A Guide For Maturing Californians
You have reached your “golden years.” Or your parents have reached theirs. You have a lot of company. With nearly 4.8 million residents age 65 or older, California has more seniors than any other state in the nation. Their numbers keep growing, as do their legal rights and the many programs geared to them.

When you become a senior, you will face new challenges. Will you have enough money to make ends meet? Will you become ill or incapacitated? Will you be able to get around if you cannot drive? Will you wind up helpless and alone—or even abused? You may become a target in a wide range of consumer scams as well, from home repair crews to phone solicitors treating “indis” (Seniors and the Law). At no other time in your life has it been more important to plan ahead—and know your rights. You may not be aware of all the many laws, benefits and special services available to help you stay in charge of your life. “Seniors and the Law” touches on some of them and provides contact information for a wide range of other resources. Keep in mind that this guide is intended to provide you with general information. Laws are subject to change. If you have a specific legal problem, you may want to consult an attorney.

MAKING ENDS MEET / CHOOSING WHERE TO LIVE / OBTAINING HEALTH CARE AND BENEFITS / PLANNING AHEAD / DEALING WITH DEBT / STAYING ON THE JOB / GETTING SURVIVAL DOLLARS / AVOIDING CONSUMER SCAMS / GETTING DIVORCED OR REMARRIED / RAISING YOUR GRANDCHILDREN / FINDING A CAREGIVER OR NURSING HOME / LOSING A SPouse OR PARENT / GETTING LEGAL HELP / RESOURCES

You may be tapping into retirement benefits for the first time. You may be house-rich, but cash-poor. Or you may be struggling just to pay your bills in the recent economic downturn. Here you make ends meet will depend on your particular circumstances. But in your senior years, it will likely involve new types of income—Social Security, Supplemental Security Income, a pension or maybe a retirement account distribution.

What is Social Security? It is a government program that provides regular benefits to eligible workers and their families after the worker retires, becomes severely disabled or dies. Social Security taxes are paid by employees, employers and self-employed persons who are covered by Social Security. (See Social Security Administration) If you have paid into the program long enough—roughly 10 years—then you will be eligible for benefits. You will be notified of your official benefit amount about four months before you reach your “full retirement age.” (“Seniors and the Law” explains how you can collect any benefits up to age 70.) The Social Security Administration (SSA) offers a free publication titled “Your Social Security Retirement Benefits: What You’ll Get and When” (SSA Publication No. 05-10310) that explains all the details of Social Security benefits.

What is Supplemental Security Income (SSI)? SSI is a cash assistance program for U.S. citizens and some non-citizens who are blind, disabled or age 65 or older. Only those with limited resources can qualify for monthly checks in an amount based on the individual’s circumstances. In California, the program is administered on a county-wide basis by your local Social Security Administration Program (SSP). Even if you believe you will not qualify for more than a very small amount of SSI, funding it may be worth your while to apply for the benefit. As a recipient, you are automatically eligible for free health benefits under Medi-Cal. And you may receive other benefits, such as In-Home Supportive Services, as well. (Title XVIII §§ 12000-12351) You can apply for SSI/SSP at your local Social Security Administration office.

What is a reverse mortgage? A reverse mortgage allows you, if you are 62 or older, to receive a loan based on the equity in your home. If you own your home but have little income, this type of loan may assist you in making ends meet. You generally will not have to make payments beyond your home, transfer title, leave your home for an extended period, move out or die. Nor is there any prepayment penalty. You can never not be sufficient for such checks. By law, a representative payable must keep records of how payments are received, spent or paid and can only spend the funds on your needs—they could be convicted of misusing funds if he or she were to do otherwise. Veterans can contact the U.S. Department of Veterans Affairs and railroad retirees can contact the Railroad Retirement Board about similar pay programs. (See Resources section.)

