

# Legal Issues for Older Adults

*An Oregon Information and Reference Guide*



*A publication of the Oregon State Bar*



# Legal Issues for Older Adults

*An Oregon Information and Reference Guide*



A publication of the Oregon State Bar

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# General Resource List

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## Oregon State Bar

5200 SW Meadows Road  
Lake Oswego, OR 97035  
503-620-0222  
800-452-8260  
www.osbar.org

*Please Note:*  
More resources are  
available at the end of  
each chapter.

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## Oregon State Bar Lawyer Referral Service

Portland Area: 503-684-3763  
Toll-free in Oregon: 800-452-7636

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## Oregon State Bar Tel-Law Service

Portland Area: 503-620-3000  
Toll-free in Oregon: 800-452-4776  
Hours: Open 24 hours for those calling from a touch tone phone. Open 8:00 to 5:00, Monday through Friday, for those calling from a rotary phone. Scripts also available online at [www.osbar.org](http://www.osbar.org).

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# Local Area Agencies on Aging and Seniors & People with Disabilities Offices

---

## Baker County

Community Connection of  
Northeast Oregon, Inc.  
104 Elm Street  
La Grande, OR 97850-2621  
Phone: 541-963-3186  
FAX: 541-963-3187

Baker City Multiple Services Office  
1768 Adburn Avenue  
Baker City, OR 97814-3913  
Phone: 541-523-7176  
TTY: 541-523-5349  
FAX: 541-523-9743

---

## Benton County

Oregon Cascades West Council of  
Governments  
Senior and Disability Services  
1400 Queen Avenue SE, Suite 206  
Albany, OR 97322  
Phone: 541-967-8630  
Toll-free: 800-638-0510  
FAX: 541-967-6423

---

## Clackamas County

Clackamas Area Agency on Aging  
2051 Kaen Road, First Floor  
PO Box 2950  
Oregon City, OR 97045  
Phone: 503-655-8640  
FAX: 503-650-5722

---

## Clatsop County

Astoria Area Agency on Aging  
450 Marine Drive, Suite 100  
Astoria, OR 97103-0625  
Phone: **503-325-4543**  
FAX: **503-325-7048**

Seaside Disability Services Office  
809 S Holladay  
PO Box 860  
Seaside, OR 97138-0860  
Phone: **503-738-7050**  
Voice/TTY: **503-738-8136**  
Toll-free: **800-442-8614**  
FAX: **503-738-7392**

---

## Columbia County

Area Agency on Aging  
Community Action Team  
310 Columbia Boulevard  
St. Helens, OR 97051  
Phone: **503-366-6543**  
FAX: **503-397-3290**

St. Helens Multiple Services Office  
500 N Highway 30, Suite 240  
St. Helens, OR 97051-1200  
Phone: **503-397-5863**  
TTY: **503-397-2797**  
FAX: **503-397-0389**

---

## Coos County

Area Agency on Aging  
93781 Newport Lane  
PO Box 1118  
Coos Bay, OR 97420-0245  
Phone: **541-269-2013**  
Toll-free: **800-858-5777**  
FAX: **541-267-0194**

Coos Bay Multiple Services Office  
3030 Broadway  
North Bend, OR 97459-2222  
Phone: **541-756-2017** (voice/TTY)  
Toll-free: **800-306-9927** (voice/TTY)  
FAX: **541-756-1861**

---

## Crook County

Central Oregon Council on Aging  
1135 SW Highland Avenue  
Redmond, OR 97756  
Phone: **541-548-8817**  
FAX: **541-548-2893**

Prineville Multiple Services Office  
457 Ochoco Plaza Drive, Suite C  
Prineville, OR 97754  
Phone: **541-416-0574** (voice/TTY)  
Phone: **541-447-4511** (voice/TTY)  
Toll-free: **800-213-0315**  
FAX: **541-447-8010**

---

## Curry County

Area Agency on Aging  
93781 Newport Lane  
PO Box 1118  
Coos Bay, OR 97420-0245  
Phone: **541-269-2013**  
Toll-free: **800-858-5777**  
FAX: **541-267-0194**

Brookings/Harbor Multiple  
Services Office  
97829 Shopping Center Ave, Suite F  
PO Box 2743  
Harbor, OR 97415  
Phone: **541-469-9299** (voice/TTY)  
FAX: **541-469-0632**

Gold Beach Multiple Services Office  
94145 W Fifth Place  
PO Box 1170  
Gold Beach, OR 97444-1186  
Phone: **541-247-4515** (voice/TTY)  
Toll-free: **800-257-1385**  
FAX: **541-247-5938**

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## Deschutes County

Central Oregon Council on Aging  
1135 SW Highland Avenue  
Redmond, OR 97756  
Phone: **541-548-8817**  
FAX: **541-588-2893**

Bend Multiple Services Office  
1001 SW Emkay Drive, Suite C  
Bend, OR 97702-1061  
Phone: **541-388-6240** (voice/TTY)  
Toll-free: **800-452-5684**  
FAX: **541-388-6490**

