

∞ Savvy Senior Citizens ∞



Identity Theft

An in-depth review on Identity Theft. Pg. 21-24

Telephone Scams

Tips to help you in identifying telephone scams. Pg. 25-26

Guardianship

How should your legal guardian act in a crisis? Pg. 15-20

This publication was produced by the Columbus Bar Association Alliance

with support from
The Legal Aid Society of Columbus

The women of the Columbus Bar Association Alliance are attorneys, spouses of attorneys or friends of attorneys. We develop friendships while providing service to people who are experiencing the legal system. We work in the community to foster understanding of the legal profession through education and community service with goals:

- To assist children and their families in law-related activities.
- To promote knowledge/education of youth, regarding their rights, responsibilities and respect for the law.
- To foster understanding in older adults of their special legal rights.
- To maintain the honor and integrity of the noble legal profession.

Some of our past projects include:

- Helping families going through the court system of the Domestic Violence and Stalking Unit in the City Prosecutor's office.
- Providing funds for the Kids Voting program of Franklin County.
- Helping central Ohio middle school students have a mock trial summer camp experience through the OWL program at Ohio Wesleyan University.
- Providing books to juveniles at the Franklin County Juvenile Detention Facility through the Open Book, Open Minds program.
- Helping a team of students at a Columbus public high school participate in the national mock trial competition through the Ohio Center for Law Related Education.
- Helping provide pro bono immigration legal services for women using Community Refugee and Immigration Services (CRIS).
- Providing funds to support the Center for Child & Family Advocacy.

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Reverse Mortgages



A reverse mortgage allows you to borrow a percent of the equity in your home. Because you are not making monthly payments, the amount owed will continue to grow—unlike a traditional mortgage where the balance decreases over time and debt falls and your equity rises. Generally, in a reverse mortgage, the opposite happens—your debt increases and your equity decreases. Hence the term “reverse” mortgage. You will not have minimum income or credit requirements to qualify. Because you will not be paying on the loan, the lender does not need to consider your ability to make monthly payments.

Instead of mailing monthly payments to the bank as in a regular mortgage, the bank pays you. You also will not have to pay back the loan until you permanently move from your home or become deceased. In the event of your death, the loan will be repaid from the proceeds of the sale of your home. If you live in your home until your death, you will never personally be responsible for making payments on the loan. You still need to pay all taxes, insurance and home repairs.

Before the reverse-mortgage option, if you wanted to capitalize on the equity in your home, you would have had to take out a home-equity loan, also known as a second mortgage. This type of loan has many risks, especially for seniors with a fixed monthly income. You have to repay a home-equity loan in monthly installments using your home as collateral, and if you fail to make the payments, you could lose your home.

In addition to being 62 years of age or older, you must own your home outright or have only a small balance on your original mortgage that can be paid from the proceeds of the reverse mortgage, reside in your home as your primary residence and live in a single family, two to four unit home, condo or manufactured home.

A reverse mortgage gives you flexibility in how you will receive the money. You can choose a one-time lump sum cash payment, regular monthly payments, a credit line, or any combination of these options. The amount you are eligible for depends on your age, amount of equity in your home, where you live, fees, interest rate, and duration of the loan. To calculate your potential eligible amount, please visit:

http://rmc.ibisreverse.com//rmc_pages/rmc_aarp/aarp_index.aspx.



If you receive any income-based public benefits, such as food stamps, Medicaid, SSI/SSDI or the low subsidy for Medicare Part D, the money you receive from a reverse mortgage can lower the amount you receive or make you ineligible because it could be viewed as an increase in liquid assets. The proceeds from a reverse mortgage are not taxable, and Medicare and Social Security will not be affected.

The following should be considered when deciding if a reverse mortgage is right for you:



Positives

- No income guidelines or credit approval
- You still own your home because it is not being used as collateral for the loan
- Make monthly payments while you are alive and living at your home
- Flexibility in the amount you borrow and how you receive the money
- You can never owe more than the value of your home
- This debt can never be passed on to your heirs—aside from reducing the amount of your estate
- Does not affect Social Security or Medicare eligibility
- You can use the money for any purpose
- You can never lose your home because of non-payment



Negatives

- If you move, you will have to pay the amount borrowed plus fees and other charges (such as closing costs) from the proceeds of the sale of your home. The amount you owe could be significantly larger than the amount you borrowed
- You will have less equity in your home for later use
- The balance of the loan will be taken from the sale of your home at the time of your death often leaving little money left over
- Could reduce SSI and Medicaid
- You will have to pay the loan if you do not reside in your home for 12 consecutive months

Consult a lawyer, tax consultant and reverse mortgage loan counselor before committing to a reverse mortgage. Advance discussion and disclosures about reverse mortgage products will make you a more informed consumer before you sign on the dotted line. Do not commit to a reverse mortgage, or any financial arrangement, unless you fully understand all the terms and conditions.

If you need money to make a home repair or improvement or need help paying your property taxes, you may want to find out if you qualify for any low-cost, single-purpose loans that may be available in your area rather than getting a reverse mortgage. Area Agencies on Aging (AAA) generally know about these programs. To find the nearest agency, visit www.eldercare.gov or call toll-free, 1-800-677-1116. To learn more about reverse mortgages, contact:

AARP Foundation

601 E Street, NW

Washington, DC 20049

1-800-687-2277

www.aarp.org/money/credit-loans-debt/reverse-mortgages

U.S. Department of Housing and Urban Development (HUD)

451 7th Street, SW

Washington, DC 20410

1-800-333-4636

www.hud.gov/offices/hsg/sfh/hecm/rmtopten.cfm

Federal Trade Commission

Consumer Response Center

600 Pennsylvania Avenue, NW

Washington, DC 20580

1-877-FTC-HELP (1-877-382-4357)

www.ftc.gov/bcp/menus/consumer/credit.shtm Click on “Mortgages/Real Estate”

Bankruptcy

Bankruptcy is a drastic way of eliminating personal debt that you are unable to pay. There are two main kinds of individual bankruptcy, Chapter 7 and Chapter 13. Bankruptcy can be useful in certain situations, but it will severely damage your credit score and will be on your credit report. This will make it more difficult to obtain credit in the future. Bankruptcy should be used only in certain circumstances and as a last resort.



In general, you should not consider bankruptcy unless:

- You have debts totaling more than \$5,000 that are too large to pay off in a reasonable time period
- Your wages are garnished
- You do not mind having a bankruptcy on your credit report for 10 years
- A lien has been put on your home, creditors are trying to repossess your household goods, creditors are trying to repossess collateral and will not allow a payment plan, or the state is taking your driver's license because you owe money due to an accident

Bankruptcy is not a good idea if you are unemployed and do not have any assets. If you are not earning income and have nothing that can be sold or repossessed, the creditors will not be able to collect anything from you.

