

SENIORS & THE LAW

A GUIDE FOR SENIOR CITIZENS IN THE LAST FRONTIER

Dear Alaska Seniors,

When we started on this project, our goal was to create a resource guide that covered some of the most basic legal issues that you face in your daily lives. But what did young lawyers know about making a guide for Alaska's seniors? So we asked for help. This guide is the result of a lot help by many people and organizations.

We would like to thank all those people and organizations that helped from start to finish. We would especially like to thank the American Bar Association for the grant that made this whole project possible. We would also like to thank the Alaska Bar Association, the Anchorage Bar Association, and the Juneau Bar Association for their generous financial support.

We are also tremendously grateful to all the attorneys who wrote or edited articles for this guide. Their time and expertise were invaluable. Finally, we would like to thank Krista Scully who kept us organized and on track. Without her we would never have finished.

We hope you find this guide useful,

Blair Christensen

Chair
Elder Law Project
Young Lawyers' Section
Anchorage Bar Association



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Wellness

Recreation, Hunting and Fishing

FEDERAL OPPORTUNITIES – PARKS AND FEDERAL RECREATION SITES

As a person who has attained the age of 62 you are eligible for an “America the Beautiful – National Parks and Federal Recreational Lands Pass – Senior Pass.” For a \$10.00 processing fee you will receive a lifetime entrance permit to federal recreation sites. The pass also provides you with a 50 percent discount on some federal use fees for facilities and services. To find out more visit www.nps.gov or contact a federal recreation site near you. You can only get this pass by going to a national park, wildlife refuge, forest, or certain federal offices *in person*.

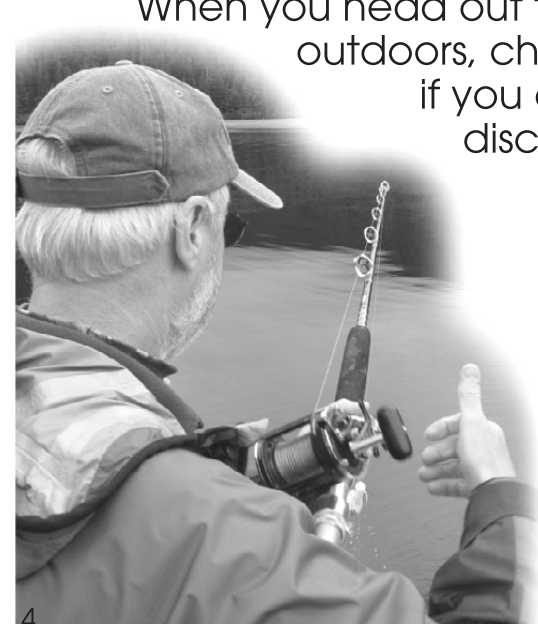
STATE OPPORTUNITIES – HUNTING AND FISHING

Alaska residents 60 years or older may obtain a free Alaska Department of Fish and Game (ADF&G) Permanent Identification card (PID) that replaces the annual sport fishing, hunting, and trapping licenses. You must still apply for Harvest tickets, tags, and permits. To apply for a PID you can visit any Fish and Game office, or download the application form from the ADF&G website at www.admin.adfg.state.ak.us/admin/license/form.html. If you download the application forms, you must print and mail it to Alaska Department of Fish & Game Licensing Division, P.O. Box 115525, Juneau, AK 99811-5525 for processing. (These licenses can only be issued by the Licensing Division in Juneau.)

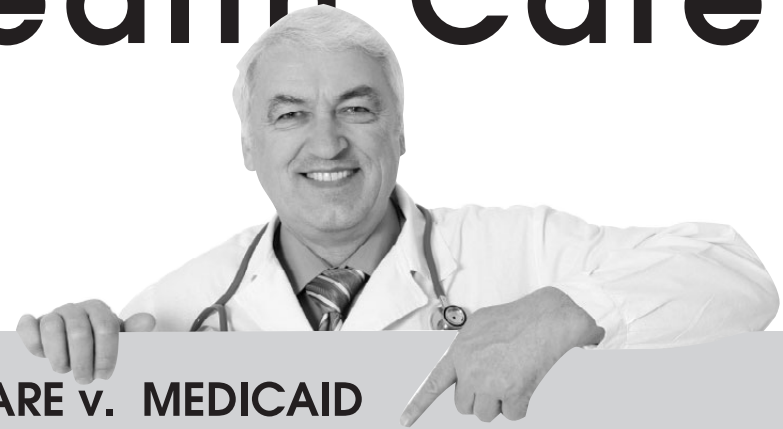
Another opportunity provided to Senior Alaskans age 65 or older is the ability to authorize another Alaska resident to hunt or fish for them. This authorization is commonly referred to as *proxy hunting or fishing*. To get more information on proxy hunting or fishing, contact Alaska Department of Fish and Game or download a form from www.sf.adfg.state.ak.us/statewide/regulations/proxy.cfm.

Currently the Alaska Department of Natural Resources, the department in charge of the camping, day use parking and boat launch passes for the state, does not provide any senior discounts for its passes.

When you head out to enjoy Alaska’s great outdoors, check in advance to see if you can receive any senior discounts on your planned activities. Regulations change all the time. You may not know what discounts or benefits you are entitled to unless you ask.



Health Care



MEDICARE v. MEDICAID

Medicare is a federal health insurance program for people age 65 and older, certain people under 65 with disabilities, and people with End-Stage Renal Disease (permanent kidney failure requiring dialysis or kidney transplant). Medicare covers care in hospitals and other institutions, outpatient services, physician services, medical supplies, and equipment.

Enrollment in Medicare is automatic if you are already getting retirement benefits from Social Security or the Railroad Retirement Board, or if you are under age 65 and receiving disability benefits. If you have End-Stage Renal Disease, if you are not automatically enrolled in Medicare, or if you need more information regarding eligibility for Medicare, you can call the Social Security Administration at 1-800-772-1213. For information regarding Medicare in Alaska, you can refer to Senior Information Office website, at www.hss.state.ak.us/dsds/seniorInfoOffice.htm or contact the State Health Insurance Program at 1-800-478-6065.

Medicaid is the primary public program in Alaska for financing basic health and long-term care services for low-income individuals. The program is administered by the Alaska Department of Health and Social Services and focuses on coverage for low-income children, pregnant women, families, the blind, the permanently disabled, and the elderly.

Alaska’s Medicaid program is complex and eligibility depends on a number of factors, such as your income level. You can get more information about eligibility requirements and the application by contacting Public Assistance office at 465-3347 or by contacting the local numbers posted on their website at

www.hss.state.ak.us/dpa/features/org/dpado.html. The two most prevalent Medicaid programs available to older Alaskans are home and community based care waiver services (CHOICES) and personal care assistant (PCA) services. CHOICES provides eligible Alaskans with an alternative to nursing home care, by enabling them to remain at home and in their communities.

HEALTH CARE CONTINUED....

CHOICES services are individually planned and may include respite care, home modifications, adult day care, transportation, specialized medical equipment and supplies, and regular Medicaid services (such as prescriptions, office visits to physicians, chore services, specialized private duty nursing, care in an Assisted Living Home, and home delivered meals).

In order for services to be paid for through CHOICES, individuals must be Medicaid eligible and they must meet the level of care criteria that is established by the Division of Senior and Disabilities Services. If you are interested in receiving these services, you can get more information by contacting the Division of Senior and Disabilities Services at 269-3666 or 1-800-478-9996.

The PCA program is another service which enables functionally disabled and handicapped Alaskans of all ages and elderly Alaskans to live in their own home or community, instead of being placed in a long-term care institution. The program provides services to help people with daily activities such as bathing, dressing, personal hygiene, shopping, and cleaning. Personal Care Assistants (PCAs) typically provide these services in a person's home.

In order to qualify to receive these services, individuals must be Medicaid eligible. If you are interested in applying for these services or to request more information about them, you can contact the Division of Senior and Disabilities Services at 269-3666 or 1800-478-9996.

For information on all other benefits and services available to elder Alaskans, please call the Senior Information Office at 1-800-478-6065 or 269-3680.

Questions you should ask when looking for long-term care options and other helpful hints.

When people get older, they may not want to live alone anymore. You can chose to stay in your

home and have a caregiver come there to assist you, or you can move to an assisted living or skilled nursing home.

If you are considering an in-home caregiver, you have two options: hiring a specific caregiver yourself, or hiring an agency. Agency-based caregivers give you the protection of "the agency" but, like caregivers in assisted living homes and nursing homes, they are basically strangers. You probably did not know them before you hired the agency.



Whatever the situation, it is important that your caregiver gets to know you. The Alaska Long Term Care Ombudsman's Office has a simple form called "Who Am I" that you can use to give basic information about yourself to your caregivers.

If you are considering moving to an assisted living or skilled nursing home, visit as many homes as possible. Go during different times of the day and go unannounced. If the home has nothing to hide, they won't mind you "dropping in." The home should seem like it is a place you will feel good living in.

If you do chose to move to an assisted living or nursing home, make sure that your day-to-day caregiver(s) speak and understand the same language as you do. Be sure that the home allows the caregiver who is with you during an emergency to speak directly to emergency personnel if needed.