La Pine Multiple Services Office  
16493 Bluewood Place, Suite 1  
PO Box 98  
La Pine, OR 97739  
Phone: **541-536-8919**  
FAX: **541-536-8798**

Redmond Multiple Services Office  
1135 SW Highland  
Redmond, OR 97756-2650  
Phone: **541-548-2206**  
Toll-free: **877-877-2521**  
FAX: **541-548-6026**

---

## **Douglas County**

Douglas County Senior Services  
621 W Madrone Street, Room 316  
PO Box 2189  
Roseburg, OR 97470-3093  
Phone: **541-440-3580**  
TTY: **541-440-3548**  
Toll-free: **800-234-0985**  
FAX: **541-440-3599**  
E-mail: [seniors@co.douglas.or.us](mailto:seniors@co.douglas.or.us)

North office - Drain  
Douglas County Senior Services  
316 West A Avenue  
PO Box 592  
Drain, OR 97435  
Phone: **541-836-7311**  
FAX: **541-836-7821**

West office - Reedsport  
Douglas County Senior Services  
680 Fir Avenue  
Reedsport, OR 97467-1497  
Phone: **541-271-4835**  
FAX: **541-271-5039**

South office - Canyonville  
Douglas County Senior Services  
247 N Main  
PO Box 155  
Canyonville, OR 97417-0155  
Phone: **541-839-4495**  
FAX: **541-839-4290**

Roseburg Disability Services  
251 NE Garden Valley Boulevard,  
Suite A  
Roseburg, OR 97470-0321  
Phone: **541-440-3427**  
Toll-free: **800-548-3381**  
FAX: **541-440-3482**

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## **Gilliam County**

Mid-Columbia Senior and Disabled  
Services  
700 Union Street, Room 203  
The Dalles, OR 97058-1843  
Phone: **541-298-4114**  
Toll-free: **800-452-2333**  
FAX: **541-298-1251**

---

## **Grant County**

Area Agency on Aging  
142 NE Dayton  
John Day, OR 97845  
Phone: **541-575-2949**  
FAX: **541-575-2248**

John Day Multiple Services Office  
725 W Main, Suite E  
John Day, OR 97845-1036  
Phone: **541-575-0255** (voice/TTY)  
Toll-free: **800-358-6267** (voice/TTY)  
FAX: **541-575-2910**

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## **Harney County**

Harney County Senior Citizens, Inc.  
17 S Alder Street  
Burns, OR 97720-2048  
Phone: **541-573-6024**  
FAX: **541-573-6025**

SPD Office:  
Burns Multiple Services Office  
809 W Jackson, Suite 300  
Burns, OR 97720  
Phone: **541-573-2691**(voice/TTY)  
Toll-free: **800-442-2867**  
FAX: **541-573-5823**

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## **General Resource List**

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## **Hood River County**

Mid-Columbia Senior and Disabled Services

700 Union Street, Room 203  
The Dalles, OR 97058-1843

Phone: **541-298-4114**

FAX: **541-298-1251**

Hood River Area Agency on Aging  
700 Union Street, Room 203

The Dalles, OR 97058-1843

Phone: **541-386-4417** (voice/TTY)

Phone: **541-386-9080**

Toll-free: **800-368-6209**

FAX: **541-298-1251**

---

## **Jackson County**

Rogue Valley Council of Governments Central Office

155 N First Street

PO Box 3275

Central Point, OR 97502-2209

Phone: **541-644-6674**

FAX: **541-644-7927**

Medford Senior Services Office

2860 State Street

Medford, OR 97504-8474

Phone: **541-776-6222** (voice/TTY)

Toll-free: **866-405-6042**

FAX: **541-776-6215**

Medford Disability Services Office

28 W Sixth, Suite D

PO Box 880

Medford, OR 97501-0063

Phone: **541-776-6210** (voice/TTY)

Toll-free: **800-336-8204**

FAX: **541-776-6251**

---

## **Jefferson County**

Central Oregon Council on Aging

1135 SW Highland Avenue

Redmond, OR 97756-9608

Phone: **541-548-8817**

FAX: **541-548-2893**

Madras Multiple Services Office

678 NE Highway 97, Suite D

Madras, OR 97741-1934

Phone: **541-475-6773** (voice/TTY)

FAX: **541-475-4697**

---

## **Josephine County**

Rogue Valley Council of Governments

155 N First Street

PO Box 3275

Central Point, OR 97502-2209

Phone: **541-644-6674**

FAX: **541-644-7927**

Grants Pass Senior & Disability Services Office

2166 NW Vine Street, Suite J

Grants Pass, OR 97526-1635

Phone: **541-474-3110** (voice/TTY)