Types of Bankruptcy

Chapter 7 requires you to list all of your assets and debts in the application. A trustee then will determine if you have any non-exempt assets (“exempt” assets usually include clothing, household appliances, any car worth less than \$1,000). Your non-exempt assets will be sold to satisfy the outstanding debts. Most remaining debts are cancelled.

This is the most thorough kind of bankruptcy and is only available once every eight years. Legislation has limited what debts will be cancelled. Those who file bankruptcy may still be responsible for some credit card debt and medical bills.

Chapter 13 bankruptcy creates a three-to-five- year plan for you to repay your debt. At the end of the payment period, the remainder of the debt is cancelled. To qualify for this plan you must have wages or regular income.

Depending on your income and your expenses, you may have to file for Chapter 13 instead of Chapter 7 because of the Bankruptcy Abuse Prevention and Consumer Act of 2005.

Generally neither Chapter 7 nor chapter 13 bankruptcies will get rid of debts for child support, alimony, taxes, student loans, or liens on real estate, among other things. Also, if the state has confiscated your driver's license because of debt due to an automobile accident, a bankruptcy will not get the license back.

In addition, if you are filing for bankruptcy and have a judgment against you for damages in an accident for which you were convicted of driving under the influence of drugs or alcohol, this debt will not be cancelled.

Alternatives to Bankruptcy

Bankruptcy has many consequences. It may be better in some cases to consider other options:

- **Trusteeship:** if you enter into a trusteeship with the Municipal Court, they take 25 percent of your paycheck to pay your creditors
- **Payment plan with creditor:** Creditors may realize that they have a small chance of collecting the full debt. Instead they may negotiate with you or give you extensions, though they are not required to do so
- **Debt-scheduling agreement:** Work out an agreement with your local consumer-credit counseling agency in which you agree to pay your creditors a designated amount periodically. This plan can be heavy since it attempts to pay off all the creditors
- **Take no action:** In many cases, if you are poor and do not have any assets for your creditors to seize, there is no reason to file for bankruptcy. After seven years, these debts may become legally uncollectable. If a creditor confronts you about a debt which is more than seven years old, do not respond. Acknowledging that you owe that money can revive the debt, and you will then be legally responsible for it.

The filing fee for a Chapter 7 petition is \$299 and the filing fee for a Chapter 13 petition is \$285. Consult with your legal advisor or the bankruptcy court to ascertain the correct fee. The fee for legal services varies a great deal, but attorneys are required to disclose their fees to the Bankruptcy Court and the Court can step in if excessive fees are charged.

Prior to filing a Chapter 7 or Chapter 13 bankruptcy, you must complete a credit-counseling course. Further, before a discharge is issued, a post-filing credit counseling course must be completed. Depending on the source for the credit counseling, there may be a fee charged for this service. Your income could be a factor in determining whether a counseling fee may be waived. After a bankruptcy is granted, collection activity must cease unless the Bankruptcy Court grants permission to a creditor to resume collection activity.

Whether to file for relief with Bankruptcy Court is a highly personal decision, which is based on many factors, and should not be taken lightly. Since it is considered a drastic move, you should consult with an attorney or legitimate credit professional.

For more information about filing for bankruptcy, please contact:

Columbus Bar Association

175 South 3rd Street, Suite 1100

Columbus, Ohio 43215

(614) 221-4112

www.cbalaw.org

Apprisen Financial Advocates/

Consumer Credit Counseling Service of Ohio

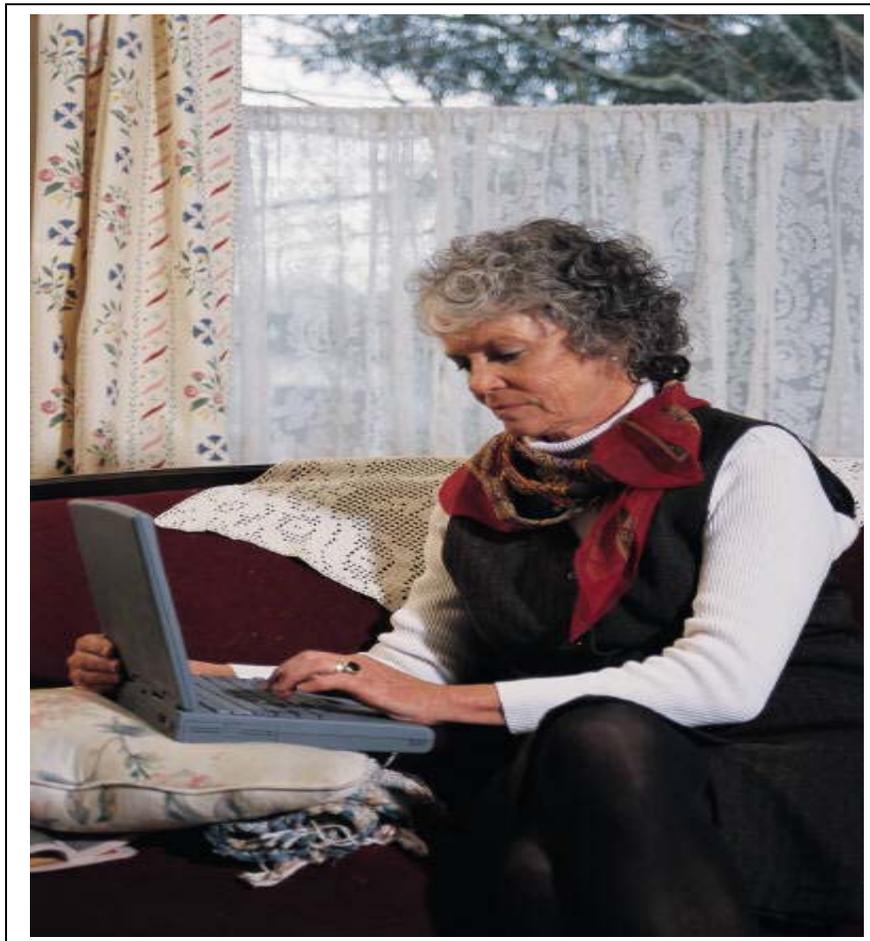
4500 East Broad Street

Columbus, Ohio 43213

1-800-355-2227

<http://www.apprisen.com>

United States Bankruptcy Court, Southern District of Ohio
Columbus Divisional Office
170 North High Street
Columbus, Ohio 43215
(614) 469-6638
<http://www.ohsb.uscourts.gov/>



Funeral Financial Responsibility

Making final arrangements can be a difficult process for many families. This difficulty is often increased if the departed has not made his or her final wishes known. When family members cannot agree on funeral arrangements, conflict and legal battles could result.

The Ohio General Assembly passed a law in October 2006 called the Right of Disposition Bill (HB 426) to prevent funeral disputes. This law allows you to name a person—or persons—to carry out your final wishes including the location, manner, and condition of your burial, cremation, or other manner of final disposition.