Help in paying your bills
• For low-income households of three or more who don’t qualify for the California Alternate Rates for Energy (CARE), the California Electric Rate Assistance (FERA) program can help with lower electrical rates.
• You may also qualify for medi- cal equipment if you have special medical needs related to a medical condition.
• The Lifetime Reimbursement Program is also available to low-income seniors or disabled customers. It provides discounts for telephone service at par.
• For information on low income and assistance programs, contact the California Public Utilities Commission at www.cpuc.ca.gov

What can I do if I can’t afford to eat? Find a local nutrition program, which usually located in a senior center. You and your spouse can get free meals as long as one of you is age 60 or older. It may also provide transportation. If you are homebound, you can have hot meals delivered to you. Your county’s Area Agency on Aging can provide information on local nutrition sites (see Resource Guide) and food banks. Counties also offer food stamp programs (CalFresh) to help cover

S E N I O R S A N D T H E L A W
A GUIDE FOR MATURE CALIFORNIANS
You may be eligible to keep your property tax at the same level if you sell your home and buy another home that is worth the same or less. (See Choosing Where To Live) In 2011 the state established a new program authorizing counties to allow property owners to delay paying property tax on their homes or mobile homes until the property is sold or estate is settled. (RTC § 23880) New legislation reinstates the State Controller’s Property Tax Postponement Program allowing low-income seniors and disabled people making $35,000 or less a year to defer property tax on a principal residence. The state will accept applications beginning September 1st, 2016. (GOV § 16380 – 16390) For more information, contact the State Controller’s Office (See Resources) If your home’s market value is less than its assessed value, contact the county tax assessor to see if you qualify. You may get property tax relief if you suffer $10,000 damage from an earthquake or fire. The amount of your property is reduced to its prior condition, it reverts to its previous value for tax purposes. If you are age 65 or older, check with your county tax assessor’s office to deter- mine if you are eligible for an exemption from special school parcel taxes. Homeowners of any age can file a property tax exemption with the county assessor’s office to claim a tax exemption on $7,000 of the market value of your home. To be eligible, a homeowner must live in the home. Can I get help paying my gas and electric bills? If you have very little income, you may be eligible for California Alternate Rates for Energy (CARE). It provides a 30 to 55 percent discount on electric and natural gas bills. You can get more information and an applica- tion, contact your energy company.

Choosing Where to Live
Most people prefer to remain self-sufficient for as long as possible. As long as they live in health or finances may call for a new living arrangement. Can I get a tax break if I downsize to a smaller home? Maybe. In some counties, if you are over age 55 (or severely or permanently disabled) and you sell your home to buy another home of the same or lesser value in the same county, your property tax will be calculated according to the base year value of your old home. In addition, some counties have ordinances allowing you to lower your property tax if you downsize. If the downsize took place in the last five years, it is possible to get a tax credit. If your home is repaired to a flood. If your home is repaired to the next — and still get the tax break. However, you will only get this

TRAVEL AND RECREATION
Your advancing years could mean saving when you hit the road. As a senior, you may be able to rent a car at a reduced rate, eat out, go to the movies and even visit national monuments at a cut-rate price. Just ask for the senior discount and, in many cases, you will get one. If you are a frequent traveler, you may get discounted rates for lodging and camp- ing facilities at CALIFORNIA STATE PARKS. The LIMITED GOLDEN BEAR SENIOR STATE PARKS PASS allows you a spouse or registered domestic partner to enter with one passenger vehicle during the non-peak season for free. (PARK § 5011) Annual passes are available for $20 at any state park or district office. For information, call 800-777-0369 or go to www.parks.ca.gov.

To get a tax credit, you must have owned and lived in your home for two years during the five years prior to the sale. If you are married and file a joint return, you generally be allowed to up to $50,000 (in tax-free gain from the sale of your home. CIVIL CODE § 197)

Can a landlord turn me down as a tenant because I am a senior? No. It is illegal for landlords to discriminate against anyone simply
Can my landlord evict me for any reason at all?

