Gadsden, Liberty, Gulf, Franklin, Leon, Madison, Taylor, Jefferson, & Wakulla

NORTH CENTRAL FLORIDA - 03

3801 NW 40th Terrace, Suite A
Gainesville, FL 32606-6183
(352) 955-5015
wildel@elderaffairs.org
Serving: Hamilton, Suwannee, Columbia, Lafayette, Dixie, Levy, Union, Putnam, Alachua, Bradford, & Gilchrist

WITHLACOOCHEE AREA - 04

1515 E Silver Springs Blvd., #203
Ocala, FL 34470
(352) 620-3088
mulem@elderaffairs.org
Serving: Marion, Citrus, Hernando, Sumter, & Lake

FIRST COAST - 05

Midtown Center Office Center Park, #3300
4161 Carmichael Avenue, Suite 141
Jacksonville, FL 32207
(904) 391-3942
nebrichtgt@elderaffairs.org
Serving: Nassau, Baker, Duval, Clay, & St. Johns

MID & SOUTH PINELLAS - 06

11351 Ulmerton Road, Suite 303
Largo, FL 33778
(727) 588-6912
camblorbj@elderaffairs.org
Serving: Mid & South Pinellas (Belleair Rd. in Clearwater + South)

PASCO & NORTH PINELLAS - 07

Holiday Tower, Suite 330
2435 US Highway 19
Holiday, FL 34691
(727) 943-4955
mulem@elderaffairs.org
Serving: Pasco & North Pinellas (north of Belleair Rd. in Clearwater)

WEST CENTRAL FLORIDA - 08

701 W Fletcher Avenue, Suite C
Tampa, FL 33612
(813) 558-5591
E-Mail: carpenterd@elderaffairs.org
Serving: Hillsborough and Manatee

EAST CENTRAL FLORIDA - 09

988 Woodcock Road, Suite 198
Orlando, FL 32803
(407) 228-7752
heidberggl@elderaffairs.org
Serving: Orange, Seminole, Brevard, & Osceola

SOUTHWEST FLORIDA - 10

2295 Victoria Ave. Room 135
Ft. Myers, FL 33901
(239) 338-2563
caldwellcr@elderaffairs.org
Serving: Sarasota, Desoto, Charlotte, Glades, Lee, Hendry, & Collier

PALM BEACH COUNTY - 11

111 S. Sapodilla Avenue #125A-B-C
West Palm Beach, FL 33401
(561) 837-5038
jaggarda@elderaffairs.org
Serving: Palm Beach County

BROWARD COUNTY - 12

7771 West Oakland Park Blvd, Suite 139
Sunrise, FL 33351
(954) 747-7919
keppisra@elderaffairs.org
Serving: Broward

NORTH DADE - 13

7270 NW 12th Street, Suite 550
Miami, FL 33126
(786) 336-1418
keppisra@elderaffairs.org
Serving: N. Miami-Dade
(North of Flagler St., All of Hialeah & N.E.
and N.W. addresses)

SOUTH DADE & THE FL KEYS - 14

7300 N. Kendall Drive, Suite 780
Miami, FL 33156
(305) 671-7245
sokolowdh@elderaffairs.org
Serving: Monroe & S. Miami-Dade
(South of Flagler St., all S.E. & S.W.
addresses)

FIRST COAST SOUTH - 15

210 N Palmetto, Suite 403
Daytona Beach, FL 32114
(386) 226-7846
millikenm@elderaffairs.org
Serving: Volusia and Flagler

TREASURE COAST - 16

1903 S 25th Street, Suite 100
Ft. Pierce, FL 34947
(772) 595-1385
schoemign@elderaffairs.org
Serving: Martin, St. Lucie, Indian River,
& Okeechobee

SOUTH CENTRAL FLORIDA - 17

200 N Kentucky Avenue, #224
Lakeland, FL 33801
(863) 413-2764
teagueww@elderaffairs.org
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.