The law created a specifically designated form to be used that can be found in Section 2108.72 of the Ohio Revised Code. You must sign this form along with two witnesses and a notary public, willfully and voluntarily, when you are in a sound mind. This must be presented to the funeral home at the time of your death. The form also includes the option to have your appointed representative sign.

If you do not name a person to take care of your funeral arrangements using this law or if the person you named refuses or resigns, the first person with such authority is your surviving spouse. If there is no spouse, then authority falls, in order, to: adult children, parents, siblings, grandparents, etc. This person, whether named by you or not, has authority to make the funeral arrangements and by doing so, assumes responsibility for the costs which may be recovered from your estate.

Under the law, the person you select must be willing to be financially responsible. Contact your funeral home to make your funeral and financial arrangements a priority. In this situation, adequate planning is a must!

For questions about your final arrangements, please contact:

Funeral Consumers Alliance of Central Ohio

P.O. Box 14835

Columbus, OH 43214

(614) 263-4632

www.funeralsohio.org

Advanced Directives for Life-Sustaining Treatment

In the case of serious illness or death, it is important that our loved ones and physicians receive notification of our wishes regarding life-sustaining treatment. Advanced directives are written instructions regarding your medical care preferences. A Living Will and a Durable Power of Attorney for Health Care are two examples of these.

Living Will

A Living Will is a document that expresses your choices about life-sustaining treatment in case you are later unable to express them. It is focused on directing the treating physician about your last wishes regarding artificial life-sustaining treatment.

A Living Will becomes effective when your physician and one other physician examine you and determine that you have a terminal condition or are in a permanently unconscious state. These are legal terms and are defined in Ohio law. Your treatment and the use of a Living Will must follow Ohio laws, which specifically outline the condition necessary to implement it.

Your Living Will is the overriding advance directive. This means if you have a do-not-resuscitate order then the Living Will must be the one that is followed. In addition, your Living Will may be revoked at any time. Simply inform your physician that you are revoking it, and shred the physical documents so they won't be found later by a family member or medical personnel.

Durable Power of Attorney for Health Care

A Durable Power of Attorney for Health Care gives a person whom you select authority to make health-care decisions on your behalf should you become incapacitated. The person is called the attorney-in-fact. This authority is broad in scope and allows the attorney-in-fact to make most health-care treatment decisions on your behalf. The attorney-in-fact may also have access to all of your medical records and have the ability to make personal health-care decisions.

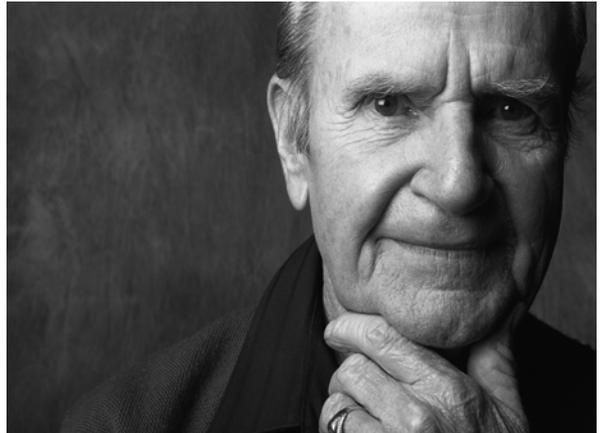
Although both a Living Will and a Durable Power of Attorney for Health Care may express a person's wishes regarding life-sustaining treatment, a Living Will is, in essence, aimed at the patient's physician or a health care provider. A Durable Power of Attorney for Health Care is directed to the health care attorney-in-fact. Therefore, a Durable Power of Attorney for Health Care should only be granted to a trusted and reliable individual. If no person qualifies as such, a Durable Power of Attorney for Health Care is not appropriate.

Also note that a health care attorney-in-fact may become incapacitated and thus unable to make health-care decisions for you. For this reason, it is advisable to execute both a Living Will and a Durable Power of Attorney for Health Care if you want to cover a majority of health decision-making. This will clarify your intent and should ensure compliance with your directions.

Guardianship

Many of us are familiar with the phrase, “legal guardian,” but we may not know exactly what it means. In fact, you may have been a legal guardian yourself at some point as a parent or caretaker.

If an adult becomes incapacitated by illness or injury, then he or she may need someone to make decisions on his/her behalf. While you certainly should plan for these situations by appointing someone as your power of attorney, if a plan is not in place, a guardian may be appointed for you by the court. Therefore, it is important to be familiar with the guardianship process and your rights as a ward.



What is a Guardianship?

Guardianship is a legal process used when a person, also known as a **ward**, has been deemed incompetent by the probate court. This means that he or she is so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that the person is incapable of taking proper care of the person’s self or property or fails to provide for the person’s family or other persons for whom the person is charged by law to provide.

A **guardian** is appointed by the probate court to have the care and management of the ward, his /her estate, or both. When necessary, the probate court can by its own motion appoint the guardian, but any interested party (such as a family member) can also apply to the court to appoint a guardian. The prospective ward must be a resident of the county or have property in the county.

A limited guardianship is also possible, where the court appoints a guardian with specific limited powers for a definite or indefinite period of time, and any rights not given to the guardian are retained by the ward.

The Rights of the Ward and Duties of the Guardian

By nature of the guardianship process, the ward loses many rights over his/her person and/or property. However, it is important to remember that you, as the ward, still retain some basic rights, and you should feel free to exercise those rights. The rights of the ward include:

- The right to have an attorney represent you
- The right to the presence of a friend or family member at the hearing
- The right to an independent expert evaluation
- The right, if you cannot afford an attorney or independent expert, to have an attorney and an expert evaluator appointed at court expense, and to have any necessary transcript for appeal provided at court expense

Because the ward loses many individual rights, it is equally important that a guardian adequately perform his or her duties to the ward. Still, the guardian is not the final word, and is subject to the authority of the court. The duties of the guardian include:

- To protect and control the person of the ward when there is a guardianship of the person
- To suitably maintain the ward, provided that no part of the ward's estate can be used for the support, maintenance, or education of the ward without the approval and order of the court
- To obey all orders and judgments of the court concerning the guardianship
- To exercise all powers in the best interest of the ward, his/her dependents, or household members
- To file true and accurate inventories, accountings and reports concerning the ward

A guardian of the person may authorize or approve the provision of medical, health, or other professional care, counsel, treatment, or services, **unless:** (1) objections are filed with the court by the ward or another interested party and the court decision prohibits such action; or, (2) if the power to make such decisions was not granted to the guardian.

Guardians must also post a bond no less than double the probable value of the personal estate and annual real estate rentals that he/she will handle. The court, of course, may adjust the required bond as necessary.