In an assisted living or nursing home, the quality and scheduling of food and activities is very important. Don't be afraid to ask the caregivers if they know how to cook. Do they follow a posted menu or are they open to cooking what you might request? Do they accommodate personal likes and dislikes? Do they let you eat when you want or do they stick to a schedule? Does the home allow you to set your own schedule? Can you wake, eat and go to bed when you want? Be sure to ask about activities at the home. Does the staff interact with the residents by playing games, going on outings, or doing crafts? If they rely on adult day care centers to keep residents entertained, visit those centers, too.

When a home says they provide 24-hour supervision – make sure they clarify that. It may not mean they provide 24 hour "awake" staff. Ask about the staff to resident ratio and whether the home has a staff person who will help lift you if you fall, even late at night.

Finally, if you select to move to an assisted living or nursing home, make sure you and your loved ones are involved with your case plan and that it is very specific about the details of care you need. Avoid broad generalizations which can also lead to excuses for improper care.

And look for personal things in the home and in the other residents' rooms to see whether the staff is likely to get to know you. The assisted living home will become your "home" and you should feel happy, safe and comfortable there.

HEALTH CARE CONTINUED....



UNDERSTANDING YOUR HEALTH CARE BENEFITS OPTIONS

As you move into the next stage of your life, determining what health care insurance options may be available to you can be an overwhelming experience. Thankfully, Alaska's Senior Information Office is your one-stop source for senior healthcare information in Alaska.

The Senior Information Office is part of the Alaska Department of Health and Social Services. For information on financial aid for prescription drugs, local doctors who accept Medicare and Medicaid, and more you can call the Senior Info. Office on weekdays from 8:00 am to 5:00 pm at 1-800-478-6065. Much of this information, including a list of family practice physicians who may accept Medicare, is also available online at www.hss.state.ak.us/dsds/seniorInfoOffice

Another resource for your health care provider questions is the Alaska Information & Referral Service, called AKInfo. AKInfo is a free, quick, and easy referral service that helps Alaskans find information about private healthcare providers and public healthcare providers. It is available by calling 1-800-478-2221 during normal business hours or 24 hours-a-day online at www.ak.org.

POST-RETIREMENT HEALTH INSURANCE OPTIONS

If plan to retire soon, you may be entitled to keep your coverage under your employer's group health insurance plan for a short period of time after you retire. Before you retire, discuss this option with your employer's human resources' specialists.

In addition, some employers maintain health insurance for their retired employees. At age 65 (or younger for some health conditions), Medicare also becomes an option. However, in the time between when you retire and when you are eligible for Medicare, obtaining private individual coverage as a senior can be expensive and difficult.

You may have coverage, if you are eligible, under Medigap policies, long-term care insurance, veterans benefits, Alaska Native health care benefits, or under the insurance plans (both supplemental Medicare coverage and coverage through a health maintenance organization) operated by the State of Alaska affiliated Comprehensive Health Insurance Association. Call 1-888-290-0616 for coverage options under these state-mandated insurance plans.

VETERAN'S HEALTH BENEFITS

If you are a veteran, you are likely eligible for health care services through the Alaska Veterans' Administration Healthcare System. Located on the Alaska Regional Hospital Campus in Anchorage, the Alaska VA Healthcare System and Regional Office offers primary, specialty, and mental health outpatient care to veterans residing in Alaska. The Alaska VA Healthcare System and Regional Office provides inpatient services to veterans in Alaska through a joint venture with the United States Air Force on nearby Elmendorf Air Force Base and with community hospitals. Call 1-888-353-7574 for coverage options and locations.

ALASKA NATIVE HEALTH CARE BENEFITS

The federal government has a trust obligation to the indigenous people of the United States, including Alaska Natives. One part of this obligation is to raise the physical, mental, social, and spiritual health of American Indians and Alaska Natives to the highest level. This obligation is carried out by numerous tribally owned and operated hospitals, regional health centers, and village health centers.

Eligibility restrictions govern participation and coverage. The Alaska Native Medical Center Eligibility Department can assist you with questions you have regarding participation in the tribal health care network and can be reached at (907) 729-2353.

LONG-TERM CARE INSURANCE OPTIONS

Long-term care insurance is a contract between an insurance company and a policyholder to pay for a broad range of medical and personal services for individuals who need assistance with daily activities for an extended period of time.

Long-term care coverage can be useful if you need help with bathing, dressing, or preparing meals or if you need long-term, around-the-clock assistance.

Medicare does not pay for most long-term care needs. Medicaid will generally pay if you have little income or few assets. Many people become eligible for Medicaid only after they have exhausted their resources on long-term care services. Long-term care services are very expensive in Alaska. A recent survey showed that Alaska has the highest nursing home rates in the country.

HEALTH CARE CONTINUED....

To reduce these risks of paying these high costs, individual long-term-care policies are sold, but group policies are becoming increasingly available from large employers, and membership organizations like AARP. The State of Alaska, Department of Commerce, Community, and Economic Development publishes a useful consumer guide on long-term care insurance. The guide is available by calling (907) 465-2597 in Juneau, 269-7900 in Anchorage, or by going online www.dced.state.ak.us/ins/pub/alaskalongterm.pdf.

EMERGENCY CARE FOR THOSE TRAVELING OUTSIDE OF ALASKA

If a medical emergency happens while you are traveling outside Alaska, your first priority should be to treat the emergency, not worry about the payment. Go to the nearest emergency room of a local hospital. Emergency rooms have a federal obligation to treat emergent health conditions and to be concerned about payment later.

When you are at the hospital, however, provide its billing department any health insurance coverage information you have (Note: when you leave the State, don't leave without your insurance cards). You should also call your health insurer to notify them of your situation. It is recommended that you do so within 72 hours of receiving care.

If your health situation does not appear to be an emergency, an emergency room is likely not your best option. Some hospitals and insurance carriers actually have penalty fees for going to an emergency room for non-emergency conditions.

For longer absences from the state, consider retaining local physicians or at least know the locations of non-emergent health centers. But remember, if you have any doubt about whether you are sick enough to go to an emergency room, always resolve that doubt in favor of seeking care.

You and your health should remain your top priorities.

SHORTAGE OF MEDICARE PROVIDERS IN ALASKA

Physicians are not required to participate in Medicare. Upon turning 65, even if you have private insurance as secondary coverage, you will likely find that your current physician will no longer see you. There are some options.

The Senior Information Office can provide you with information about providers who accept Medicare and Medicaid. In addition, community health centers like the Anchorage Neighborhood Health Center (reachable at (907) 257-4600), remain a helpful resource and are doing their best to step in with services when coverage becomes a concern. But, this may not be enough.

Providers are encouraging Medicare patients to be proactive about their health to prevent small health problems from becoming larger ones. In addition, you may want to spend one hour a day focusing on fitness and nutrition.

What is an advanced health care directive?

In 2005, the Alaska legislature passed a law allowing people to make certain decisions regarding their health care. The legislature published a form called an "Advance Health Care Directive."

The new *Directive* took the place of an old form sometimes called a "living will." In the *Directive* you have the right to give instructions for your health care, name someone else to make health care decisions for you (your "agent"), and name a health care provider.

If you use this form, you may complete some of it or all of it. There is no requirement that you complete each part of the form.

Part 1 of the form is called a "durable power of attorney for health care." A durable power of attorney for health care allows you to designate an agent to make health care decisions for you if you do not have the capacity to make your own decisions at some later time.

You can also designate someone to make those decisions for you now, even though you still have capacity.

You may name an alternate agent to act for you if the first person you chose is not willing, able, or reasonably available to make decisions. Unless related to you, your agent may not work at, own, or operate the facility where you are receiving care.

Unless the form you sign limits the authority of your agent, your agent may make all health care decisions that you could legally make for yourself. (You may limit the authority of your agent if you want to.)

If you choose not to limit the authority of your agent, your agent will have the right.

- (a) consent to any care or treatment of a physical or mental condition, including administer or discontinue of psychotropic medication;
- (b) select or discharge health care providers and institutions;
- (c) approve or disapprove medical tests, surgeries, and medication; and
- (d) direct the providing or withholding of all other forms of health care (including artificial feeding and hydration); and
- (e) donate organs following your death.

Estate Planning

Who can manage my property and how can they manage it?

You can have someone manage your personal affairs with the use of a power of attorney. A *power of attorney* is a legal document that allows a person of your choice to manage your financial and personal affairs. Most people can complete a power of attorney from a ready-made form (see the information at the end of this article). A power of attorney requires you to answer these three questions:

1. *Who* do I want to manage my finance affairs;
2. *What* financial powers do I want to give that person (my agent); and
3. *When* do I want them to have the authority to manage my affairs?

WHO?

Choosing who will serve as your agent is a difficult decision. Because the individual may have broad financial power, you need to choose someone that you can trust. Typically people chose their spouse, children, other family, or friends to be their agents.

WHAT?

A power of attorney can give your agent the ability to manage *all* financial decisions, including the ability to access bank accounts, real estate, personal property, investment accounts and other transactions. You can, however, *limit* your agent's powers by drawing a line through the power listed in the form and initialing the corresponding box. By striking the power, your agent cannot manage that item, regardless of your condition or disability.

WHEN?

A power of attorney may either be "*durable*" or "*springing*." A *durable* power of attorney is one that becomes effective when you sign the document and remains effective even if you become disabled. In contrast, a *springing* power of attorney is one that only takes affect if and when you become disabled.

A springing power of attorney can be difficult to administer because institutions may require proof of your disability. Typically, this proof comes in the form of a physician certification or a court order. However, a springing power of attorney may be a good choice if you want your agent to have the ability to manage your affairs only in the event of a dire emergency, such as your incapacity due to a coma.