Generally, the landlord can evict you for failing to pay rent. With a month-to-month lease, your landlord, in general, simply needs to give you 30 days’ notice, or 60 days’ notice if you’re enrolled in the federal rent-for-rent program. (If you receive Supplemental Security Income (SSI) or Social Security recipients who are at least 65 years old or who are younger, and receive SSI, the 60-day notice period is required.) If you ignore an unlawful detainer, it could result in a 60-day notice for long-term tenants). Then, after the notice period is over, he or she could file an unlawful detainer (UDE) action. Your landlord can win a default judgment (if you cannot prove your case) or you can hire a lawyer to file an answer. The judge will hold an evidentiary hearing and make a decision. If you lose, your landlord can ask the court to order an execution, which means your landlord can change your locks without a court order or shut off your utilities. In most cases, your landlord can even ask the court to order an execution if you have very little income and cannot afford an attorney. If you cannot afford legal representation, you could call a legal aid about Medicare and related health and prescription drug insur- ance. (See “How is Medi-Cal different — an HMO or PPO), a special needs plan, a private fee-for-service plan — an HMO or PPO,” sections 6011 et seq — of California’s Mobilehome Residency Law, visit www.mhca.ca.gov for a free list of California’s Mobilehome Residency Law, visit www.mhca.ca.gov for a free list (see www.Medicare.gov/applications/mhca.htm for more information).)

Can I install grab bars, lower my countertops or make other needed modifications against my landlord’s objections?

Yes. You have the legal right to do so if you have a disability and the modifications are necessary for your “full enjoyment of the property.” However, if you fail to return the property to its original state when you move, you could be liable for $1,000 per day of rental. (If you or the landlord does not return the property to its original state when you move, you could be liable for $1,000 per day of rental.) Tenants Together at 888-495-8020.

Can I stop the eviction if it will leave me without a home?

The fact that an eviction will leave you homeless is not a legal defense. However, you cannot be kicked out of your home without a court order issued by a judge. Even then, only a sheriff’s deputy or marshal can actually evict you. Your landlord cannot lock you out or shut off your utilities without getting a court order for a legal reason. (The eviction process is the same example, if you break your rental agreement by failing to pay your rent, your landlord can send you a three-day notice. If you do not violate your rental agreement, the landlord could send you a 30-day notice or a 60-day notice for long-term tenants). After the notice period is over, he or she could file an unlawful detainer suit in court. (See “How is Medi-Cal different — an HMO or PPO), a special needs plan, a private fee-for-service plan — an HMO or PPO,” sections 6011 et seq — of California’s Mobilehome Residency Law, visit www.mhca.ca.gov for a free list of California’s Mobilehome Residency Law, visit www.mhca.ca.gov for a free list (see www.Medicare.gov/applications/mhca.htm for more information).)

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The term “living will” is used to describe a legal document that states an individual’s wishes regarding medical treatment, should he or she be terminally ill or permanently unconscious. It should not be confused with a will, a living trust, or a conservatorship, which serve different purposes. The advance health care directive is California’s legally recognized format for a living will. It is more flexible than a traditional living will in that it can cover treatments before a patient is terminally ill or permanently unconscious. It does not, however, replace the traditional advance health care directive, which includes other instructions. (Prob. §§ 4780-4785) For more information, talk to your doctor.

How is a will written?

Yes. To consent to medical treatment or make a legal contract, for example, you must be able to understand the nature and consequence of your actions. The law refers to this as having sufficient capacity. (CC 38; Prob. §§ 811-813) If you lack such capacity, the agent named in your durable power of attorney may step in on your behalf. If you haven’t named an agent, the court may appoint a conservator.

What is a conservator?

A conservator is someone authorized by the court to manage your personal affairs (e.g., your health care and burial wishes or name an executor) or your financial affairs (e.g., manage your bank accounts or pay your bills). A conservator is usually a trusted family member, friend, or professional. (Prob. § 4022) That authority will end if you become mentally capable again. (Prob. § 4030)

You can select your own conservator from an advance health care directive for a judge’s future consideration. (Prob. § 4827) Even after a petition for conservatorship has been filed, you can name your own conservator if you have sufficient capacity. (Prob. § 1810) If someone seeks to have a conservator appointed for you, you must be notified and may oppose it in a court hearing. (Prob. § 1828)

Do I need a will?