Emergency guardianship procedures may be used when immediate action is required to prevent significant injury to the incompetent person or to the estate. The court must record with specificity the reasons for appointing a guardian under this provision and serve the ward with notice of the action as soon as possible. This appointment can be for only 15 days in interim guardianship cases and for 72 hours in other emergency cases. An interim guardianship emergency may arise when a guardian is temporarily or permanently removed or resigns. After a hearing, an emergency guardianship may be extended for a maximum of 30 days.

When a guardian is appointed for a married person, the court may appoint the spouse if the spouse is competent to fulfill a guardian's duties. The marriage of a ward normally terminates the guardianship of the person but not that of the estate of the ward. A guardian is also the guardian of the minor children of his/her ward, unless the court appoints some other person as their guardian.

Choosing a Guardian

You may choose to nominate in a written document a person to be guardian of your person, estate, or both. This document is for the court's consideration in guardianship proceedings if written at an earlier time. You may authorize, in the document, the person nominated as guardian to nominate a successor guardian. You may also direct in the document that bond be waived. To be effective as a nomination, the document must contain each of the following:

- Signature of the individual making the nomination in the presence of two witnesses
- Signature of the witnesses
- A statement by the witnesses, written immediately prior to their signatures, that the person making the nomination signed the writing in their presence
- Acknowledgement by the person making the nomination before a notary public

Conservatorship

A mentally competent adult may petition the court to have a **conservator** appointed for a definite or an indefinite period of time over his/her person, property or both. The petition may grant or limit the conservator's power except as prohibited by law, such as the bonding requirements. If the proposed conservator is suitable and the court determines the petition is voluntary, the conservator will be appointed after a hearing on the case.

Guardianship law applies to conservatorships except where limited by the conservatorship order. A conservatorship will terminate upon one or more of the following conditions:

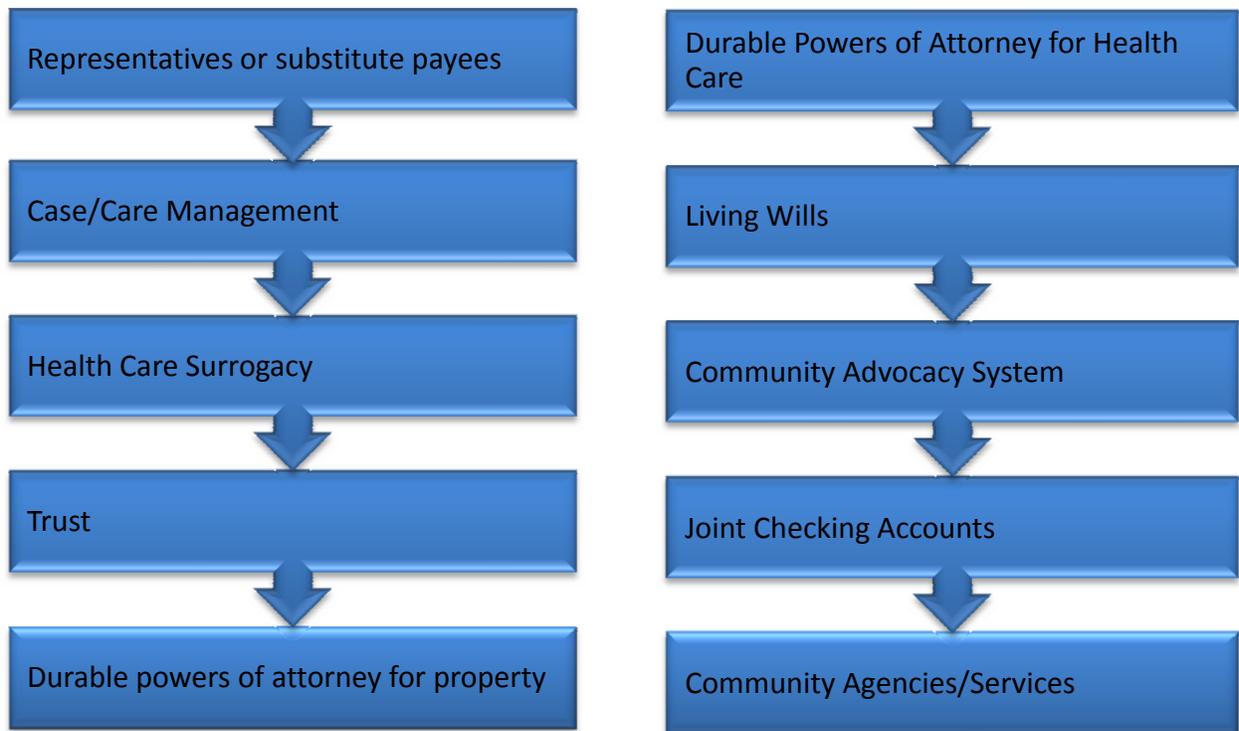
- A judicial determination of incompetency
- Upon petitioner's death, by order of the court
- Upon the execution by the petitioner of a written termination notice meeting the statutory requirements.

The termination notice is effective upon execution, but it must be filed with the court and served on the conservator. The court filing must be within 14 days of execution when a conservatorship of the estate is involved, or the attempt to terminate is void.



In any guardianship case, upon the written request of the ward, ward's attorney, or other interested party, after 120 days have elapsed since the original appointment of a guardian, a hearing will be held to evaluate the need for guardianship. Thereafter one hearing a year will be held, if requested, to examine the need for guardianship.

Other Alternatives to Guardianship:



For those who would like to retain some of their rights over their person or property, you may also consider pursuing one of several other alternatives to guardianship.

Remember, no matter what kind of caretaker you choose, if you want to play a role in deciding who that person will be, then it is best to plan ahead. For more information about guardianship or other alternatives, you can contact the following agencies:

- **The Legal Aid Society of Columbus**
(614) 241-2001
- **Ohio Legal Rights Service**
1-800-858-3542
- **Adult Protective Services**
1-800-462-4348

Identity Theft



- Before you reveal any personally identifying information, find out how it will be used and whether it will be shared with others. Ask if you have a choice about the use of your information—can you choose to have it kept confidential? (e.g., doctor’s offices)
- Pay attention to your billing cycles. Follow up with creditors if your bills don't arrive on time. A missing credit-card bill could mean an identity thief has taken over your credit-card account and changed your billing address to cover his tracks.
- Guard your mail from theft. **Do not use the red flag for the postman to pick up mail - it’s a red flag for thieves too.** Deposit outgoing mail in post office collection boxes or at your local post office. Promptly remove mail from your mailbox after it has been delivered. If you're planning to be away from home and can't pick up your mail, call the U.S. Postal Service at 1-800-275-8777 to request a vacation hold.
- Minimize the identification information and the number of cards you carry to what you’ll actually need. Have your credit card, bank, and phone accounts password-protected. Do not write these passwords on your cards or billing statements. Avoid using easily available information like your mother’s maiden name, your birth date, the last four digits of your SSN or phone number, or a series of consecutive numbers.