The power of attorney form also allows you to designate a *guardian* or *conservator*. This type of designation is good if you are concerned about your capacity and want to make it clear to the court who to appoint for your care. More information about a power of attorney and a copy of the form can be found at the Alaska Court System's Family Law Self-Help Center (a free information service). You can visit them online at www.state.ak.us/courts/shcpoa.htm.

What Happens to my Property and/or Minor Children After I Die?

WHAT IS AN ESTATE?

After a person dies, they leave behind an "estate." An estate is all the property, money and debts of the person who has died. A person's estate might include their home, car, personal possessions, and money. An estate would also include the debts a person owes, such as credit card bills, mortgages, and car payments. You can think of your estate as water in a bucket.

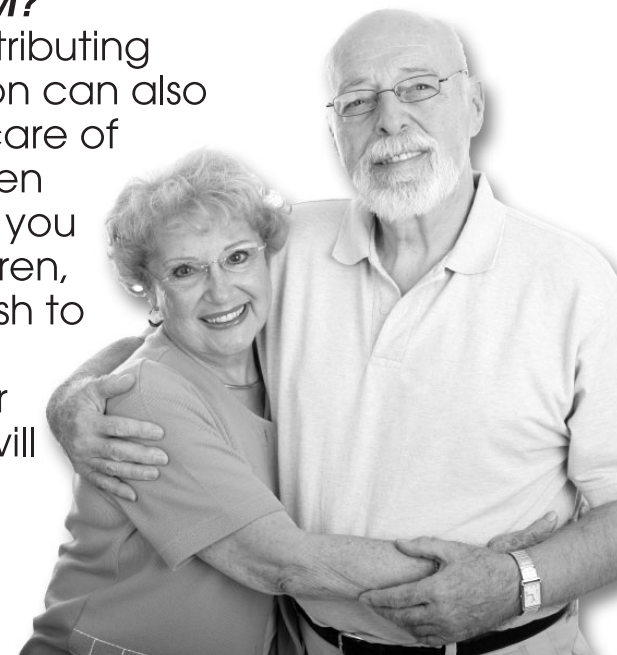
Your assets (house, car, possessions, and money) add water to the bucket, while your debts (bills, taxes, mortgages, etc.) take water out. After all your assets and debts are accounted for, if you still have water left in the bucket, you get to decide who it will go to. That is, you decide who will take your remaining property. To do this, some older Alaskans choose to write a will.

WHAT IS A WILL?

A will is a legal document that allows you to tell your survivors what to do with your property after you die. Generally, a will describes who receives your property and what amount they will receive. A will may also appoint an "*executor*." An executor is usually a trusted person who becomes responsible for carrying out your wishes as set out in the will. The executor will gather your assets, pay off your debts, and then distribute what is left in the "bucket" according to the terms of the will.

WHAT IF I LEAVE BEHIND A MINOR CHILD, WHO WILL LOOK AFTER THEM?

In addition to distributing property, a person can also arrange for the care of their minor children by using a will. If you have minor children, then you may wish to appoint a legal guardian for your children in your will in case you die before your children turn 18.



ESTATE PLANNING CONTINUED....

WHAT HAPPENS IF I DON'T HAVE A WILL?

If a person dies without a will, their property will be distributed according to a formula created by the State of Alaska. This formula is supposed to distribute the person's property in a way that reflects the "typical" wishes of a person who dies. This means that the property may be distributed to the person's spouse, children, parents, and siblings.

If there is no family, your property will go to the state. The state's formula is only intended to reflect the wishes of the "average" person, and may not reflect how you would like your property to be distributed. If this is the case, then you might consider writing a will instead, because with a will you have more control over where your property goes when you die.

WHAT ARE THE CURRENT RULES REGARDING ESTATE TAXES?

The State of Alaska does not collect taxes on your estate or on the property others may inherit from you.

There is a Federal estate tax, though. Estate tax returns (IRS Form 706) must be filed within 9 months of death. Whether or not a federal estate tax return must be filed is based on the *gross value* of your estate. That means the value of your estate before any money you owed at the time of your death is deducted.

Your estate is calculated by adding the value of all of the property that you own in your own name and one-half of the value of property that you own with your spouse. Your gross estate also includes the amount that others will receive from life insurance and retirement benefits you own at the time of your death.

The law that determines whether an estate tax return must be filed changes every year, so you should check with the Internal Revenue Service to get the most current information.

Although an estate tax return may be required, it does not necessarily mean that tax will be due. Many *deductions* can be claimed against estate tax. Any amount of assets can "pass" free of estate taxes to your surviving spouse if they are a U.S. Citizen.

Many options are available for reducing the total estate tax bill. If you have an estate that will require the filing of an Estate Tax Return, you should consult an attorney to determine what alternatives you should consider.

DO I NEED TO BE CONCERNED ABOUT GIFT TAXES?

Under current laws, a Federal Gift Tax Return (IRS Form 709) must be filed by April 15 of the year after

a calendar year when you give more than a total of \$12,000 to any one recipient (other than your spouse who is a U.S. Citizen). Even if you are required to file a gift tax return, it does not necessarily mean that you will have to pay a tax.

As of 2008, if you are a U.S. citizen, you may make gifts up to a cumulative total of \$1 million before tax will be due. You may also benefit others by paying tuition and medical expenses without having the gift count against the \$12,000 or \$1 million limits. To take advantage of this exception, you must pay the educational institution or medical provider directly.

ARE SENIOR CITIZENS ENTITLED TO ANY PROPERTY TAX BENEFITS?

Yes. Alaska Law provides benefits for people over age 65. Each city and town must provide an exemption for the first \$150,000 in assessed value on the primary residence of people who are 65 or older before January 1. Veterans with a letter from the VA stating at least a 50% service-related disability qualify for this exemption, too. Even the widow or widower of someone who qualified for an exemption may be eligible.

The rules for applying for the exemptions differ from town to town. Contact your local real property tax office for information. In order to receive an exemption, you must apply by the deadline set by your tax office.

WHAT ABOUT VEHICLE TAX BENEFITS FOR SENIORS?

If you are an Alaska resident age 65 or older on January 1 you can register one non-commercial vehicle without paying registration fees or the motor vehicle registration tax. This exemption applies only to passenger vehicles, motorhomes, vans, pick-up trucks, motorcycles and non-commercial trailers. Your name must be on the title.

The exemption may also be available for a leased vehicle. Contact the Division of Motor Vehicles to determine whether your leased vehicle is eligible.

The exemption may be used only once every two years, so you may not register other vehicles with an exemption during the same time period. To apply, you must complete a Senior Citizen Exemption Affidavit, available from the Alaska Division of Motor Vehicles.

Instructions for completing the affidavit and the application are available from the Division. You will be required to show proof of your birth date when you apply. The application may only be submitted in person. If your vehicle is subject to emissions inspection, you must pay the \$2.00 I/M administrative fee.

ESTATE PLANNING CONTINUED....

What is Probate?

Please remember that this discussion is very general. When in doubt, you should consult with a lawyer that knows about probate to determine which course of action is appropriate in your case. For large estates, there are also tax planning steps which can be taken to minimize estate taxes at the time of the death of the second spouse, but these require decisions be made within certain time periods of the first spouse's death and paperwork must be filed to lock in these decisions.

FAMILY MATTERS COME FIRST, THE LEGAL PROCESS WILL WAIT.

When a family member dies, the initial focus of the survivors should be on taking care of their personal needs. The law recognizes this by requiring that probate cannot be started for 120 hours (5 days) after someone's death. However, if there is some kind of emergency which requires access to the *decedent's* assets, there is a court procedure to appoint a special administrator. The word *decedent* is another name for the person who has died and it is often used in legal papers. Death certificates can be obtained only by family members from Vital Statistics or through the funeral home. The certificates cost \$20.00 each and can be ordered by mail.

IS PROBATE NECESSARY?

Probate is the court process of deciding who is entitled to a decedent's property and settling the decedent's affairs. Probate is only necessary to transfer title to property held in the decedent's name alone or when the title does not pass to another person automatically. The following methods of ownership generally pass title automatically. If you have any questions, you should talk to a lawyer who knows about probate law.

1. Land is presumed to be jointly held by a husband and a wife and to pass automatically to the surviving spouse. However, there are important exceptions to this, including land held as "*tenants in common*" or when the deed is dated prior to July 1, 1970.
2. Life insurance, brokerage accounts, IRAs, and pension plans, usually pass according to a *beneficiary designation* made by the decedent. If the beneficiary is someone or something (such as a living trust) other than the decedent's estate, no probate is required to transfer title.

3. Bank accounts, money market accounts, and certificates of deposit pass according to the signature cards or beneficiary designations made by the decedent. Payable on Death (P.O.D.) accounts and accounts in trust for someone pass according to the designation in the bank records. If the decedent or the estate has unpaid debts, these accounts may be used to pay off those debts.

COLLECTION OF PERSONAL PROPERTY BY AFFIDAVIT.

If there is only personal property (including bank accounts) held in the decedent's name alone and if the value of all this property is less than \$15,000 (minus any debts), the property can be collected without a probate. There is a thirty day waiting period after the date of death. Then the decedent's heir may obtain an affidavit form from the probate court and use that to collect the assets. An *heir* is any person who inherits (or receives property) from the estate. This can be done without a lawyer.