Yes. You need a will if you want to control over who will inherit your property. Even if you own very little, you can make such decisions. You should make a will if you

- want a specific person to care for your pet;
- want a specific person to care for a minor or disabled person;
- want to make sure that your spouse, children or grandchildren may become owners of your property;
- want to leave your property to your church or charity;
- want to distribute your property in ways that will avoid probate.

What is a revocable living trust?

It is a partial substitute for a will. With a living trust, your assets are not subject to the probate process. As a result, you can avoid unnecessary taxes and administrative costs when your beneficiaries die. Many people name themselves as the trustee who manages assets. This allows you to control all trust assets during your lifetime. You can revoke or change your living trust at any time. One advantage of a living trust is that the assets do not go through probate and distribution will be accomplished much faster. (Prob. §§ 15000 et seq) Another advantage is that you can provide for a special needs beneficiary while you’re alive. Whether it is the best option for you will depend on your particular circumstances. Watch out for unqualified “advisers” who sell living trusts to help you avoid estate taxes. If the estate is substantial, you may need to seek advice from a qualified estate planning attorney. (See Resources.)

Will my beneficiaries’ inheritance be taxed?

It depends on the circumstances. Property left to your spouse or a charity will not be subject to estate tax. The portion of the estate that is left to anyone else—even your children will be taxed if your assets total more than $5.34 million in 2015. (IRS form 706) Under federal law, you could also give away as much as $14,000 in any given year to any number of people without incurring gift tax. Actual amounts can differ from year to year. In addition, your grandparent’s college tuition or medical insurance premiums (or anyone’s tuition or medical bills, for that matter) are free of gift tax—but only if the payment is made directly to the school or medical provider. (IRS form 709) For information on estate tax and other gift tax questions, contact an attorney or, or the IRS at a State Controller’s Office. (See Resources.)

Purchasing or transferring real property that has been your principal residence is also exempt from transfer real property. (Prob. §§ 631.1 (a)(1)(A)) Under certain circumstances, grandparents may return property to children without a reassessment. (Prob. § 631.1 (a)(1)(A)) Such transfers include a sale, gift or inheritance.

Can I just leave my savings in a bank account for later use?

No, not for more than three years—unless you deposit or withdraw funds to the checkbook. If an account or safe deposit box sits dormant for that long without any activity, the funds or contents will be turned over to the state. (This would not apply if you have another active account at the same bank or financial institution.) Before transferring property, ask a representative of the bank or financial institution how it will handle your situation. (Prob. § 4128) These powers generally put away $6,000 more if you are 50 or older.

planning and trust resources

You can stay in charge of your future affairs if you plan ahead. Taxes allow you to build a retirement nest egg in special tax- deferred accounts. (See Resources.) One way to ensure that your assets are not spent on medical expenses is to make a qualified individual beneficiary. (You can revoke the directive at any time, as long as the individual remains qualified.) (Prob. §§ 4800-4806) To obtain an advance health care directive (Prob. § 4128) These powers generally put away $6,000 more if you are 50 or older.

You can authorize your agent to simply pay your bills. This is usually a safer arrangement than adding someone else’s name to your bank account, for example. (Prob. §§ 4020-4022) Make sure you understand the implications of giving someone else control of your property. You could contact your creditors and ask for more time to make payments. (Prob. § 4128) Make sure you understand the implications of giving someone else control of your property. You could contact your creditors and ask for more time to make payments.

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Can I lose my home if I fall behind in my mortgage payments? Yes, you may be able to work out a plan with the lender to lower payments or even suspend them temporarily. You may be able to refinance your home if you have equity that can be used to secure a new loan, or in light of the recent home mortgage crisis, other options may soon be available. But you must take action immediately.

What should I do if bankruptcy is a possibility? It depends. If you have few assets and little or no income, bankruptcy may not be your best option. It will seriously damage your credit for 10 years and will not necessari-
ly erase your debt. To protect your greater assets and income, however, filing for bankruptcy might make sense if your creditors will not agree to an extended payment schedule. Seek an attorney’s advice before making such a decision.