Do not give out personal information on the phone, through the mail or over the Internet unless you have initiated the contact or know with whom you are dealing. Identity thieves may pose as representatives of banks, Internet service providers and even government agencies to get you to reveal your Social Security



Number, mother's maiden name, financial account numbers, and other identifying information. **Legitimate organizations with which you do business have the information they need and will not ask you for it.**

- Shred your charge receipts, copies of credit applications, insurance forms, physician statements, bank checks, and statements that you are discarding, expired charge cards and credit offers you get in the mail. Thieves will sometimes dig through the trash at your curb to steal personal information.
- Be cautious about where you leave personal information in your home, especially if you have roommates, employ outside help or are having service work done in your home.
- Give your Social Security Number only when absolutely necessary. Ask to use other types of identifiers when possible, and **don't carry your Social Security card with you**—leave it in a secure place.
- If your SSN is on your Driver's License, apply for a replacement license as soon as possible.
- Be aware of others in your immediate surroundings. If someone is too close behind you at an ATM or pay phone, do not continue your transaction or call.

- Order a copy of your credit report from each of the three major credit reporting agencies every year: Equifax, Transunion, and Experian. You may request your free credit report online at www.annualcreditreport.com or by phoning 1-877-322-8228. Make sure your reports are accurate and include only those activities you've authorized.

By observing these simple procedures and checking your credit reports on a regular basis, you can help catch mistakes and fraud before they wreak havoc on your personal identity.

To learn more about identity theft, contact:

Ohio Attorney General

Identity Theft Verification Passport

1-888-694-3463

<http://www.ohioattorneygeneral.gov/IdentityTheft>

Federal Trade Commission

Identity Theft Division

<http://www.ftc.gov/bcp/edu/microsites/idtheft/>

Telephone Scams

Two new telephone-identity theft scams are making their way across Ohio. Scammers are presenting themselves over the phone as bank employees or representatives of the Social Security Administration in order to steal bank account information, a social security number, or both, from unwitting senior citizens. The other common scam is where scammers pretend they are from the security and fraud departments and call claiming unusual purchases on the cardholder's credit account.



The Scams

One scam works like this: the scammer calls posing as a representative of the Visa or MasterCard fraud department. The caller will provide his or her "badge identification number" intending to reassure you that they are a legitimate member of the company's fraud prevention team. The caller then informs you that suspicious and unusual purchases have been "flagged" on your account, and may even talk about purchases obviously not made by you. The caller will graciously offer an immediate credit to your account and promise to begin a fraud investigation.

The caller will proceed to verify that you are actually in possession of your card by requesting that you read off the three-digit security code on the far right-hand side of the card's signature line.

These numbers are typically used when making Internet purchases. Whatever happens, do not give out this information because a real employee will already have that information and will not need to ask. Your credit card account number and the card's expiration date are all very important, and this three-digit security code is absolutely vital to ensure the privacy and security of your credit card account. Scam artists will stop at nothing in order to get a hold of it.

The other scam consists of a scammer calling Social Security beneficiaries asking them to verify their bank account number so their next Social Security check can be directly deposited. The beneficiaries are warned that their additional Social Security checks will be delayed or not received at all, unless they verify the account information. If the beneficiary informs the scammer he or she doesn't have the check directly deposited, the beneficiary is told he or she must do so immediately because paper checks will no longer be mailed. Neither of these two situations is true, but enough to frighten vulnerable senior citizens, making them easy prey for scammers.

How to Protect Yourself

If you receive a call similar to the ones described above the best thing to do is **hang up!** To ensure that your credit card information is secure, call the credit card company yourself, and speak to a company representative or a fraud specialist within the company, thus giving your information only to a contact you have initiated.

Never provide your personal financial information, including your Social Security number, account numbers, passwords, or security codes over the phone if you did not initiate the contact. Don't be intimidated by a caller who suggests dire consequences if you do not immediately provide or verify financial or credit information. **A legitimate caller from your credit card company already has your account number and security information. They have no reason to ask you for it.** They may ask you for a password when you initiate the call, but you know then that you are speaking to a valid representative of the company.

How to Report a Scam

You should always report suspected identity and credit scams to your credit card fraud unit, your local police department, the Federal Trade Commission at 1-877-IDTHEFT, or online at www.consumer.gov/idtheft. You may also wish to contact the Ohio State Attorney General's Hotline at 1-800-828-0515, or online at www.ag4ohio.com.

Predatory Lending

Deceptive mortgage lending practices increased drastically in the last several years and contributed greatly to the current mortgage crisis. Even though legislation was passed in Ohio to crack down on deceptive mortgage lending practices, Ohioans need to know what kinds of practices are included.

What is Predatory Lending?

A predatory lender is usually a mortgage or finance company that makes loans with high interest rates, large fees and harmful terms. Predatory practices include but are not limited to the following: fraudulent, high-pressure or misleading marketing and sales; the “packing” and financing of unnecessary fees; and “flipping” or overly frequent refinancing with fees being repeatedly rolled into the loan, until the equity of the home is stripped.

- **Loan flipping:** A short time after you take out a mortgage loan, your lender might contact you and offer to refinance your loan, promising to make the terms more affordable. However, the lender usually flips the old loan into a new loan that is just as bad or worse. Each time your loan is flipped, the lender charges a new set of fees, increasing your total debt and increasing your total period of indebtedness.
- **Foreclosure assistance** or “rescue scams” are ways to get you to sign away your home. A person may approach you and offer to lend you money when you are facing foreclosure. You sign the papers believing that you are getting a loan, when in reality you are “selling” your house for the price of the loan.
- **Debt consolidation** is another way that your equity may be stolen. A mortgage broker or lender may contact you and offer to pay off all of your debts with a single mortgage loan. Often this single mortgage loan will be more expensive over the long run than all of your previous debts combined. You may end up in deeper debt, and if you cannot meet the payments, you could lose your house.

What can you do to protect yourself?

- Do not borrow money that you do not absolutely need. If you must borrow, first go to a bank or conventional mortgage lender. If that is not an option, contact your local nonprofit housing counseling agency.
- **Be wary of entering into a transaction with lenders, brokers or contractors who contact you directly.**
- **Do not sign papers that you have not read, have blank spaces in them, or that you do not understand.** Ask for papers requiring your signature to be provided in advance, so that you may review them. Be wary if you are told this is not possible.