District	Counties	Address and Telephone No.
1	Escambia Okaloosa Santa Rosa Walton	Northwest Florida Area Agency on Aging 5090 Commerce Park Circle Pensacola, FL 32505 850-494-7100
2	Bay Calhoun Franklin Gadsden Gulf Holmes Jackson Jefferson Leon Liberty Madison Taylor Wakulla Washington	Area Agency on Aging of North Florida, Inc. 2414 Mahan Drive Tallahassee, Florida 32308 850-488-0055
3	Alachua Bradford Citrus Columbia Dixie Gilchrist Hamilton Hernando Lafayette Lake Levy Marion Putnam Sumter Suwannee Union	Elder Options – Mid-Florida Area Agency on Aging 5700 S.W. 34th Street, Suite 222 Gainesville, Florida 32608 352-378-6649
4	Baker Clay Duval Flagler Nassau St.Johns Volusia	ElderSource – Area Agency on Aging for Northeast Florida 4160 Woodcock Drive, 2 nd Floor Jacksonville, Florida 32207 904-391-6600

- | | | |
|----|---|---|
| 5 | Pasco
Pinellas | Area Agency on Aging of Pasco-
Pinellas
9887 4 th Street North, Suite 100
St. Petersburg, Florida 33702
727-570-9696 |
| 6 | Hardee
Highlands
Hillsborough
Manatee | West Central Florida Area Agency on Aging
5905 Breckenridge Parkway, Suite F
Tampa, Florida 33610
813-740-3888 |
| 7 | Polk
Brevard Orange
Osceola Seminole | Senior Resource Alliance
988 Woodcock Road, Suite 200
Orlando, Florida 32803
407-514-1800 |
| 8 | Charlotte
Collier
DeSoto
Glades
Hendry
Lee
Sarasota | Area Agency on Aging for Southwest
Florida
2285 First Street
Fort Myers, Florida 33901
239-332-4233 |
| 9 | Indian River
Martin
Okeechobee
Palm Beach
St. Lucie | Area Agency on Aging Palm Beach/
Treasure Coast, Inc.
1764 N. Congress Avenue, Suite 201
West Palm Beach, Florida 33409
561-684-5885 |
| 10 | Broward | Aging & Disability Resource Center of
Broward County
5300 Hiatus Road
Sunrise, Florida 33351
954-745-9567 |
| 11 | Miami-Dade
Monroe | Alliance For Aging
9500 S. Dadeland Blvd., Suite 400
Miami, Florida 33156
305-670-6500

State Unit on Aging:
Department of Elder Affairs
4040 Esplanade Way
Tallahassee, Florida 32399-0700
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).

Legal Problems

Every citizen in Florida should seek representation by an attorney in a civil lawsuit, whether the citizen is suing to uphold a right they claim, or whether the citizen is being sued. Civil lawsuits are cases other than those in which a citizen is charged with criminal activity by the state or local government. 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 if you qualify.

Remember, legal problems have time limits, after the expiration of which your rights may be lost. Therefore, immediately contact a lawyer for assistance. The following are places you may wish to contact.

The Florida Bar Elderly Referral Panel

The Florida Bar has an Elderly Referral Panel for older Floridians. Call toll free **1-800-342-8011** and ask for the Elderly Referral Panel in your county. The Bar will then refer you to one of their participating attorneys in your area. You will then have to contact the participating attorney for an appointment.

Your local bar association may offer programs similar to these. Please contact the local bar association lawyer referral service in your community to learn of the specialty panels in your area and to determine if 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 Florida residents aged 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 stamp 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. The best information on Legal Aid or Legal Services offices and whether it handles your particular legal need, addresses of all offices, hours of operation, financial qualifications, and other valuable information is found at **www.FloridaLawHelp.org**.

ALACHUA

Three Rivers Legal Services, Inc.
Gainesville
352-372-0519

BAKER

Served by Jacksonville Area Legal Aid, Inc.
See Duval County

BAY

Legal Services of North Florida, Inc.
Panama City
850-769-3581

BRADFORD

Served by Three Rivers Legal Services, Inc.
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

Served by Legal Services of North Florida, Inc.

See Gadsden County

CHARLOTTE

Served by Florida Rural Legal Services, Inc.

See Lee Counties

CITRUS

Community Legal Services of Mid-Florida, Inc.

Inverness

352-726-8512

CLAY

Served by Jacksonville Area Legal Aid, Inc.

See Duval County

COLLIER

Florida Rural Legal Services, Inc.

Immokalee

239-334-4554

800-476-1837

Legal Aid Service of Collier County, Inc.

Immokalee

239-657-7442

Naples

239-775-4555

COLUMBIA

Three Rivers Legal Services, Inc.