Financial

What are some common consumer scams that affect seniors?

LOTTERY/SWEEPSTAKES SCAMS AND OTHER ADVANCE-FEE FRAUD

You've won \$10,000 in the Australian Sweepstakes! All you have to do is pay \$2000 to cover taxes and the winnings will be yours.

Great news? No. This is type of scam known as advance fee fraud. Scam artists send official-looking announcements or call you to congratulate you on your winnings. They tell you to send a payment to cover taxes or customs fees, or that you need to verify your bank account information so the money can be wired to you. Shred these phony announcements and hang up on anyone who calls with this pitch. You should **never** pay any money in advance to get a prize, winnings, a loan, or a credit card.



FINANCIAL CONTINUED....

The "Nigerian" letter or "4-1-9" scam is another common example of advance-fee fraud. A scam artist poses as a government official, bank employee, or wealthy individual in a foreign country who has selected YOU to help move a large sum of money to an account in the United States. You are told you will be handsomely rewarded for your effort and all you have to do is provide your bank account number or pay a fee to cover "transfer costs" or some other made-up fee. Inevitably, some emergency comes up and you are asked to make additional payments, and then the scam artist vanishes with your money.

If you receive a "Nigerian" scam email, forward it to spam@uce.gov, a site maintained by the Federal Trade Commission. If you've lost money to this scheme, call the Secret Service's Anchorage Field Office at 907-271-5148.

Advance fee fraudsters may send you a check that is supposed to part of your winnings or part of the money from the foreign bank account. They'll ask you to wire some of that money back to them. But the fake check is just another ruse for taking your money.

FAKE CHECKS

It is so easy for crooks to create checks that look like real cashier's checks or checks from businesses that even bank employees can be fooled. Fake checks are used in a variety of scams, such as sweepstakes, internet auction fraud and work-at-home schemes.

Scam artists make up elaborate stories to persuade you to deposit the check and wire back some or all of the funds. You wire the money but the winnings, prizes, goods, or earnings never appear and the scam artist vanishes. Weeks later the bank informs you that the check was bogus, and the bank deducts the amount that was credited to your account. If there isn't enough to cover it, the bank may be able to take money from other accounts you have with the bank or sue you to recover the funds.

If you receive a check from an unfamiliar person or business, be skeptical.

There is no legitimate reason for someone who is giving you money to ask you to wire money back.

For more information about fake check scams, go to www.fakechecks.org.



HOME REPAIR/HOME IMPROVEMENT

A contractor offers to fix your roof with materials left over from another job to save you money, and he asks to be paid up front. Unfortunately, this is a common scenario for home repair scams. The contractor gets the money but never completes the project, or does a shoddy job, and then disappears.

Before hiring a contractor, get several estimates, talk to references, check to make sure the contractor is licensed and bonded, and be sure the important terms are in writing. In Alaska, contractors must be registered with the Division of Corporations, Business and Professional Licensing.

You can check a license by calling the Division at (907) 465-2534 or by going to Search and selecting at "construction contractors" at www.commerce.state.ak.us/occ/search3.htm, and clicking on the Professional license search button and entering "con" for the board code.

PHISHING

"Phishing" occurs when Internet fraudsters send an email or pop-up message that claims to be from a business, organization, or even a government agency that you may deal with. The message states that there is a problem with your account and directs you to a website that looks just like the legitimate organization's website. But it is a fake website designed to trick you into revealing your account information, passwords, or other personal information.

To avoid being hooked by a phishing scam, never reply to an email that asks for personal information, and don't click on links in an email of this type.

Legitimate organizations don't ask for account information or personal information by sending you an email. If you are concerned about your account, contact the business or organization using a telephone number that you know is legitimate (not the number in the suspicious email!). You can forward phishing email to spam@uce.gov.

Victims of phishing can become victims of identity theft. Read more about identity theft below.

INVESTMENT SCAMS

"These gas wells are guaranteed to produce \$6,800 a month in income. Some of the most successful investors in the country are interested in these wells. There are only two units left in this project, so you must act now."

If someone tells you you can strike it rich with little or no risk by investing in oil and gas wells, buying gold coins, or participating in any other scheme where they say you'll get rich quick, beware. Don't invest until you investigate!



FINANCIAL CONTINUED....

If you have questions about investments, call the Division of Banking and Securities' toll free hotline: 1-888-925-2521 or go to www.commerce.state.ak.us/bsc/secur.htm for more information.

What Can I Do About Unwanted Telephone Solicitations?

To reduce the number of calls you receive, register your telephone number (including your cell phone number) with the national Do Not Call Registry which is maintained by the Federal Trade Commission (FTC). You can register online at www.donotcall.gov or call 1-888-382-1222.

There are a number of exemptions to the do not call registry, so not all telemarketing calls will stop. If you receive calls after you've registered, tell the caller that you are on the national do not call list. If the caller says he or she is with a charitable organization or the business is exempt from complying, tell the caller that you want to be placed on the charity's or business's internal do not call list.

Under Alaska law, during the first 15 seconds of a call telemarketers must disclose their name and phone number, on whose behalf they are calling, and that the call is a sales call. If the consumer says he or she is not interested, the telemarketer must end the call immediately.

Also, it is illegal under Alaska law for a telemarketer to use an automated or prerecorded message as a telephonic solicitation or advertisement.

Keep notes of the telephone solicitations you receive including the date and time of the call, the caller's and business or organization's name, and the substance of the call. Report violations to the FTC (www.donotcall.gov) and by filing a complaint with the Alaska Attorney General's Office (www.law.state.ak.us/consumer; 907-269-5200 or toll free 888-576-2529).

How Can I Avoid Being a Victim of a Consumer Scam?

Never give your credit card, social security number, or any other financial information out over the telephone, by mail, or by email unless you initiate the contact and know who you are dealing with.

Here are some "red flags" that should warn you that a letter, phone call, or email you receive may be a scam:

High pressure tactics. Beware of phrases like: "You will lose out if you don't act now" or "Don't discuss your sweepstakes winnings with anyone until you get your check."

Up front payment. If you are told you must pay up front to receive your prize or winnings, it's likely to be a scam. If you've won something, it's yours and you should not have to pay anything in advance, including taxes or shipping and handling.

Refusal to provide written information. If the person or company contacts you but refuses to give information in writing, don't do business with them.

Unrealistic profits. Be skeptical if you are told that you can make lots of money quickly with no risk, or with no experience or training.

If you receive a telephone call that includes any of these red flags, just hang up. You don't have to listen. Remember that telemarketing fraud is a crime and the people who practice it are criminals.

For more information about consumer fraud, visit the Alaska Attorney General's website, www.law.state.ak.us/consumer or the Federal Trade Commission's website at www.ftc.gov. If you feel you've been the victim of an unfair or deceptive act or practice, you can file a complaint with the Attorney General's Office. Complaint forms are available at www.law.state.ak.us/consumer or by calling 269-5200 or, outside of Anchorage, 888-576-2529.

How Can I Reduce the Amount of Mail Solicitations I Receive?

The Direct Marketing Association (DMA) maintains a "do not mail" list called the Mail Preference Service. When you register, your name and address are placed on a list which is updated monthly and distributed to DMA members quarterly. You can register by sending your name and address and a \$1.00 fee (check or money order) to:

Mail Preference Service
Direct Marketing Association
PO Box 643
Carmel, NY 10512

You can also sign up at the DMA's website for a \$1 fee charged to your credit card at: www.dmaconsumers.org/cgi/offmailinglist. According to the DMA, this option is quicker than registering by mail.

You can also opt out of receiving "pre-approved" offers of credit and insurance by contacting the credit bureaus at 1-888-567-8688 or by going online to www.optoutprescreen.com. This is a free service to consumers offered by the major credit bureaus. Be sure to select the option to opt out for five years or to opt out permanently.

How Can I Avoid Being a Victim of Identity Theft?

Identity theft occurs when someone uses your personal information to commit fraud. Identity theft is a serious crime and it can happen to anyone. But you can minimize your risk of being a victim by carefully managing your personal information.

Shred or otherwise destroy all unwanted or unneeded documents that contain personal information.

FINANCIAL CONTINUED....

Secure your mail. Get a locking mailbox. Don't leave your mail out for pick up by your letter carrier.

Protect your Social Security number. Don't carry your social security card in you wallet.

Review your credit reports regularly. You are entitled to a free annual credit report from each of the three credit bureaus. You can request a free annual credit report by going to www.annualcreditreport.com, a website maintained by the three credit bureaus. Beware of offers from other entities that promise a free credit report but then charge you a fee for "monitoring" or other services.

Be on guard online. When using the Internet, use passwords that won't be easily detected, and be careful about where you keep records of your passwords.

Keep your financial records and other important documents in a secure place in your home.

What Do I Do if I've Been the Victim of Identity Theft?

If you are a victim of identity theft, take the following steps as soon as possible.

1. Place a Fraud Alert with the three credit bureaus, request a credit report, and review it carefully.

Experian (www.experian.com)
1-888-397-3742

Trans Union (www.tuc.com)
1-800-680-7289

Equifax (www.equifax.com)
1-800-525-6285

2. Close accounts that have been tampered with or opened fraudulently.

3. File a police report. The police may not be able to solve the crime or get your money back, but it is important for you to make a record that you filed the report.

4. Report the theft to the FTC at www.ftc.gov/idtheft.

5. Prepare an ID theft affidavit for use if you need it later, by writing down what happened, signing the paper, and getting your signature notarized.