If you have questions about predatory mortgage lending, you can contact:

State of Ohio Office of Consumer Affairs

1-866-278-0003

<http://www.com.ohio.gov/fin/OCAAAbout.aspx>

Coalition on Homelessness and Housing

(614) 280-1984

<http://cohhio.org/index.php>

Columbus Urban League

Fair Housing Department

788 Mt. Vernon Avenue

Columbus, Ohio 43203

(614) 257-6300

Regional Housing Center

595 East Broad Street

P.O. Box 595

Columbus, Ohio 43205

(614) 224-5409

Ohio Attorney General's Office

30 East Broad St., 17th Floor

Columbus, OH 43215

(800) 282-0515

<http://www.ohioattorneygeneral.gov/>

Foreclosure in Ohio: Risks and Responses

The number of foreclosures in Ohio continues to rise, and many more Ohio residents are at risk. Increasing your familiarity with the issues surrounding foreclosure can help you not only to avoid the experience, but also to respond if foreclosure is looming.

Foreclosure is the legal means by which a lender takes property after a borrower fails to make timely mortgage payments. Foreclosures can also result from unpaid property taxes.

Ohio is a judicial foreclosure state, meaning the lender must file for foreclosure and go through the courts in order to take the property. After the lender gets a judgment of foreclosure, the home will be set for sheriff sale, advertised, and eventually sold. This process can take 18 months or longer.

The borrower may continue to live in the home until they receive notice from the Sheriff. If the amount for which the home sold does not pay off the remainder of the loan, the borrower may be forced to pay the difference.

Contributing Factors

Frequently, people experience a change in income due to issues such as a lost job, the death of a wage earner, a medical crisis, or divorce. Bad loans, however, have been a significant trigger for foreclosures.

Subprime lending and creative financing may lock many families into home mortgages that they truly cannot afford. **Adjustable Rate Mortgages or ARMS** are a common example of a subprime-lending product. The borrower purchases the home with a low, introductory “teaser” rate that quickly resets to a much higher rate. Some ARMs reset as often as every six months. Unfortunately, the monthly payment quickly outpaces the borrower’s ability to pay.

Often borrowers have very little understanding of their mortgage or have been sold on the promise of a refinancing package before the loan resets. These products make it easier to purchase a home; however, they erode the borrower’s financial stability with ever-increasing payment obligations.

Still, foreclosure is avoidable if you take action. Ignoring financial hardships, hoping that the problem will just go away, or expecting a windfall will only exacerbate the problem. Lenders do not want your home - they just want the money.

Avoiding Foreclosure

Get help early! If you expect to have difficulty making your monthly payment, if you have missed a payment, or if you have an adjustable rate loan, you should **contact your lender as soon as possible.**

There are many “work-out” options available and your lender may be willing to make special arrangements with you to provide temporary relief. These include:

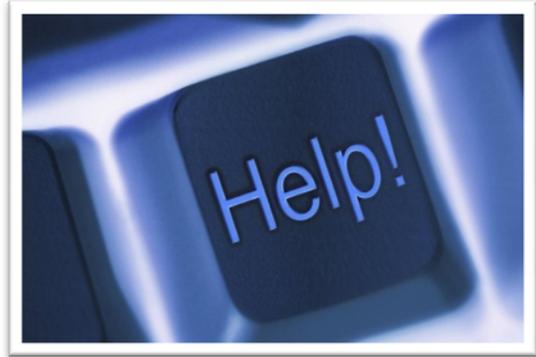
- **Forbearance:** This is an agreement to let the homeowner pay less than the full amount of the monthly mortgage payment or even nothing at all. Forbearances may be considered if you can show funds from a bonus, tax refund, or other source, which will allow you to bring the mortgage current at a specific time in the future.

- **Reinstatement:** This is an agreement which gives you a fixed amount of time to repay the amount for which you are behind. It works by combining part of what is past due with a regular monthly payment amount. By doing this you gradually repay the amount that you are delinquent.

- **Loan Modification:** This is a written agreement that changes one or more of the original terms of the loan to make payments more affordable. Common loan modification may include:
 - Adding missed payments to the existing loan balance
 - Making an ARM into a fixed rate mortgage
 - Extending the number of years you have to repay the loan

Responding to Foreclosure

If you receive court documents regarding foreclosure **do not ignore them!** You have only 28 days from the date you receive the documents to respond to the lawsuit with your “Answer.” If you get court papers you should contact an attorney immediately. You have to respond to the court papers even if you are in the process of negotiating a “work-out” with the lender.



Most Ohio courts now have a foreclosure mediation program. Mediation is a means by which opposing parties can negotiate a resolution to their dispute with the use of a neutral facilitator (the mediator). If you did not receive information regarding mediation with the foreclosure complaint, please contact your local court to find out how you can request mediation.

For information on foreclosure prevention, contact:

**Apprisen Financial Advocates/
Consumer Credit Counseling Service of Ohio**
4500 East Broad Street
Columbus, OH 43213
1-800-355-2227
<http://www.apprisen.com>

Columbus Urban League
788 Mt. Vernon Avenue
Columbus, Ohio 43203
(614) 257-6300
www.cul.org

Franklin County Foreclosure Mediation Project
375 South High Street, 16th Floor
Columbus, OH 43215
(614) 645-5009
www.franklincountyohio.gov/homeownerhelpline

Homeport by Columbus Housing Partnership

562 East Main Street
Columbus, OH 43215
614-221-8889

www.homeportohio.org

Homes on the Hill

4318 Westland Mall
Columbus, OH 43228
(614) 275-4663

www.hoth-cdc.org

Mid-Ohio Regional Planning Commission

111 Liberty Street, Suite 100
Columbus, Ohio 43215
(614) 228-2663

www.morpc.org

Nursing Home Evictions

Eviction from a nursing home is a scary prospect. From the possibility of separation from a familiar environment to the potential difficulty of finding appropriate accommodations, facing an eviction can be a life-altering experience. Nursing homes are not automatically entitled to evict a resident for any reason. As with non-nursing home evictions, the most important step for residents in defending themselves is to know their rights and responsibilities going into eviction proceedings. While this guide cannot cover every possible prospect in the eviction process, it can provide a basic overview of what constitutes lawful and unlawful actions by nursing homes attempting to evict residents in Ohio.



The law only permits a nursing home eviction in five cases: when a resident owes money to the nursing home; care at the home becomes inappropriate; the home is unable to fulfill a resident's needs; the presence of the resident poses a threat to others' health or safety; or the home is closing permanently. Whether a resident receives public assistance to help pay for care in a nursing home is irrelevant. It has no effect on the very limited circumstances in which an eviction is lawful. Any other reason stated for an eviction – for example, the poor progress of a resident in improving his or her condition – is unlawful.

A lawful eviction procedure for nursing home residents begins when a nursing home informs a resident, his or her sponsor, and the Ohio Department of Health by certified mail of its intent to transfer or discharge the resident, generally in no less than 30 days.