Lake City

904-752-5960

DADE (Please see listing for Miami-Dade)

DESOTO

Served by Florida Rural Legal Services, Inc.

See Polk County

DIXIE

Served by Three Rivers Legal Services, Inc.

See Columbia County

DUVAL

Jacksonville Area Legal Aid, Inc.

Downtown Office (Jacksonville)

904-356-8371

Orange Park

904-264-2713

ESCAMBIA

Northwest Florida Legal Services, Inc.

Pensacola

850-432-2336

FLAGLER

Community Legal Services of Mid-Florida, Inc.

See Putnam County

FRANKLIN

Served by Legal Services of North Florida, Inc.

See Leon County

GADSDEN

Legal Services of North Florida, Inc.

Quincy

850-875-9881

GILCHRIST

Served by Three Rivers Legal Services, Inc.

See Alachua County

GLADES

Served by Florida Rural Legal Services, Inc.

See Collier County

GULF

Served by Legal Services of North Florida, Inc.

See Bay County

HAMILTON

Served by Three Rivers Legal Services, Inc.

See Columbia County

HARDEE

Served by Florida Rural Legal Services, Inc.

See Polk County

HENDRY

Served by Florida Rural Legal Services, Inc.

See Collier County

HERNANDO

Community Legal Services of Mid-Florida, Inc.
Brooksville
352-796-7238

HIGHLANDS

Served by Florida Rural Legal Services, Inc.
See Polk County

HILLSBOROUGH

Bay Area Legal Services, Inc.
Senior Advocacy Unit
Tampa
813-232-1343

HOLMES

Served by Legal Services of North Florida, Inc.
See Bay County

INDIAN RIVER

Served by Florida Rural Legal Services, Inc.
See St. Lucie County

JACKSON

Served by Legal Services of North Florida, Inc.
See Gadsden County

JEFFERSON

Served by Legal Services of North Florida, Inc.
See Leon County

LAFAYETTE

Served by Three Rivers Legal Services, Inc.
See Columbia County

LAKE

Community Legal Services of Mid-Florida, Inc.
Tavares
352-343-0815
800-984-2915

LEE

Florida Rural Legal Services, Inc.
Fort Myers
239-334-4554
800-476-8937

Lee County Legal Aid Society, Inc.
Fort Myers
239-334-6118

LEON

Florida Legal Services, Inc.
Tallahassee
850-385-7900

Legal Services of North Florida, Inc.
Tallahassee
850-385-9007

Legal Aid Foundation, Inc.
Tallahassee
850-222-3004

LEVY

Served by Three Rivers Legal Services, Inc.
See Alachua County

LIBERTY

Served by Legal Services of North Florida, Inc.
See Gadsden County

MADISON

Served by Three Rivers Legal Services, Inc.
See Columbia County

MANATEE

Legal Ad of Manasota, Inc.
Brandenton
941-747-1628

Gulf Coast Legal Services, Inc.
Bradenton
941-746-6151

MARION

Community Legal Services of Mid-Florida, Inc.
Ocala
352-629-0105

MARTIN

Served by Florida Rural Legal Services, Inc.
See St. Lucie County

MIAMI-DADE

Legal Services of Greater Miami, Inc.
Miami (main office)
305-576-0080

South Dade Office
Perrine
305-232-9680

Blanche Morton-Hialeah Neighborhood
Office
Miami
305-751-5362

Legal Aid Society of Dade County Bar
Association, Inc.
Miami
305-579-5733

Florida Justice Institute, Inc.
Miami (Nursing Home and ALF related
problems only)
305-358-2081

MONROE

Legal Services of The Florida Keys, Inc.
Key West
305-292-3566

NASSAU

Served by Jacksonville Area Legal Aid,
Inc.
See Duval County

OKALOOSA

Legal Services of North Florida, Inc.
Fort Walton Beach
850-862-3279

OKEECHOBEE

Served by Florida Rural Legal Services,
Inc.
See St. Lucie County

ORANGE

Legal Aid Society of the Orange County
Bar Association, Inc.
Orlando
407-841-8310

Community Legal Services of Mid-Flor-
ida, Inc.
Orlando
407-841-7777

OSCEOLA

Community Legal Services of Mid-Flor-
ida, Inc.
Kissimmee
407-847-0053

PALM BEACH

Legal Aid Society of Palm Beach County
West Palm Beach
561-655-8944

Florida Rural Legal Services, Inc.
Belle Glade
561-993-0003
888-993-0003

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
Association
Clearwater
727-461-4869