Are there two types of personal bankruptcy? Chapter 13 and Chapter 7. In general, you may have a choice between these two. Chapter 13 allows you to stop most debt collection in exchange for a promise to pay your available funds in credits as part of a three-to-five-year repayment plan. With a repayment plan, you may be able to keep certain property — such as your car or home — even if it was used to secure a loan. If you are able to pay off your debts, then remaining debt would be canceled at the end of the repayment period.

Under Chapter 7, however, you ask the bankruptcy court to cancel (or “discharge”) most of your debts because you don’t have enough money or property to pay them off. (To qualify for a Chapter 7 plan, you would have to be below a certain income threshold, and you must have an unsecured debt.) In most cases, Chapter 7 does not allow the debtor to retain any non-exempt property, and most remaining debt would be canceled at the end of the repayment period.

What are the benefits of personal bankruptcy? Chapter 7 and Chapter 13 offer options for those facing overwhelming debt. Chapter 7, also known as “discharge bankruptcy,” can give you a “fresh start,” erasing your debts and providing immediate relief. Chapter 13, known as “reorganization bankruptcy,” allows you to keep your property while paying off a portion of your debt over a set period of time. The choice between these two depends on your specific financial situation.

Are seniors eligible for bankruptcy protection? Yes, bankruptcy protection is available to all Americans, regardless of age. However, if you have a limited income, you may be required to file under Chapter 7 rather than Chapter 13.

Can I keep my Social Security benefits if I file for bankruptcy? Yes. But even if you file for bankruptcy, your Social Security benefits may not be considered “dischargeable.” Social Security income is generally protected from creditors.

Can I lose my Social Security benefits if I stay on the job or go back to work? No, not if you have reached full retirement age — 66 or 67, depending on your birthdate. If you do not have Social Security benefi-
ciaries until age 70, you will receive a larger monthly benefit check, regardless of any additional earnings. However, you will have to pay Social Security payments before you receive full retirement age and earnings above the benefit reduction will be reduced if your earn-
ings exceed a certain amount.

For more information, you should contact your local Social Security Administration office. (See Resources.)

What is a DMV medical information card? It is an adhesive-backed card, available through your local DMV, that can be attached to the back of your driver’s license. The fill-in-the-blanks card can be used to iden-
tify your blood type, allergies, medical conditions, medications, and other information on how to contact your doctor and other contact person in an emergency. (VC § 12811.1)

Are there any special accommodations for me if I am disabled or unable to drive? If a physician certifies that you are disabled, you may qualify for a special parking placard. The placard will permit you to park in most city streets, as parking meters specially marked, more accessible parking spaces. In addition, you do not have to pay the parking meter. (See § 22511.5, 22511.35)

Are the driving requirements different for seniors? Yes. The DMV may, for safety reasons, issue a driver’s license for a senior citizen who is 70 years old or older. Senior drivers who complete such a course can get a discount on their car insurance for three years. (IC § 19244.5: VC § 12950(b))

If you are making an emergency call (to law enforcement, for example). Nor can you use any mobile device to write, send or read text mes-
sages while driving. This does not mean that you cannot use your mobile devices while driving. You can use your mobile device to make a call, use a hands-free system or to navigate your phone. But you cannot use your phone to text, check your email, or access the internet while driving.

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What should I do if I suspect someone is abusing or exploiting an elderly friend?

Only one in 25 cases of elder or dependent adult abuse or neglect is reported to authorities. Intervention can stop it. If you suspect a friend or relative is receiving substandard physical or psychological abuse or financial exploitation, call a local Adult Protective Services (APS) agency. (Check county phone book for number, or visit the website (Search-Seniors).) You can also contact the local Office of the Attorney General to report elder abuse, or contact the local Social Security Administration office.

More information, download A Citizen’s Guide to Preventing and Reporting Elder Abuse, produced by the state Office of the Attorney General. (See Seniors Against Investment Fraud (SAIF) program. For a few SAIF tips, see www.aps.ca.gov and go to Public and Elder Abuse.

Am I required to report suspected elder abuse?