This notice must contain:

- The reason why the nursing home is proposing to evict the resident
- The date when the resident is to be evicted
- The location where the home proposes transferring the resident
- A statement informing the resident and his or her sponsor of their right to an impartial hearing and how to request it
- The address of the Ohio Department of Health's legal services division
- A notice that the resident will not be evicted before the expressed date unless the resident or his or her sponsor agrees to leave early
- The contact information of a representative of Ohio's long-term care Ombudsperson program
- The contact information of Ohio legal-rights service (if the resident has a mental illness or developmental disability)

The resident or his or her sponsor has a maximum of 30 days after receiving a notice to request a hearing contesting the eviction with the Ohio Department of Health. If the request for a hearing is submitted no more than 10 days after receipt of the notice, the nursing home cannot lawfully transfer or discharge the resident until receiving a decision in its favor after the hearing or appeal. If a resident or his or her sponsor desires to challenge a proposed transfer or discharge, it is important that they request a hearing within the thirty-day time frame. If they do not, the nursing home usually has the right to transfer the resident on the date stated on the notice.

To determine whether a proposed eviction is lawful, the Ohio Department of Health is to hold a hearing at the nursing home within ten days of receiving the request. Once the nursing home and the resident receive the decision, they have the right to appeal to the nursing home's county Court of Common Pleas, but must do so within 30 days. In addition, either side has the right to file a civil action against the opposing party in the nursing home's county Court of Common Pleas if the opposing party has not complied with the Hearing Officer's decision.

Ohio law requires that any transfer or discharge of a nursing home resident is safe and orderly. Another nursing home or appropriate residence must be willing to accept the resident into its facility. If no facility is willing to take in the nursing home resident, the nursing home cannot proceed with the discharge.

While not precisely direct attempts to evict a resident, there are some nursing homes that might apply indirect pressure to compel a resident to leave a home voluntarily. Many of these indirect pressures are unlawful and should be reported immediately to the Ohio Department of Health.

An excellent source for more information about the nursing-home-eviction process is the National Senior Citizens Law Center's booklet, "20 Common Nursing Home Problems – and How to Resolve Them." A copy sent by mail costs \$9.95 plus \$3 for shipping. To receive a booklet by mail, please contact the National Senior Citizens Law Center by mail at 1101 14th Street NW, Suite 400, Washington, D.C. 20005, or telephone at (202) 289-6976. Alternatively, the booklet is available for download online for \$7.95 at <http://www.nsclc.org>.

Medicaid

Medicaid is a state and federally funded program, which allows low-income Ohio residents to receive medical care in addition to Medicare. This means for elderly or disabled people with incomes less than \$589/individuals and \$1001/couples, and limited resources may be eligible to receive Medicaid. Medicaid can help with medical bills that Medicare

will not pay. For instance, Medicaid will pay for yearly physicals and some big-ticket items such as hearing aids that are not covered by Medicare.



Medicaid Spend-down

For people who have incomes slightly higher than the Medicaid limits, there is a program called Medicaid Buy-in or “Spend-down.” A person on this program must pay or submit medical bills showing that he/she has used all income above the Medicaid limits to pay medical expenses. This can be accomplished by presenting unpaid medical bills, or paying in the monthly Spend-down amount. This program is run on a monthly basis. This means a Medicaid card is only mailed to the Medicaid recipient when they either pay their excess income or provide medical bills to their county’s Department of Job and Family Services.

Also, Medicaid Spend-down recipients are not required to pay their Spend-down every month. This means a recipient who only needs Medicaid for one month of the year can pay their Spend-down at the end of the previous month and get a card. This is very useful for recipients who know they have an upcoming surgery and will need additional benefits.

The following are additional programs, called Medicare Savings Programs, which provide assistance with medical costs:

- Qualified Medicare Beneficiary (QMB) whose income is at or below the federal poverty level (2011 - \$903/month for a single individual and \$1215/month per couple) and whose resources are below \$6000/single or \$9000/ couple. The Benefit they receive is the payment of Medicare Part B premiums and a QMB card which will cover medical deductibles and coinsurance.
- Specified Low-Income Medicare Beneficiary (SLMB) – between 100 – 120% of the federal poverty limit (2011- \$1083/month for a single individual and \$1457/month per couple) and resources below \$6680/single and \$10,020/couple.
- Qualified Individual 1 – countable income between 120 – 135% of the federal poverty level (2011 - \$1219/month for a single individual and \$1640/month per couple), and resources below \$6000/single and \$9000/couple.

QMB, SLMB and QI-1 will pay for the Medicare Part B deductible (\$115.40 in 2011).

These programs must be applied for at the local County Department of Job and Family Services.

Medicare

Medicare is federal health insurance for individuals over 65, under 65 with certain disabilities, and individuals with End-Stage Renal disease. It is administered through the Social Security office and recipients receive a red, white and blue card or a card from the Medicare HMO (Health Maintenance Organization) they have enrolled in.

Medicare Part A is primarily hospital insurance which does not generally require payment of a premium. When an individual enters a hospital, the inpatient hospital care deduction for 2011 is \$1,132.00. Medicare beneficiaries will pay \$283.00 per day if they are in the hospital between 61-90 days. Those in the hospital for more than 90 days will pay \$566.00 per day, unless they are covered by supplemental insurance.

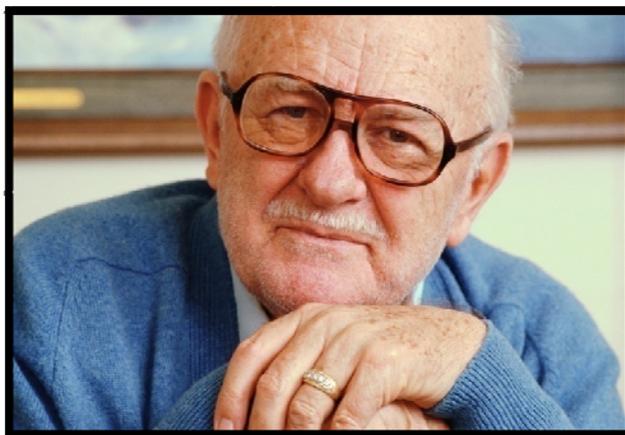
Medicare Part B is medical insurance that helps cover your doctor's services and outpatient care. Medicare Part B premiums are \$115.40 per month in 2011 and the 2011 deductible is \$162.00. This premium is usually deducted from your Social Security check. If you are a low-income person on Medicare, you can get help to pay all or part of the Medicare Part B cost by applying through your local county Jobs and Family Services Office. Medicare requires that persons with annual incomes above \$82,000.00 (\$164,000.00 for couples) pay more than the basic cost for Medicare Part B. Premiums will be prorated depending on income. Medicare recipients can give up traditional Medicare coverage and obtain their health care through a Medicare Advantage Plan. These plans may cover more services and have lower co-pays, but you may be limited to certain doctors and hospitals.

