



Senior Legal Hotline

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SENIOR LEGAL FACT SHEET

Help in managing your financial affairs Some options, their advantages and their dangers

As we age, it becomes more likely that we'll need help managing money, paying bills and making wise financial decisions. Giving another person power over our property does involve some risk, but failing to do so is risky, too – it can result in our wishes not being followed once we become unable to manage our financial affairs on our own.

Although there is no one-size fits all plan when it comes to arranging for help in managing your finances, it's a good idea to give it some thought. Here are some common legal steps you can take. For more detailed advice and written guidance, contact the Senior Legal Hotline or another source of reliable legal advice.

Direct deposit/automatic payment/ATM-check cards

As the electronic age increasingly enters our lives, there are more ways to transfer money quickly and safely without having to open your wallet or write anything at all:

- Many employers, most government benefits and many private pensions can deposit your funds directly into your bank account, if you wish.
- Many utility, mortgage and other bills can be paid automatically, on the due date, from your bank account, if you request it.
- An ATM card can be used to withdraw cash from a machine but also to pay for many purchases.

***Advantages:** Checks and bills won't be forgotten, misplaced or lost in the mail. With an ATM card, you don't need to go to the bank personally during regular hours, and you don't need to carry as much cash.*

***Dangers:** Mistakes can happen, so examine all income reports, bill copies and bank statements carefully even if the transfer is electronic. Read contracts closely before signing up for an automatic payment plan. Question anything you don't understand or that seems wrong. Don't give your ATM card's PIN code to anyone without complete, absolute trust: that person could empty your account.*

Joint ownership

Adding someone's name to the title to any property, from a small bank account to real estate, usually makes that person a joint owner with rights equal to yours – and means that the property will go to that joint owner upon your death.

***Advantages:** This can be extremely convenient. If you become disabled, a joint owner can do anything you could – pay bills or withdraw money from an account, make transactions with your house, sell your car, etc.*

***Dangers:** A joint owner has rights equal to yours; you can't just change your mind without her agreement, even if the change was made only for convenience's sake. This can be very dangerous if*

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the person turns out to be an abuser or a thief. Also, her part of the property may be endangered if she is sued. The joint owner automatically inherits your property, no matter what your will says and what you really wanted. Finally, there could also be tax disadvantages of using joint ownership to transfer property after death, even if it does go to the person you want. **Obtain legal advice before making anyone else a joint owner of your real property or other major items.**

Power of attorney

This is a legal document you sign to allow another person to do certain specified things with your property. It does not make the person a joint owner, and it has effect only as long as you are alive.

***Advantages:** A power of attorney is a very flexible way to give someone else a little or a lot of power to handle your affairs under conditions you choose and according to your instructions. The property remains yours, subject to your will.*

***Dangers:** A broad power of attorney can easily be abused by a dishonest person. Even if the thief is caught and goes to jail, your property may be gone. Do not grant power of attorney except to someone you trust completely. Read carefully before signing and always get legal advice first to make sure you understand it.*



You can obtain a self-help power of attorney form along with a user's guide from the Senior Legal Hotline after speaking first with an advocate.

Representative payee

Social Security and most other government pensions can go to another person on your behalf. This can be at your request, to make it easy for that other person to help manage your money, or it can be initiated by the person who wants to be payee, if he submits to the payer a doctor's letter stating that you are unable to manage your finances. The payee can be a friend, a relative or a nonprofit agency that agrees to take on the responsibility, the last usually for a small fee.

***Advantages:** Having a payee receive your pension and supervise its spending can be a good alternative to something more drastic, like conservatorship, if you are no longer able to sign a power of attorney or have no one you feel comfortable giving such broad powers to.*

***Dangers:** A dishonest payee can also steal, and if the person whose money has been taken has been declared incompetent by a doctor, it may be hard to do anything about it.*

Conservatorship

This is a court process by which one person is given full responsibility for managing the affairs of another, who officially loses legal capacity. It is done by petition to the probate court, which can be submitted by a friend or relative, by a professional conservator or by the county.

***Advantages:** There is a court investigation before a conservatorship is granted, and periodic accountings afterward. An attorney will be appointed to represent a person who objects to being placed under conservatorship or who cannot speak for herself. Conservatorships make it possible to manage the affairs of an incapacitated person who has not made any other less formal arrangements.*

***Dangers:** On a practical level, the strict court safeguards don't always work. There are still far too many cases of abuse, neglect and theft by conservators and the conservatee loses most legal rights. Although professional conservators must be licensed by the state and are regulated by the Professional Fiduciaries Bureau created in 2007, such monitoring is not always effective.*

If you are over 60 in California, you can get free advice by phone from the Senior Legal Hotline regarding this or any other legal issue. Call (916) 551-2140 in Sacramento or (800) 222-1753 toll-free in California, Mon.-Fri. 9 to 12 and 1 to 4, and until 7 p.m. on Thursdays. Or submit your question by e-mail from our web site, www.seniorlegalhotline.org.