Yes, if you are responsible — with or without pay — for taking care of an older person who lives with you, or who is in a housing situation that includes administrative supervisors, licensed staff and other persons providing care and services to the elderly. Adult Protective Services employees, police officers and judges who are reported suspected report of abuse, he or she could be charged with a misdemeanor (WIC §15630, 15622.5)(WIC). In addition, financial institution employees must report any suspected financial abuse of elders — or risk facing civil penalties.

Is there anyone who will check on my elderly father’s well-being for me?

Yes, if you are worried about a parent or elderly loved one who lives in another community, you can contact the local law enforcement agency in his or her community and request a well-being check.

What will happen if someone finds out that my grown child is hurting me?

It depends on the abuse. But if you are being mistreated in any way, you need help, and your child needs help as well. Call your local Adult Protective Services office and explain your situation. An APS social worker will meet with you privately and help ensure that you are safe. (See WIC §15622.5).

Is domestic violence the same as elder abuse?

Americans lose tens of billions a year in telemarketing fraud and identity theft. Victims of elder abuse are more vulnerable to these, from those that are fraudulent or misleading. Information services and laws prohibit the unauthorized practice of law. (See California’s law on false advertising. This can be deceiving. Don’t invest until you complete the "four C’s": Consider your options. If you have questions about an insurance offer, scheme or service, contact the licensing board for a copy of the "Avoid Investment Scams" brochure. (See www.sec.gov).

What is identity theft?

Identity theft is the unauthorized use of someone’s personal data (a driver’s license or social security number, for example) for any unlawful purpose, such as to obtain credit cards, loans or banking services. (PC § 530.5) It is a fast-growing crime that struck about 13.1 million Americans in 2005. Consumer Financial Protection and federal financial institutions collect data. Identity thieves may ransack your trash, steal your wallet or scan your data. (See also Internet scams, travel scams. If you believe you are the victim of identity theft, you should take action immediately. (See Protect Your Identity on p.12.) For more information, visit the FTC website www.IdentityTheft.gov. (Search-Seniors).
It might be wise, for example, to move your valuables to another place. (Prob. Code § 1534) However, if you are at the child’s “best interests.”

If I get divorced, can I still get Social Security benefits for my ex-spouse or former partner as a beneficiary?

Unless your will states otherwise, your divorce or termination of your domestic partnership automatically revokes any provisions naming your ex-spouse or partner as a beneficiary or as an executor, trustee, or conservator of your probate or guardianship estate. You will have to change the beneficiary designations for your life insurance and individual retirement accounts.

Will I pay higher taxes if I remarry?

Yes. The county social worker and court must give you (or any other person for whom you have legal custody) the bill. (IRS Publication 505)

What should I do if someone steals my credit card?

Notify the credit card company immediately. If someone runs up your balance on your debit card without your authorization, you are only liable for up to $50 if you promptly contact the company. (CC §§ 17097.10, 17097.15) Check with your bank to file a police report to document the loss and your response.

What should I do if I receive mail-order unethical or fraudulent solicitations?

If your mail is stolen, contact the U.S. Post Office. If your Social Security card is lost or stolen, call the Social Security fraud hotline at 800-325-0000 (www.ssa.gov). If your driver’s license is stolen, call the DMV fraud control hotline at 866-658-5758.

RAISING YOUR GRANDCHILDREN

Some 7 million children under 18 in the U.S. live under a grandparent’s care. Drug, addiction, family violence, abandonment, poverty and other reasons may be to blame. In raising your grandchildren, opening your home may not be enough. An adult grandchild can involve complicated legal options, requirements and rights.

Do I have any rights if my grandchild winds up in the foster care system?

Yes. The county social worker and court must give you (or any other person for whom you have legal custody) the bill. (IRS Publication 505)

Should I seek guardianship of my grandchildren if I am raising them?

It depends on the situation. If it appears that the children will remain in your care, you may want to consider becoming their legal guardian. This does not terminate the parents’ parental rights and obligations, but it does grant the custody and control over the children to you. If the parents are not available or do not want to have the legal right to make decisions regarding their child’s education and health, you may be eligible for foster care payments, depending on certain criteria. In some counties, families in your situation can also get support services such as respite, legal assistance, mentoring and transportation, as well as tutoring and recreational activities for the child, through the state’s Kinship Support Services Program (KSSP). For more information, go to www.edd.ca.gov.