Keep records of the calls you make to report the ID theft (when you called, who you spoke to, and a summary of the conversation), and keep all related correspondence. For more information about ID theft, go to www.ftc.gov/idtheft.

What Is a Credit Report? How Can I Get a Free Annual Credit Report?

A credit report contains information on where you live, how you pay your bills, and whether you have been sued, arrested, or filed for bankruptcy. There are three nationwide companies that collect this information: Equifax, Experian, and TransUnion. Each is required to give you a free copy of your credit report once every 12 months.

Regularly reviewing your credit report is an important step in guarding against identity theft. Identity thieves could use your personal information to open a credit card account or other accounts in your name. Then, if they failed to pay the bills, that account would be reported on your credit report.

In reviewing your report, if you think unauthorized accounts have been opened in your name, or if you see other suspicious information such as addresses that are not yours, you should contact the credit bureaus to place a fraud alert on your file. (See the ID Theft section).

A credit report is also important if you are applying for a loan for a major purchase like a house or car because it will affect whether you can get a loan and how much you have to pay to borrow money.

If there is inaccurate or incomplete information on your credit report, you should inform the consumer reporting company **in writing** about what information you think is wrong. The company generally has 30 days to investigate and must contact the entity that placed the item on your credit report. If the entity finds that information is wrong, it must notify all three consumer reporting companies to correct the information.

The three consumer reporting companies have set up a central website, a toll-free number, and a mailing address for consumers to request free annual credit reports. **Do not contact the companies individually or you may be charged for your request.** To get your report, you will need to provide your name, address, social security number, date of birth, and possibly additional information to verify your identity.

- If you want to go online to request your annual credit report, go to www.annualcreditreport.com
- If you want to make your request by telephone, call the toll free number, 1-877-322-8228.

FINANCIAL CONTINUED....

- If you want to mail your request, you can download the form from www.annualcreditreport.com and send it to:

Annual Credit Report Request Service
P.O. Box 105281
Atlanta, Georgia 30348-5281

If you request your credit report online, you will get it right away. Requests by mail or phone may take several weeks. You can request all three credit reports at once, or stagger your requests from each company so that you receive one every four months. The information that you will get from each of the companies will be similar but not necessarily the same since they get their information from different sources.

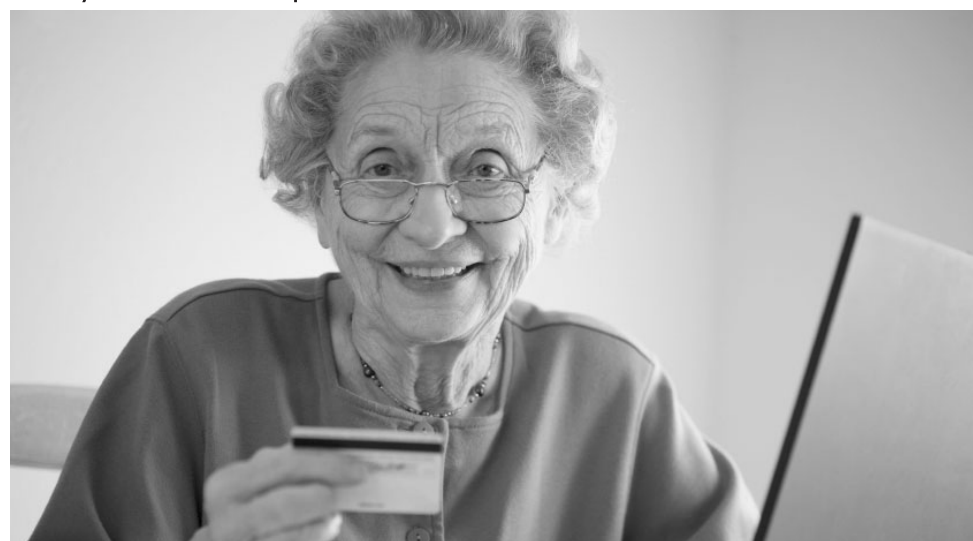
Be sure that the website you visit is www.annualcreditreport.com. Be careful about similar sounding websites that claim to offer free credit reports, but charge you for a related service. Some "imposter" websites may direct you to other sites in order to collect your personal information. If you get an email, a pop-up ad or a phone call from someone claiming to be from annualcreditreport.com or any of the three consumer reporting companies, do not respond or click on any links in the email because it may be a scam.

TROUBLE WITH BILLS?

If you are having trouble paying your bills, it is important to determine whether it was caused by a one time event from which you can recover, or from circumstances that have changed your financial condition for a long period of time.

If you have suffered a temporary setback, creditors may agree to give you more time to make payments, reduce your interest rates, or even reduce the amounts owed in special situations. You can call your creditors directly to see if they are willing to provide some relief. There are also credit and debt counseling agencies that will contact your creditors for you and help set up a debt repayment plan if you can't or don't want to file for bankruptcy.

However, if your financial circumstances have changed for the long-term, then bankruptcy may be your best option.



WHAT IS BANKRUPTCY AND HOW DO I FILE?

Bankruptcy allows a person to "discharge" debts. Not all debts go away in bankruptcy. If you are thinking about bankruptcy you should consult an attorney before you file.

Generally, *personal bankruptcies* are filed under **Chapter 7** for liquidation. In Chapter 7, you turn over all of your non-exempt assets to a bankruptcy trustee who liquidates (sells) your assets and distributes the money to your creditors. To qualify for Chapter 7 bankruptcy, you must meet specific income requirements.

The second way to file bankruptcy is under **Chapter 13**, which requires an *individual repayment plan*. People who make more than the income requirements of Chapter 7 must generally repay their creditors over a period of three to five years through Chapter 13 bankruptcy. In Chapter 13, however, you are allowed to settle certain unpaid debts (on property such as your house or car) and keep your property, so long as you are able to perform your plan.

Before you file for personal bankruptcy, you must complete credit counseling from an agency approved by the United States Trustee. You can get the counseling in person or over the Internet. For lists of approved counselors contact the US Trustee's office or visit www.usdoj.gov/ust/eo/bapcpa/ccde/cc_approved.htm. To file bankruptcy you must file a petition choosing the chapter of bankruptcy, and provide

- (1) a list of creditors,
- (2) charts identifying your assets and the amount you owe, and
- (3) a *statement of financial affairs* answering a series of questions about your financial history.

A list of the specific forms necessary to file bankruptcy under the different chapters can be found at www.akb.uscourts.gov, under the tab *Filing On Your Own*, and then *Required Forms*. Once you file bankruptcy, you will be required to attend a meeting of creditors where your creditors (and the Chapter 7 trustee) can ask you questions about your finances under oath. You must also complete a personal financial management counseling course.

Bankruptcy does not solve all financial problems, and should not be taken lightly. Bankruptcy may not provide any benefit if (1) you have few assets and little or no income, or (2) you have debt where the creditor has secured your house or other collateral.

For additional general information on bankruptcy in Alaska visit the Bankruptcy Court's website: www.akb.uscourts.gov

FINANCIAL CONTINUED....

and select the tab *Filing On Your Own*, and then *General Questions About Filing a Bankruptcy Case*. Before filing for bankruptcy you should contact an attorney.

WHAT ARE BANKRUPTCY EXEMPTIONS?

Alaska law allows people to keep certain property from creditors whether you file bankruptcy or not. These are called *exempt* assets and include, for example, a certain amount of equity in your home and car, personal property, and retirement accounts. The amount of money you can keep may depend on whether your income is the sole source for you and your family.

Generally, creditors cannot take money held in retirement accounts. Usually they cannot seize money from Social Security payments unless it is for court ordered child support, alimony or unpaid federal taxes. Generally, a private creditor can only take money from you after suing you and getting a judgment (an order stating that you owe the creditor a specific amount of money). You must get notice of any effort to take your money to pay the judgment, and an opportunity to claim any exemptions.

A person filing for bankruptcy in Alaska may choose exemptions under either Alaska law or the federal Bankruptcy Code. Exempt assets do not become part of the bankruptcy "estate." There are significant differences between the exemptions allowed under Alaska law and the federal Bankruptcy Code, and you should talk to an attorney before choosing your exemptions.

Generally, Alaska law allows you to exempt more equity in your house, while the exemptions under the federal Bankruptcy Code are more flexible and have a wildcard exemption to be used as you may need. You should be very cautious of any creditor asking you to refinance your house, or take cash from your retirement account.

WHAT IS BANKRUPTCY FRAUD?

Should you choose to file for bankruptcy you must honestly and completely list all of your assets and interests in property. If you don't file honestly, you could still be liable for some or all of your debts even though you filed for bankruptcy. It is also a federal crime to hide or intentionally fail to fully disclose your assets in bankruptcy.



How Do I Transfer My ANCSA Stock?

If you are enrolled as a shareholder in a regional or village corporation created under the Alaska Native Claims Settlement Act "ANCSA," your choices for when, how and to whom you can transfer your shares of common stock, whether during your life or at your death, are guided by three main sources: ANCSA, the laws of the State of Alaska, and your corporation's policies for complying with ANCSA and state law.

1. Transferring ANCSA Stock While You Are Alive.

There is no law that requires you to transfer your shares during your life. However, some people choose to give their shares to important individuals in their life, often younger family members. If you decide that you want to give your stock while you are alive, your options are limited. You are not allowed to make a gift of your shares to anyone you choose. ANCSA provides that you may only give your shares to the following individuals:

- (1) your children;
- (2) your grandchildren;
- (3) your great grandchildren;
- (4) your nieces or nephews; or
- (5) if you are over 18, to your brothers or sisters.