Medicare Part D

Medicare Part D is a federal program that provides prescription drug benefits to seniors. Once a person reaches age 65 or receives SSDI, he or she becomes eligible for Medicare Part D. Medicare Part D is provided only through private insurance companies. This means that recipients must select a plan from a number of Medicare Part D options. Medicare Part D pays different percentages based on the amount of drug costs a recipient pays each year. The amount that a beneficiary pays for a monthly premium, deductible and co-payments varies by plan. Most plans also have a coverage gap commonly referred to as the “donut hole.” In 2011, if you reach the coverage gap you will receive a 50% discount on all covered name-brand drugs. Once past the “donut hole” the beneficiary enters “Catastrophic Coverage.” This is the phase in which the beneficiary only has to pay the small cost-sharing amount for their prescriptions. To find the plan that is best for you visit www.Medicare.gov.

Low-Income Subsidy

The federal government has instituted a plan to assist low-income seniors with their drug costs. The Low-Income Subsidy will pay most drug costs for people with incomes lower than \$1,361/month for individuals and \$1,839.00/month for couples in 2011. The Low-Income Subsidy covers the monthly Part D premiums, deductibles and partial co-payments.



Any person who would like to apply for a Low-Income Subsidy may call the Medicare phone line (1-800-633-4227) or the Ohio Senior Health Insurance Information Program at 1-800-686-1578.

The Homestead Exemption



The Homestead Exemption allows senior citizens and permanently and totally disabled Ohioans to reduce their property tax burden by shielding some of the market value of their home from taxation.

The exemption, which takes the form of a credit on property tax bills, allows qualifying homeowners to exempt \$25,000 of the market value of their home from all local property taxes. For example, through the Homestead Exemption, a home with a market value of \$100,000 would be billed as if it is worth \$75,000. The exact amount of savings will vary from location to location. But overall, across Ohio, you should save an average of about \$400 per year.

To qualify for the exemption, regardless of income level, you must be a homeowner who is one of the following:

- At least 65 years old
- Totally and permanently disabled as certified by a licensed physician, psychologist, or state or federal agency
- The surviving spouse of a person who was already receiving the Homestead Exemption, and were at least 59 years old at the time of your spouse's death
- And use this home as your principal residence

The application period is open from January through June annually.

The application form is available online at <http://tax.ohio.gov> by clicking on "Homestead Exemption" or contact the Ohio Department of Taxation at 800-282-1780. If you already receive the homestead exemption, you do not need to reapply.

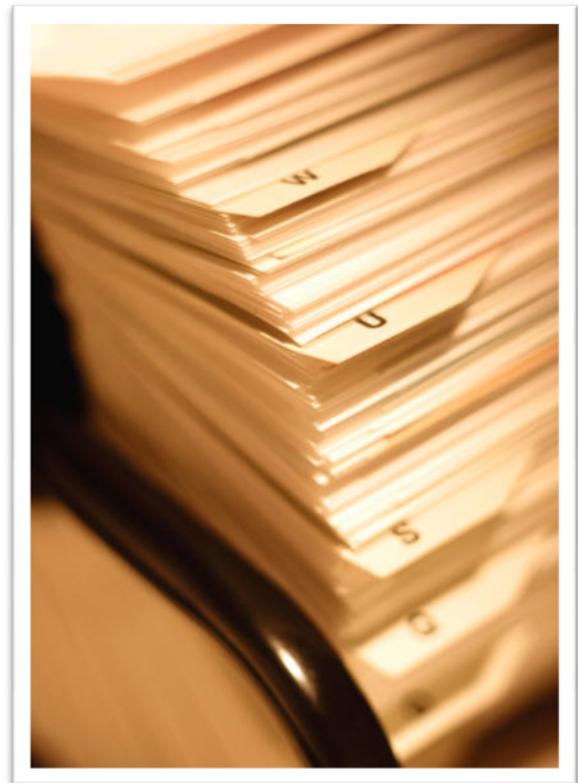
If you have any questions regarding the homestead exemption, call:

Ohio Department of Taxation
Columbus Taxpayer Service Centers
30 East Broad Street, 20th Floor
Columbus, OH 43215
1-800-282-1780

OR

4485 Northland Ridge Blvd.
Columbus, OH 43229
1-800-282-1780

The Legal Aid Society of Columbus
1108 City Park Avenue
Columbus, OH 43206
(614) 224-2001
www.columbuslegalaid.org



Income Tax Return Preparation and Filing Assistance

Filing your income taxes can be a confusing process to do on your own. If you are a senior and/or are low-income, there are many resources that can help you prepare your income tax returns.

The Volunteer Income Tax Assistance program (VITA) has sites that offer free tax help to taxpayers whose income is less than \$40,000. You can locate the VITA site nearest you by calling toll-free at 1-800-829-1040. If you live in Franklin County, you can call 2-1-1 to find a free tax help site operated by the Franklin County EITC Coalition. Call before going to any site to find out important information about what documents or papers you should take to the site, directions to get there, and other details.

The TCE (Tax Counseling for the Elderly) program may be able to help you if you are age 60 or older. You can obtain information on this program by calling toll-free 1-800-829-1040.

As part of the TCE program, the AARP (American Association of Retired Persons) offers the Tax-Aide counseling program. Volunteers help people of low-to-middle income with special attention to people age 60 or older. If you are less than 60, however, you may still qualify for help; so, be sure to call before going to one of these sites. To locate the nearest Tax-Aide site call 1-888-227-7669.

The Ohio Benefit Bank offers free tax help to anyone whose household income is less than \$54,000. Call the Ohio Benefit Bank at toll-free 1-800-648-1176 or visit its web page at www.obb.ohio.gov.

The IRS (Internal Revenue Service) offers free tax help to people whose income is less than \$54,000. Go to the IRS web site at www.irs.gov and click on the link to *freefile* to learn more about this program and how to use it.

About The Legal Aid Society of Columbus

The Legal Aid Society of Columbus is a non-profit law firm, which provides civil legal representation and education to low-income individuals throughout Central Ohio, including Franklin, Madison, Marion, Delaware, Morrow, and Union counties. Primary areas of legal service include:

- Family Law
- Tax Issues
- Public Benefits
- Small Business Startup
- Wills and Powers of Attorney
- Access to Health Care
- Housing Conditions and Evictions
- Domestic Violence
- Access to Education
- Consumer Issues

The Legal Aid Society does not handle criminal cases. There are eligibility income guidelines, immigration status guidelines, and resource limits for our services. If you need assistance or have questions about our services, please call (614) 241-2001. Our experienced intake staff will help you determine eligibility and find the right attorney to help you.

About the Columbus Bar Association Alliance

The purpose of this organization is to cooperate with the Columbus Bar Association to foster understanding of the legal profession through education and community service including financial contributions to law-related activities, and to promote social relationships among the organization's members and spouses.