POLK

Florida Rural Legal Services, Inc.
Lakeland
863-688-7376

PUTNAM

Community Legal Services of Mid-Flor-
ida, Inc.
Palatka
386-328-8361

ST. JOHNS

St. Johns County Legal Aid
St. Augustine
904-827-9921

ST. LUCIE

Florida Rural Legal Services, Inc.
Fort Pierce
888-582-3410

SANTA ROSA

Served by Northwest Florida Legal Services, Inc.

See Escambia County

SARASOTA

Legal Aid of Mansota, Inc.

Sarasota

941-366-0038

Gulf Coast Legal Services, Inc.

Sarasota

941-366-1746

SEMINOLE

Community Legal Services of Mid-Florida, Inc.

Sanford

407-322-8983

Seminole County Bar Association, Legal Aid Society

Altamonte Springs

407-834-1660

SUMTER

Community Legal Services of Mid-Florida, Inc.

Inverness

352-568-0257

SUWANNEE

Served by Three Rivers Legal Services, Inc.

See Columbia County

TAYLOR

Served by Three Rivers Legal Services, Inc.

See Columbia County

UNION

Served by Three Rivers Legal Services, Inc.

See Alachua County

VOLUSIA

Community Legal Services of Mid-Florida, Inc.

Daytona

386-255-6573

WAKULLA

Served by Legal Services of North Florida, Inc.

See Leon County

WALTON

Served by Legal Services of North Florida, Inc.

See Okaloosa County

WASHINGTON

Served by Legal Services of North Florida, Inc.

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.

We are providing the listing of local emergency management offices for your county below. Please take a moment today and contact your local emergency officials to determine shelter locations in your community and evacuation routes. 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 an disaster or hurricane should be a joint decision of your physician, home health agency, caregiver, family and yourself. To assist in making a decision concerning your care, the following listing is provided on Special Needs Registry information.

Hurricane Reference Information

Hurricane Contact Information

National Offices:

Emergency	911
FEMA	800-342-3557
National Flood Insurance Program	800-638-6620
Red Cross	866-438-4636

Florida Information:

Florida Division of Emergency Management 850-413-9969	
Elder Affairs Helpline	800-963-5337
Florida Disaster Recovery Fund	850-410-0696
Project HOPE (Crisis Counseling)	866-518-1825
Florida Power and Light	800-468-8243
Florida Volunteer and Donations Hotline	800-354-3571

County Emergency Management Offices:

Alachula	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	239-774-8000
Columbia	386-752-8787
DeSoto	863-993-4831
Dixie	352-498-1240
Duval	904-630-2472
Escambia	850-471-6400
Flagler	386-313-4200
Franklin	850-653-8977
Gadsen	850-875-8642
Gilchrist	352-463-3134
Glades	863-946-6020
Gulf	850-229-9110
Hamilton	386-792-6647
Hardee	863-773-6373
Hendry	863-675-5255
Hernando	352-754-4083

Highlands	863-385-1112
Hillsborough	813-272-6900
Holmes	850-547-1112
Indian River	772-567-8000
Jackson	850-482-9678
Jefferson	850-342-0211
Lafayette	386-294-1950
Lake	352-343-9420
Lee	239-477-3600
Leon	850-488-5921
Levy	352-486-5213
Liberty	850-643-2339
Madison	850-973-3698
Manatee	941-749-3022
Marion	352-622-3205
Martin	772-221-1423
Miami-Dade	305-468-5400
Monroe	305-289-6018
Nassau	904-548-4980
Okaloosa	850-651-7560
Okeechobee	863-763-3212
Orange	407-836-9140
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	772-461-5201
Sumter	352-569-6000
Suwannee	386-364-3405
Taylor	850-838-3575
Union	386-496-4300
Volusia	386-736-5980
Wakulla	850-926-0860
Walton	850-892-8392
Washington	850-638-6203

Miami-Dade County Frequently Called Numbers

(Miami-Dade County Area Code "305")

The Miami-Miami-Dade County Department of Human Resources publishes a **Mini Telephone Directory of Services for Miami-Dade County Elderly**. The Mini-Directory contains a complete listing of telephone numbers (including Day Programs,