What assistance is available for those who are elderly and homeless?

You can get hot meals delivered to your home through Meals on Wheels. To give caregivers a break, respite care is available. Check with your local community health agency and worker bonded? Will Medicare, Medi-Cal or your private insurance cover any costs? Are the caregivers approved and screened by the agency? Assess your needs.

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How do I keep my Social Security number confidential?

It might be wise. Increasingly, however, the law is providing you with added protection. For example, state law prohibits any business or individual — with the exception of a state or local social service agency — from publicly displaying your Social Security number. Nor can your number be printed on any card required to access products or services. Your health care provider can no longer print your Social Security number on your identification card, and you cannot be required to transmit your number over the Internet unless the connection is “secure” or “encrypted.” (CC §§ 1788.85 et seq) For more information, call the Department of Consumer Affairs’ Office of Privacy Protection. (See Resources.)

GETTING OR REMARRIED

Seniors own the bulk of the state’s wealth in savings, home equity and other property. At this point in your life, you have undergone many changes to your marital status. Or, you may be a widow living on Social Security income alone. If you choose to remarry, be aware of your decision’s potential impact on your finances.

If I get divorced, can I still get Social Security benefits on my spouse’s work record?

Yes, if your spouse is receiving benefits or is deceased. However, you must have been married for at least 10 years and you must remain single. In addition, if your ex-spouse is 62 years or older and has not applied for benefits, you can still receive benefits as long as you are at least 62 as well. You must, however, be divorced and single for at least two years before seeking such benefits.

Will I continue to receive Social Security benefits as a widow, widower, or survivor of a same-sex marriage or domestic partnership if I remarry?

If you are at least 60 when you remarry. A surviving spouse of either a heterosexual or same-sex marriage isn’t actually eligible for benefits until age 60, if disabled. You could apply to receive benefits based on your new spouse’s work record even if those benefits would be higher. If you remarry before turning 60, however, you will lose your eligibility for Social Security.

Do I need to change my will in order to remove my ex-spouse or former partner as a beneficiary?

Unless your will states otherwise, your divorce or termination of your domestic partnership automatically revokes any provisions naming your ex-spouse or partner as a beneficiary or as an executor, trustee, conservator of your probate or guardianship estate. You will have to change the beneficiary designations for your life insurance and individual retirement accounts.

Will I pay higher taxes if I remarry?

Yes. The county social worker and court must give you (or any other person for whom you have legal custody) the bill. (IRS Publication 505)

Should I seek guardianship of my grandchildren if I am raising them?

It depends. If a doctor prescribes medically necessary home health care for a homebound senior, Medicare will cover some of the costs. (See Resources.)

What other assistance is available for those who are elderly and homeless?

You can get hot meals delivered to your home through Meals on Wheels. To give caregivers a break, respite care is available. Check with your local community health agency and worker bonded? Will Medicare, Medi-Cal or your private insurance cover any costs? Are the caregivers approved and screened by the agency? Assess your needs.

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How do I find help for my elderly mother who needs help with daily tasks?

If she does not qualify for IHSS and just needs help with daily tasks, such as grooming, bathing, preparing meals — or just getting around. You may need round-the-clock care in a nursing home. There are options available. (See Resources.)

FINDING A HOME OR NURSING HOME

Studies suggest that Americans age 65 and older are less likely to be chronically disabled or living in a nursing home today than seniors of the same age were two decades ago. Still, there may come a time when you cannot keep your parent or grandparent on your own. You may simply need help with daily grooming, bathing, preparing meals — or just getting around. You may need round-the-clock care in a nursing home. There are options available.
If my elderly mother gives away her assets, will Medi-Cal pay for a nursing home?