But you cannot give your stock to your spouse or to your parents.

In addition, if you plan to give any shares to a person that has not yet reached the age of 18, you will have to decide whom to make the "custodian" of the shares. You can choose to act as the custodian or you may pick another person. If you do not select a custodian, then Alaska law will determine who will act as custodian.

The custodian holds the shares on behalf of the minor, until the minor reaches the age of 18. While the shares are held by the custodian, the custodian must follow certain rules set out in Alaska law to ensure that the shares and any dividends paid by the corporation are protected for the benefit of the minor. Generally, the custodian will also have the right to vote on behalf of the minor on corporate decisions.

Once you have decided to give your shares to someone in an approved categories (listed above), you should contact the corporation. The corporation will provide you with the proper paperwork necessary to transfer the stock, including forms for appointing a custodian, if appropriate.

FINANCIAL CONTINUED....

2. Transferring ANCSA Stock at Death. If you do not transfer your shares while you are alive, you should plan for how and to whom your shares will be transferred upon your death. There are four methods for transferring your shares at death.

First, check to see if your corporation has provided you with a physical stock certificate representing your shares. If it has, determine whether there is a place on the back of the stock certificate to fill in the names of the people who should receive your stock at your death. If there is such a space, fill in the appropriate names in the appropriate places and provide a copy to your corporation for its files.

Second, if you do not have a physical stock certificate, contact your corporation to obtain a "stock will." A stock will is a document specifically designed for you to designate the people that will receive your ANCSA stock at your death.

Third, if you do not have a stock will or would like to give away your shares in the same document in which you distribute your other property, you can make a will and set out who should get your shares. It is a good idea to contact an attorney, or if that is not possible, your corporation, to make sure you follow the legal requirements for making a valid or legally enforceable will.

Finally, if you have not done any of these above described options, or if your will is found to be invalid or not legally enforceable, your shares will pass according to the intestacy laws of Alaska. Intestacy laws set out who is entitled to your property, including your shares.

In general, it is a better idea to take the time to fill out the stock certificate, stock will, or will and avoid having your shares pass by intestacy. This way your choice will be honored and it will be easier for your corporation to make sure that the people you select get your shares.

As a final note, if you have filled out different forms over the course of your life, make sure that it is clear and easy for you, your heirs and your corporation to determine which document should be honored.



Legal Rights & Resources

What Is Adult Protection and Who Needs it?

Sometimes adults need help protecting themselves. In Alaska, the law forbids the State from interfering with elderly or disabled adults who are capable of caring for themselves. However, adults that have a physical or mental impairment or a condition that prevents them from protecting themselves, or from seeking help, may need the assistance of Adult Protective Services.

Adult Protective Services may be needed in situations such as these:

- Abandonment—leaving a vulnerable adult without a caregiver.
- Neglect—intentional failure to provide essential services by a caregiver to a vulnerable adult.
- Self-neglect—a vulnerable adult fails to look after their own basic mental, emotional, or physical health and safety.
- Exploitation—unjustly using a vulnerable adult or their resources for one's own benefit.
- Abuse—hurting someone intentionally or in a way that causes pain, injury, mental distress and/or sexual assault.

(Note: Alaska's law says that a vulnerable adult can be anyone 18 years or older.)

For more information: www.hss.state.ak.us/dsds or by phone at 1-800-478-9996.

Handling Legal Disputes and Protecting Your Rights through Mediation.

Handling legal disputes and protecting your legal rights can be a challenge in your senior years. For many older Alaskans, court proceedings are overly complicated, confusing and expensive. But there are a number of different ways to settle a disagreement without going to court, called alternative dispute resolution. Mediation is a popular example.

WHAT IS MEDIATION?

Mediation is an informal, voluntary and confidential way to resolve disagreements without giving decision-making power to someone else, like a judge. A neutral person, called the mediator, helps people:

- Figure out the important issues in the disagreement
- Explain and understand each others' needs
- Clear up misunderstandings
- Explore creative solutions
- Reach acceptable agreements

Legal Rights & Resources Continued...

The mediator does not tell the parties what to do, or make a judgment about who is right or wrong. Decision-making stays with you.

Mediation is one form of alternative dispute resolution (ADR), which is a way of resolving conflicts outside the formal court process. Other ADR methods include arbitration, mediation-arbitration, early neutral evaluation, and settlement conferences.

WHY USE MEDIATION?

People choose mediation for many reasons:

- Mediation may be less confrontational than dealing with the issues in litigation or in front of a judge
- Mediation is private and confidential
- Mediation can save time and money
- You decide what issues to try to solve in mediation

WHAT ISSUES CAN YOU MEDIATE?

Just about any issue can be mediated when people are open to the idea of reaching agreement. Some of the issues that are particularly well suited for mediation include:

- Concerns in adult guardianship and conservatorship cases
- Making decisions about children, including custody and visitation issues
- Disputes in small claims cases

CAN YOU MEDIATE ISSUES BEFORE FILING A COURT CASE?

Yes. In fact, many people avoid a contested case by going to mediation before filing a case.

SHOULD WE MEDIATE IF THERE HAS BEEN DOMESTIC VIOLENCE BETWEEN US?

Mediation may NOT be appropriate when there has been domestic violence between you and another person in the case.

If you are considering mediation with a person who controls or attempts to control you through force, intimidation or the threat of violence, you should request a private session to discuss this with the mediator.

If you are a victim of domestic violence, you cannot be required to participate in mediation unless you want to. Mediation in cases involving domestic violence must be provided by a mediator who is trained in the dynamics of domestic violence to protect your safety and the safety of any household members. As a victim of domestic violence, you are entitled to bring a support person or advocate to the mediation, including a lawyer.

MEDIATION RESOURCES

Anyone can act as a mediator in Alaska - there are no state standards or licensing requirements. It is up to the parties and judges to decide what kind of training and experience they need in a mediator and to ensure that the mediator they select has the necessary skills.

Resources to help you find a mediator include:

- Alaska Bar Association Mediation Information available at <http://www.alaskabar.org>. Under the Quick Links menu, choose FAQs. In the next screen click on Mediation.
- The Alaska Dispute Settlement Association (ADSA) maintains a directory of mediators on their website at <http://www.adsa.ws/index.htm>.
- The Association for Conflict Resolution has a mediator referral service on its website at <http://www.acrnet.org>.
- The *Alaska Directory of Attorneys* provides a list of mediators under the "Alternative Dispute Resolution" tab. The directory is available at many public libraries in Alaska.
- Check your local phone book yellow pages listings under Mediation Services.

COURT MEDIATION PROGRAMS

Some courts have programs offering mediation at no cost, or for a small fee, in the following types of cases filed with the court:

- Child custody and visitation
- Adult guardianship and conservatorship
- Child in Need of Aid
- Small Claims

More details about these mediation programs and which courts offer them can be found below.

Child Custody and Visitation Mediation Program

Courts in Anchorage, Palmer, Fairbanks, Kenai, Homer, Juneau, Ketchikan, and Sitka offer mediation in child custody cases. The mediator helps resolve disputes about access and visitation concerns. There is no fee for this service unless the parties wish to mediate additional issues or require more time than allowed by program.

Adult Guardianship and Conservatorship Mediation Program

Anchorage, Kenai, Homer, Palmer, Fairbanks, Bethel, Dillingham, Valdez and Kodiak courts offer mediation services in adult guardianship and conservatorship cases. The mediator helps those involved make decisions and create plans that will best meet the needs of the vulnerable adult. There is no fee for this service.

Legal Rights & Resources Continued...

The publication, *Considering Guardianship or Conservatorship? Consider Mediation*, provides additional information and can be found at www.state.ak.us/courts/mediation/pub-37.pdf. Other helpful court forms are located at www.state.ak.us/courts/mediation.htm.

Child in Need of Aid Mediation Program
Courts in Anchorage, Palmer, Fairbanks, Kenai, Homer, Dillingham, Bethel, Kodiak, and Nome offer mediation services in Child in Need of Aid (CINA) cases. There is no fee for this service. The mediator helps parties in these cases resolve disagreements about case plans, placement, family-child contact, and many other concerns.

Small Claims Mediation Program

Anchorage District Court regularly offers mediation in small claims cases. This free service is provided by volunteer, trained mediators who assist parties in resolving the issues in their case. Mediation is carried out on the morning that a case is set for trial, and any case that is not resolved through mediation is generally returned to the courtroom the same morning for trial.

WHERE CAN YOU FIND MORE SPECIFIC INFORMATION ABOUT MEDIATION IN ALASKA?

The Alaska Court System has a very helpful website dedicated to mediation which can be found at www.state.ak.us/courts/mediation.htm.

The website includes information about how long mediation takes, how much it costs, how to begin the mediation process, how to find and choose a mediator, and much more.

Legal Resources

Several organizations in Alaska offer legal services to seniors for free. Typically, these organizations can only assist those with the greatest need, such as seniors facing eviction or loss of public benefits.

The Alaska Immigration Justice Project is a non-profit agency that provides low-cost immigration legal services to immigrants in all immigration applications, including citizenship applications, permanent resident status, work permits, family petitions, and petitions for domestic violence victims.