Financial/Food/Transportation Assistance, and much more) of import to Miami-Dade County's elders. It is strongly recommended that you obtain a copy of the Mini-Directory as it provides a plethora of information excluded from this handbook due to space limitations. For information on how to obtain the directory write to the Miami-Miami-Dade County Department of Human Resources, Office of Human Development, Elder Services Division, Metro Dade Center, 4500 Biscayne Blvd., Miami Florida 33137. 305-576-1667.	Florida Commission on Human Relations 1-800-342-8170 Tallahassee Office..... 1-850-488-7082
Abuse 24-hour hotline 1-800-96-ABUSE / 1-800-962-2873	Gray Panthers North Dade 374-8240 South Dade..... 595-0594
Aging and Adult Services 377-5377	Guardianship Program for the Elderly 592-7642
Alzheimer's Association..... 891-6228	Home Energy Assistance..... 670-6500
American Association of Retired Persons/ South Miami Hospital Senior Resource Center..... 663-5028	Homemaker's Assistance Community Care for the Elderly (United Home Care Services) . . 477-0440 Residential Homemaker Program (Elderly Services). 576-2511
American Foundation for Donation and Transplantation..... 1-800-543-6399	Hospice Care of South Florida . . 591-1606
American Red Cross (blood services) 326-6666 (disaster relief services) 644-1200	Housing & Urban Development (HUD) Federal 662-4500 Miami-Dade County 644-5100
Area Agency on Aging (Alliance for Aging) 670-6500	Insurance Hotline..... 1-800-342-2762
Better Living for Seniors (BLS) 1-800-963-5337	Internal Revenue Service (IRS) 1-800-829-1040
Catholic Services to the Elderly. . . 757-0218	Jewish Family Services 445-0555 Jewish Community Services . . 899-1587
Consumer Services (Florida) 1-800-435-7352	Living Wills..... 1-888-594-7437
Community Action Agency 347-4600	Meals - home delivered (Meals on Wheels). 347-4605
Department of Children & Families (DCF, Administrative) 377-5055	Medicare/Medicaid: See DCF and Social Security
Abuse 1-800-96-ABUSE 1-800-962-2873	MetroRail, MetroBus Community Service 654-6586 Route Information..... 511
Assisted Living Facilities (ALF) . 663-2080	Ombudsman Council..... 671-7245
Aging & Adult Services..... 663-2080	Police Emergency 911 Non-emergency 411
Medicare/Medicaid..... 377-5148	Property Appraiser (Homestead exemption)..... 375-4125
Nursing Homes and ALF's 663-2080	Safespace Advocates for Victims North 758-2546 South..... 234-4900
Optional State Supplementation 663-2080	Senior Centers (ask for the center nearest your home) 411
Elder Helpline..... 670-4357	SHINE Program 1-800-96-ELDER 1-800-963-5337
Elderly Services (Department of Human Resources)..... 576-1667	Social Security Administration (open 7 am to 7 pm) 1-800-772-1213
Equal Employment Opportunity Commis- sion..... 808-1740	Switchboard of Miami (referral services). 358-HELP 358-4357
Federal Insurance Administration (Flood Insurance) 1-800-638-6620	United Way 860-3000
Fire and Medical Rescue..... 911	Utility Regulations 1-800-342-3552 Veteran's Administration . . 1-800-827-1000

Broward County Frequently Called Numbers

(Broward County Area Code "954")