Your mother should obtain legal advice before giving away any assets. In determining eligibility, Medi-Cal reviewers each individual's past finances to see if they have assets that were transferred or disposed of for less than fair market value. Reviewers will look back over a 30-month period and will penalize all asset transfers unless they involved to a substantial hardship. Until the state UC 330-608, transfers made within the past 30 months may or may not cause periods of ineligibility. If your mother has very few assets, she may already qualify for at least partial coverage. Check with your county’s social program or an elder law attorney to learn more about Medi-Cal’s eligibility requirements.

Is there any assistance available if I take time off work to care for my ailing mother?

Yes, possibly. California’s Paid Family Leave Program allows for up to six weeks of job-protected leave in one year for a serious health condition in the family. For more information, see the California Employment Development Department’s website at www.edd.ca.gov. The law also allows workers, if they meet certain criteria, to take a leave of absence for up to 12 weeks during a 12-month period if a parent, spouse, or child requires medical treatment or to care for a seriously ill spouse. For more information, see the California Employment Development Department’s website at www.edd.ca.gov.

What is hospice care?

Hospice care is a program — usually a mix of physical, emotional, spiritual and practical care — for terminally ill. It may take place in a patient’s home or in a specially designed facility. A doctor’s sign-off is required on a sliding scale based on income. Medicare covers hospice care as does Medi-Cal and other insurance programs.

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LosIng A spouse or parent

You may be overwhelmed with grief and stress and want to leave the administration matters for a later date. But there are notification and legal steps that should not be postponed.

• Make funeral and burial arrangements.
• Obtain several copies of the death certificate.
• Gather relevant documents, such as the will, insurance policies, trusts, and stock, bank account and annuity statements.
• Contact the Social Security Administration (if the deceased was an eligible recipient).
• Send a notification and death certificate to the director of public health (if the deceased was a Medi-Cal recipient) within 90 days after the death.
• Notify any life insurance companies of the death.
• Contact the executor of any trust or the attorney who prepared it.
• Contact the administrator of the decedent’s pension plan.
• Notify the decedent’s banks and financial institutions.
• Contact creditors.
• Be sure that insurance or Medicare claims have been processed before paying any medical bills.
• Contact the state Department of Motor Vehicles, return handicap placards and destroy the decedent’s driver’s license or ID card.

Getting legal help

Every county has free legal services for seniors under the federal Older Americans Act. The program’s offer, however, and their criteria for accepting cases vary as well. These programs typically assist those in greatest need, such as seniors facing eviction or the loss of public benefits. If your county’s legal services program cannot assist you, ask a friend, co-worker or business associate to recommend a lawyer, or call a State Bar-certified lawyer referral service. For an online list of certified referral services, go to the State Bar’s website at www.calbar.ca.gov or call 866-44-CA-LAW (442-2542) for a recorded message with the phone numbers of certified lawyers in your county. Out-of-state callers can call 415-538-2250 to hear the same message. Also check the Yellow Pages of a telephone directory for a listing. The State Bar also certifies “senior specialists” in 11 legal areas. For lists of specialists, go to www.calbar.ca.gov. Keep in mind, however, that there are experienced attorneys who do seek such certification. For more information on finding an attorney, order a free copy of the State Bar pamphlet Finding the Right Lawyer (See Resources).

If you are a California resident age 60 or older, you may get free legal advice by calling the Senior Legal Hotline (see Resources). If you have a legal problem, it is best to consult a qualified attorney. But if you cannot afford to hire a lawyer, there are other sources. You could, for example, seek guidance from your county library. Law librarians cannot give legal advice, but they can direct you to the appropriate resources and legal forms for your matter. You will also find useful information on many legal topics on California’s legal services website (lawhelpca.org) and the Judicial Council of California’s self-help web page (www.courts.ca.gov).
We are proud to partner with The State Bar of California to educate California’s seniors about their rights, legal opportunities and challenges. Seniors & The Law provides California seniors with valuable information to help them navigate the intricacies of the unique legal issues they face.

Please read and share this guide with others. We are confident you will find it a helpful resource on issues important to today’s California seniors.

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Warmest regards,

Julie Taylor, President
California Bar Foundation

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