Alaska Immigration Justice Project
431 West 7th Ave., Suite 208
Anchorage, AK 99501
Phone: (907) 279-2457

Alaska Legal Services Corporation helps low income people with family law, housing, Native Allotments, subsistence or Indian/Tribal law. ALSC has free legal clinics in some locations on different topics. They have free information and forms in their offices and on the internet to help with Medicaid, living wills, power of attorney, disability and landlord tenant issues. ALSC has offices in Anchorage, Bethel, Dillingham, Fairbanks, Juneau, Ketchikan, and Kotzebue.

Alaska Legal Services Corporation

Anchorage office

(see website for complete contact information)

1016 West 6th Ave., Suite 200

Anchorage, Ak 99501

Phone: (907) 272-9431

Toll-Free Outside Anchorage: 1-888-478-2572

Fax: (907) 279-7417

www.alsc-law.org/

www.alaskalawhelp.org

Office of Elder Fraud and Assistance. This office investigates claims about financial exploitation of Alaskans 60 and older. They help elders unable to bring a complaint without assistance and hopefully receive civil remedies.

Office of Elder Fraud and Assistance

900 West 5th Avenue, Suite 702

Anchorage, AK 99501

Phone: (907) 334-5989

Fax: (907) 375-7788

(888) 925-2521 Statewide Fraud Hotline

www.state.ak.us/local/akpages/ADMIN/opa/oe_fa/home.shtml

The **Alaska Native Justice Center** serves as a bridge between Alaska Natives and Alaska's justice systems. ANJC provides individuals with resources and offers support to all parties involved in legal issues. ANJC offers legal clinics and legal advocate trainings in rural Alaska.

Alaska Native Justice Center

3600 San Jeronimo Drive, Suite 264

Anchorage, AK 99508

Phone: (907) 793-3550

Fax: (907) 793-3570

www.anjc.org

The **Alaska Network on Domestic Violence & Sexual Assault** has 20 member programs throughout Alaska. Legal advocates work with both the client and their attorney. ANDVSA provides direct representation for victims in divorce, child custody and protective order proceedings. The website has a free in-depth resource for women entitled *Women's Legal Rights Handbook*. There is a screening process but no income requirement.

Legal Rights & Resources Continued...

Alaska Network on Domestic Violence & Sexual Assault
Phone: 907.586.3650
Toll Free: 1-888-988-3725
www.andvsa.org/

The Alaska **Office of Victims' Rights** is a state agency that provides free legal services to victims of crime with regard to their contacts with police, prosecutors, judges, and other criminal justice agencies in this state, and in court.

State of Alaska Office Of Victims' Rights
1007 West 3rd Ave., Suite 205
Anchorage, AK 99501-1936
Phone: (907) 272-2620
Toll free within Alaska: 1-866-274-2620
Fax: (907) 272-2640
www.officeofvictimsrights.legis.state.ak.us

The **Alaska Pro Bono Program** (APBP) is a statewide organization that provides free civil legal services to low income people. APBP mostly focuses on the cases that Alaska Legal Services Corporation (ALSC) is restricted from handling. There is no office, you must visit the website or call.

Alaska Pro Bono Program, Inc.
Phone: (907) 529-1860
www.alaskaprobono.org

The **Disability Law Center** of Alaska has a mission to promote and protect the legal and human rights of individuals with physical or mental disabilities. DLC has offices in Anchorage, Fairbanks, Bethel, and Juneau, and provides legally based advocacy to the disability community throughout Alaska. The Disability Law Center has an Intake Advocate available during regular business hours to give general information, make referrals to other agencies, send written materials, and answer questions about the DLC. Common issues include Social Security Insurance, housing and education.

Disability Law Center of Alaska
3330 Arctic Boulevard, Suite 103
Anchorage, AK 99503
Phone: (907) 565-1002 Phone/TTY
Fax: (907) 565-1000
Toll Free: 1-800-478-1234 Phone/TTY (In State Only)
www.dlcak.org
E-mail: akpa@dlcak.org

The **Family Law Self-Help Center** is a free statewide public service provided by the Alaska Court System dedicated to helping self-represented people achieve a better understanding of family law procedures, increasing access to family law courts, and helping people solve their family law issues faster. The Center also provides referrals to social service and legal organizations and government agencies. It offers information over the phone and on their website, which has forms available in English and Spanish. They offer monthly family law legal clinics in some locations.

Family Law Self-Help Center
Phone: (907) 264-0851
Toll Free: 1-866-279-0851
www.state.ak.us/courts/selfhelp.htm

The **Law Project for Psychiatric Rights** is a public interest law firm devoted to the defense of people facing the horrors of unwarranted forced psychiatric drugging. Psych Rights focuses primarily on court ordered psychiatric drugging and electroshock therapy.

Law Project for Psychiatric Rights
Phone: (907) 274-7686
Website: www.psychrights.org/
Email: jim@psychrights.org

The **Native American Rights Fund** concentrates on five areas: the preservation of tribal existence; the protection of tribal natural resources; the promotion of Native American human rights; the accountability of governments to Native Americans; and the development of Indian law and educating the public about Indian rights, laws, and issues. NARF has an office in Anchorage.

Native American Rights Fund
420 L Street, Suite 505
Anchorage, AK 99501
Phone: (907) 276-0680
Fax: (907) 276-2466
www.narf.org

Finally, the **Municipality of Anchorage** has a website with links to various resources, including legal resources. Although geared towards Anchorage residents, the information is relevant to all Alaskans.

Legal resources:
www.muni.org/health2/legal_web_resources.cfm

General resources:
www.muni.org/health2/community_resources.cfm

Legal Rights & Resources Continued...

The Top 10 Most Frequently Asked Questions About Landlord-Tenant Law in Alaska

1. Can My Landlord Charge a Late Fee If the Rent Is Late?

Your landlord can charge late fees **only** if the rental agreement contains a provision allowing the landlord to do so. Otherwise, there is nothing in Alaska law that allows landlords to automatically charge late fees whenever a tenant pays the rent late.

If the rental agreement does provide for a late charge, it must reasonably approximate the actual costs incurred by the landlord as a result of the tenant's failure to pay the rent on time. The landlord cannot charge a late fee just to punish the tenant for late payment.

2. When Can a Landlord Raise My Rent?

If you have a long-term tenancy (such as a 1-year lease or 6-month lease), your landlord may **not** raise the rent in the middle of the lease. If you have a periodic tenancy (such as a month-to-month or week-to-week tenancy), your landlord can increase the rent with proper advance notice (14 days notice for a week-to-week tenancy or 30 days for a month-to-month tenancy).

3. Is There a Limit on the Security Deposit a Landlord Can Charge?

Yes. Unless your rent is more than \$2,000 per month, your landlord may not demand a security deposit or prepaid rent (such as last month's rent) worth more than two months' rent.

4. How Much Time Does My Landlord Have to Return My Security Deposit After I Move Out?

If you have moved out with proper notice, the landlord has 14 days after you move out to refund your security deposit and mail you a written notice explaining how any money from your security deposit was used. *Make sure you provide your landlord with a valid forwarding address before moving out!*

If you move out without giving your landlord proper notice, the landlord will have 30 days to refund your security deposit and mail you a written notice explaining how any money from your security deposit was used.

5. When Can My Landlord Keep My Security Deposit?

A landlord can apply your security deposit **only** to: (1) any rent that you still owe the landlord when you move out (not late fees or other miscellaneous charges); and (2) the cost of repairing any damage to the premises that was not the result of normal wear and tear. If your landlord deducts any money from your security deposit, he or she must provide you with a written notice that explains why the money was deducted.

6. What If My Landlord Illegally Keeps My Security Deposit?

If your landlord illegally keeps all or part of your security deposit, you can sue your landlord in small claims court and recover up to twice the amount that was illegally withheld.

If you think there is a good chance that your landlord will not refund your security deposit after you move out, it is a good idea to document the condition of the premises at the time you move out by taking lots of pictures. Often, landlords will agree to do a joint walk through of the premises to make a joint list of any damage to the premises.

7. When Can a Landlord Enter My Apartment?

Except in the case of an emergency, a landlord can enter the premises **only** (1) after giving the tenant at least 24-hours notice of his or her intention to enter the premises; (2) at a reasonable time; and (3) with the consent of the tenant. Your landlord may not use the right of access to harass tenants.

While your landlord may not enter without your consent, you may not unreasonably withhold consent to your landlord to enter into the dwelling unit for reasons like inspecting the premises, making necessary or agreed repairs, or showing the dwelling unit to prospective purchasers, tenants, or contractors.

8. What Are My Landlord's Responsibilities During My Tenancy?

Your landlord is responsible for maintaining the rented premises in a fit and habitable condition during your tenancy. This includes:

- Making all repairs necessary to comply with local housing codes;
- Keeping all common areas clean and safe;
- Maintaining in good and safe working order all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, kitchen, and other facilities and appliances, including elevators, supplied or required to be supplied by the landlord;
- Providing appropriate receptacles for the removal of ashes, garbage, and other waste (and arranging for their removal);
- Supplying running water, hot water and heat at all times (unless heat or hot water is within the exclusive control of the tenant and supplied by a direct public utility connection);

Legal Rights & Resources Continued...

- If requested, providing and maintaining locks and furnishing keys adequate to keep you and your property safe; and
- Providing smoke detection devices and carbon monoxide detection devices.