Abuse Hotline (24 hours) . 1-800-96-ABUSE
 Alzheimer's Disease (ADRDA)726-0002
 American Association of Retired Persons
 1-888-687-2277
 American Foundation for Donation and
 Transplantation 1-800-543-6399
 American Red Cross
 (Regional Office)797-3800
 Area Agency on Aging745-9567
 Better Living for Seniors (BLS)
 (Senior Connection)745-9779
 Broward County Information
 (Government Center)357-7585
 Bus Information357-8400
 Catholic Services to the Elderly. . .630-9404
 Consumer Services
 (Florida) 1-800-435-7352
 Insurance Consumer Hotline
 1-800-342-2762
 Florida Dept. of Agriculture
 Consumer Services 1-800-432-7352
 Utility Regulations 1-800-342-3552
 Department of Children & Families
 (DCF)467-4298
 Assisted Living Facilities267-2105
 Aging & Adult Services467-4258
 Child Abuse 1-800-96-ABUSE
 1-800-962-2873
 Food Stamps327-5000
 Medicare/Medicaid202-3200
 Nursing Homes467-4427
 Optional State Supplement. . . .467-4258
 Family Services Agency.587-7880
 Federal Insurance Administration
 (Flood Insurance) 1-800-638-6620
 Fire and Medical Rescue 911
 Florida Commission on
 Human Relations 1-800-342-8170
 Tallahassee Office 1-850-488-7082
 Guardianship Program
 (Office of Public Guardianship) . .831-6550
 Home Energy Assistance.745-9779
 Hospice Care of Broward467-7423
 Housing & Urban Development
 (HUD) 1-305-536-4456
 Internal Revenue Service
 (IRS) 1-800-829-1040

Jewish Family Services370-2140
 Job Service of Florida
 South Broward967-1010
 Equal Employment Opportunity
 Commission.357-6500
 Living Wills 1-888-594-7437
 Meals (Home Delivered).731-8770
 Mental Health Association of
 Broward County.746-2055
 Ombudsman Council, District 10 .267-2118
 Police
 Emergency. 911
 Non-emergency. 411
 Property Appraiser
 (Ft. Lauderdale)357-6830
 Senior Centers
 (ask for the center nearest your home) 411
 Senior Connection
 (Elderly Services)745-9779
 SHINE Program 1-800-96-ELDER
 1-800-963-5337
 Social Security Administration
 (open 7 am to 7 pm) 1-800-772-1213
 Social Service Referral Information
 (First Call for Help). 537-0211
 United Way462-4850
 Veteran's Administration . . 1-800-827-1000
 Women In Distress of Broward, Inc .761-1133

Monroe County Frequently Called Numbers

(Monroe County Area Code "305")

Abuse Hotline
 (24 hours) 1-800-96-ABUSE
 1-800-962-2873
 Alzheimer's Disease (ADRDA)
 (handled by Miami Chapter)
 1-305-891-6228
 American Association of Retired Persons
 (AARP)
 Key West. 295-5165
 Big Pine Keys 872-3990
 Marathon 743-4008
 American Foundation for Donation and
 Transplantation 1-800-543-6399
 American Red Cross 296-4033
 Area Agency on Aging 1-305-670-6510
 Catholic Services to the Elderly
 1-954-630-9404

Community Care for the Elderly . 292-4573
 Consumer Services
 (Florida) 1-800-435-7352
 Insurance Consumer Hotline
 1-800-342-2762
 Utility Regulations. 1-800-342-3552
 County Information 831-4000
 Equal Employment Opportunity
 Commission 1-305-536-4491
 Federal Insurance Administration
 (Flood Insurance) 1-800-638-6620
 Fire and Medical Rescue 911
 Florida Commission on Human Relations
 1-800-342-8170
 Tallahassee Office. 1-850-488-7082
 Department of Children & Families
 (DCF, Administrative Office) . . . 292-6745
 Child Abuse 1-800-96-ABUSE
 1-800-962-2873
 Aging & Adult Services. 293-1572
 Food Stamps 292-6719
 Medicare/Medicaid. 292-6719
 ALF's/Nursing Homes 292-6785
 Hospice of the Florida Keys. 294-8812
 Housing & Urban Development
 (HUD) (Federal) 1-305-536-4456
 In-Home Services
 Nutrition 292-4522
 Transportation. 292-4425
 Internal Revenue Service
 (IRS) 1-800-829-1040
 Key West City Transit. 292-8165
 Living Wills 1-888-594-7437
 Meals (Monroe County Nutrition Program)
 292-4523
 Medicare/Medicaid:
 See DCF and Social Security
 Monroe County
 (General Information) 294-4641
 Ombudsman Council . . . 1-305-671-7245
 Police
 Emergency 911
 Non-emergency 411
 Property Appraiser
 (Homestead exemption). 292-3420
 SHINE Program 1-800-96-ELDER
 1-800-963-5337
 Social Security Administration
 (open 7 am to 7 pm). 1-800-772-1213
 Social Service Referral. 296-4357
 United Way 296-3464
 Veteran's Administration . . 1-800-827-1000
 Visiting Nurse Association 294-8812

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