9. What Are My Responsibilities During My Tenancy?

Tenants are responsible for:

- Keeping your apartment as clean and safe as possible;
- Disposing of all ashes, garbage, and other waste from the dwelling unit in a clean and safe manner;
- Keeping all plumbing fixtures like the toilet or sink in the apartment as clean as possible;
- Using in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, kitchen, and other facilities and appliances including elevators in the premises;
- Not deliberately or negligently destroying anything in the unit or allowing others to do so;
- Not unreasonably disturbing neighbors or allowing your visitors to do so;
- Keeping smoke and carbon monoxide detectors in working condition by changing the batteries when necessary, testing the devices periodically, and refraining from permanently disabling the devices.

10. Where Can I Find More Information on Landlord-Tenant Law in Alaska?

You can find more information on landlord-tenant law in Alaska on the internet at AlaskaLawHelp.org.

Caring For your Grandchildren: Your Rights as a Grandparent

Caring for your grandchildren is not as easy as simply opening up your home to them. There are many legal matters that affect your ability to care for your grandchildren. You will need to know your rights as a grandparent, how to get more legal rights, and the programs that the State of Alaska offers to help you financially. Many of your rights as a grandparent are triggered in the child custody context.



WHAT IF THE STATE TAKES CUSTODY OF MY GRANDCHILDREN?

You have rights when your grandchildren are taken into the custody of the state. The state must send you a letter to tell you that your grandchildren have been taken out of their parents' home. The letter will also give you the time and date for the next court hearing. You have the right to go to the court hearings where the court will decide what will happen with your grandchildren. You also have the right to speak to the judge and everyone else at the hearings to tell them what you think.

DO I HAVE ANY LEGAL RIGHTS TO MAKE DECISIONS FOR MY GRANDCHILDREN?

The social worker assigned to your family's case must try to find family members to care for your grandchildren before putting them in a foster home. So you should tell the social worker and the judge if you want your grandchildren to stay with you in your home. If you cannot care for your grandchildren, you still have the right to visit them. You can tell the judge that you want to visit your grandchildren.

The judge will decide how often you can visit and for how long. The Alaska Court System's Family Law Self-Help Center is a free information service that can help you through the legal process of requesting custody or visitation rights. You can visit them on line for this information and legal forms at www.state.ak.us/guardianship/pdfs/Delegations.pdf. You can also call their telephone help line at (907) 264-0851 or toll free at (866) 279-0851 if you live outside of Anchorage.

Even if your grandchildren come to stay with you, their parents will still have rights to make important decisions. But if the parents are not around, you will need to have legal papers to make decisions about your grandchildren's education, health, and daily care. If your grandchildren are going to stay with you for a short time only, you may want to ask their parents to sign a form giving you "power of attorney." (Forms can be found at www.state.ak.us/guardianship/pdfs/Delegations.pdf) That way, you will at least be able to enroll them in school and make decisions about their medical care. If your grandchildren will be staying with you for a long time, you may want to become their "guardian."

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HOW DO I BECOME MY GRANDCHILD'S GUARDIAN?

Becoming a guardian will give you legal custody of your grandchildren and you will be able to make many important decisions as long as they are younger than 18 years old. It is easiest to become a guardian if your grandchild is at least 10 years old. To become a guardian, you need to file a "petition for guardianship" in court and then the judge will decide if you can be a guardian. The Family Law Self-Help Center can help you with the process of becoming a guardian. More information is available at www.state.ak.us/guardianship/ or www.state.ak.us/courts/guardianship.htm.

WHAT IF I AM AN ALASKAN NATIVE?

If you are part of an Indian tribe and are caring for someone else's child in your home, you may be an "Indian custodian." This usually happens when a child's parents tells you to that the child can stay with you in your home while they are away. It can also happen when a parent, an Indian tribe, or a judge gives you legal custody of the child. Being an Indian custodian means that you have the right to make important decisions about the child's education, medical care, and daily care.

IS THERE FINANCIAL ASSISTANCE AVAILABLE?

If you cannot afford to care for your grandchildren, the state can help. Denali KidCare will provide health insurance for children who are less than 18 years old and financially eligible.

(More information is available at www.hss.state.ak.us/dhcs/DenaliKidCare/default.htm.) All children are enrolled in Denali KidCare when they are taken into the state's custody. The Alaska Temporary Assistance Program (ATAP) can give you money, help you find and keep a job, and help you with child care if you are working or looking for a job.

(More information is available at www.hss.state.ak.us/dpa/programs/atap/.)

The Child Care Program Office (CCPO) can tell you whether you qualify for child care assistance and will help you find child care providers close to your home. (More information is available at www.hss.state.ak.us/dpa/programs/ccare/.) There are many other programs that may help you care for your grandchildren in your home and you can find them online at www.hss.state.ak.us/dpa/.



Will I Still Be Able to Drive as I Get Older?

Simply getting around can be a challenge as you get older. While your age alone is not reason enough to limit or take away your driver's license, you can lose your driving rights based on poor vision or other medical conditions, by failing a driving test, or by breaking the law.

There are no additional or different licensing requirements in Alaska for older Alaskans than there are for other drivers. However, when you reach age 69, you can no longer renew your license by mail. Also, some of the general licensing requirements may affect older Alaskans more than other people. For example, you may not receive a license if your corrected vision is 20/100 or worse in both eyes. If you have a progressive eye disease or condition, such as cataract or glaucoma, the DMV may require you to take an eye test each year.

Some other conditions may affect your ability to get a license. The DMV can also refuse to issue or renew your driver's license if you are an alcoholic or addicted to certain drugs, or if you have a physical or mental disability that prevents you from driving safely.

Also the DMV will not issue you a driver's license if you have had an uncontrolled seizure or a loss of consciousness as a result of a medical condition. But in some situations, the DMV may issue you a driver's license even if you have one of the above-mentioned conditions if your doctor writes a letter to the DMV stating that you have your condition under control and that you can safely drive.

You can be reported for bad driving. The government, your doctor, or a member of the general public, including a family member, may request the DMV to cancel your driver's license if they believe that you are no longer able to safely operate your vehicle. The person making the request may ask the DMV to keep their name confidential. If the DMV has reason to believe that you are not qualified to be a licensed driver, then it may require you to take a physical or mental exam or retake the driver's test. If you do not pass the exams, then the DMV may cancel or limit your driving privileges.

Legal Rights & Resources Continued...

CAN MY DRIVER'S LICENSE BE TAKEN AWAY?

The DMV can limit your driving rights rather than revoke your license. The DMV may, if it has good cause, restrict your license to assure that you safely operate your vehicle.

You can try to improve your driving skills through refresher courses. Mature driver education courses are available for drivers who are 55 years old or older. For example, the American Association of Retired Persons ("AARP") conducts an 8-hour Driver Safety Program in Alaska. To find the class nearest you, visit www.aarp.org/families/drive_safety. If you successfully complete the course, you may be eligible to receive a discount on your auto insurance premiums. For additional information geared toward senior drivers, visit the National Highway Traffic Safety Administration's web site at www.nhtsa.dot.gov (go to *Traffic Safety*, then to *Older Drivers*).

There are also resources that can help you evaluate your own – or an elderly parent's – driving skills. For example, visit the AAA Foundation for Traffic Safety's web site at www.aaafoundation.org/quizzes. Check out the resources at www.seniordrives.org (such as AAA's "Roadwise Review"). Or go to www.aarp.org to test your "Driving IQ" and learn a few warning signs for when to limit or stop driving (go to *Family, Health and Legal* on the menu bar, then *Driver Safety*).

Age Discrimination in Employment

CAN I BE TURNED DOWN FOR A JOB OR A WORK TRAINING PROGRAM BECAUSE OF MY AGE?

No. Under Age Discrimination in Employment Act (ADEA), an employer cannot fire you, lay you off, refuse to hire you, or otherwise discriminate against you simply because you are over the age of 40. The federal ADEA prohibits discrimination by employers with 20 or more employees, including state and local governments.

However, if your employer is discriminating against you, you must first file a complaint with the United States Equal Employment Opportunity Commission (EEOC) or the Alaska State Commission on Human Rights (ASCHR) *before* you file a civil lawsuit.



Alaska State law and some municipal codes, including the Anchorage Municipal Code, also prohibit discrimination based on age. Laws prohibit discrimination based on any age, not just those over 40, and cover employers with one or more employees.

Alaska State Law is enforced by the Alaska State Commission on Human Rights. The Anchorage Municipal Code is enforced by the Anchorage Equal Rights Commission (AERC).

CAN MY EMPLOYER DENY ME BENEFITS BECAUSE OF MY AGE?

No. The Age Discrimination in Employment Act also prohibits employers from denying benefits to older employees. However, an employer may reduce benefits if the cost of providing reduced benefits is the same for both older and younger workers.

Resources:

U.S. Equal Employment Opportunity website, www.eeoc.gov/EEOC. See the section named "Discrimination by Type" and click on the link for "Age." See also the EEOC's Questions and Answers: Compliance Manual Section on Employee Benefits at www.eeoc.gov/policy/docs/qanda-benefits.html

Anchorage Equal Rights Commission website at www.muni.org/AERC.

Alaska State Commission for Human Rights website at www.gov.state.ak.us/aschr/.

Alaska Employment Law blog: www.akemplaw.com.

THANK YOU

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Alaska Native Law Bankruptcy	Estate Planning and Probate Elder	Employment Health	Law and Community Health
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Alaska Bar Association

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