Toll-free: **800-633-6409**

FAX: **541-474-3125**

---

## **Klamath County**

Klamath Basin Senior Citizens Council

2045 Arthur Street

Klamath, OR 97603

Phone: **541-883-7171**

FAX: **541-883-7175**

Klamath Falls Multiple Service Office

714 Main Street, First Floor

Klamath Falls, OR 97601-9916

Phone: **541-883-5551** (voice/TTY)

Toll-free: **800-442-0341** (voice/TTY)

FAX: **541-883-5652**

---

## **Lake County**

Lake County Seniors

11 North G Street

Lakeview, OR 97630

Phone: **541-947-4966**

FAX: **541-947-6085**

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## Lane County

Lane Council of Governments  
(LCOG)

1015 Willamette Street

PO Box 11336

Eugene, OR 97401-3536

Phone: **541-682-4498**

TTY: **541-682-4567**

FAX: **541-682-2484**

E-mail: [S&DS@lane.cog.or.us](mailto:S&DS@lane.cog.or.us)

Seniors & People with Disabilities,

LCOG - Cottage Grove

37 N Sixth

Cottage Grove, OR 97424

Phone: **541-682-7800**

FAX: **541-682-7820**

Seniors & People with Disabilities,

LCOG - Eugene

Eugene Senior Service Agency

1015 Willamette Street

PO Box 11336

Eugene, OR 97440-3536

Information & referral: **541-682-4498**

TTY: **541-682-4567**

Toll-free: **800-441-4038**

FAX: **541-682-2484**

Seniors & People with Disabilities,

LCOG - Florence

3180 Highway 101

Florence, OR 97439-0066

Phone: **541-902-9430**

FAX: **541-902-2115**

Eugene Senior and Disabled  
Services

1015 Willamette Street

PO Box 10862

Eugene, OR 97440-2862

Information & referral: **541-682-4038**

TTY: **541-682-4567**

Toll-free: **800-441-4038**

FAX: **541-682-2484**

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## Lincoln County

Oregon Cascades West Council of  
Governments

1400 Queen Avenue SE, Suite 206

Albany, OR 97322

Phone: **541-967-8630**

Toll-free: **800-638-0510**

FAX: **541-967-6423**

Toledo Area Agency on Aging

203 N Main Street

Toledo, OR 97391

Phone: **541-336-2289**

Toll-free: **800-282-6194**

TTY: **541-336-8103**

FAX: **541-336-1510**

Newport Disability Services Office

203 N Main Street

Toledo, OR 97391

Toll-free: **800-354-1095**

FAX: **541-336-1510**

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## Linn County

Oregon Cascades West Council  
of Governments

1400 Queen Avenue SE, Suite 206

Albany, OR 97322

Phone: **541-967-8630**

Toll-free: **800-638-0510**

FAX: **541-967-6423**

Albany Area Agency on Aging

1400 Queen Avenue SE

PO Box 1836

Albany, OR 97321-0501

Phone: **541-967-8630** (voice/TTY)

Toll-free: **800-638-0510**

FAX: **541-967-6423**

Albany Disability Services Office

1400 Queen Avenue SE, Suite 103

Albany, OR 97321

Phone: **541-928-3636**

Phone: **541-928-3670** (voice/TTY)

Toll-free: **888-533-2233**

FAX: **541-928-3729**

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## General Resource List

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Senior Services  
1400 Queen Avenue SE, Suite 206  
Albany, OR 97322  
Phone: 541-967-8630  
Toll-free: 800-638-0510  
TTY: 541-924-8402  
FAX: 541-967-6423

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### **Malheur County**

Malheur Council on Aging  
842 SE First Avenue  
PO Box 937  
Ontario, OR 97914-3621  
Phone: 541-889-7651  
FAX: 541-889-4940

Ontario Multiple Services Office  
186 East Lane, Suite 4  
Ontario, OR 97914-1849  
Phone: 541-889-7553 (voice/TTY)  
FAX: 541-889-2485

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### **Marion County**

Mid-Willamette Valley Senior  
Services Agency  
3410 Cherry Avenue NE  
PO Box 12189  
Salem, OR 97309-0189  
Phone: 503-304-3400  
Toll-free: 800-469-8772  
FAX: 503-304-3434

Mid-Willamette Valley Senior  
Services Agency  
Woodburn Office  
1320 Meridian Drive  
PO Box 297  
Woodburn, OR 97071-0297  
Phone: 503-981-5138  
TTY: 503-370-4307  
FAX: 503-982-8268

North Salem Disability Office  
3410 Cherry Avenue NE  
PO Box 12189  
Salem, OR 97309  
Phone: 503-304-3400  
TTY: 503-370-4307  
FAX: 503-304-3434

South Salem Disability Office  
3541 Fairview Industrial Drive SE  
PO Box 12099  
Salem, OR 97309-0099  
Phone: 503-373-7380  
FAX: 503-378-8663

Disability Services Office  
Woodburn Office  
1320 Meridian Drive  
Woodburn, OR 97071-0297  
Phone: 503-981-5138  
Phone: 503-370-4307 (voice/TTY)  
FAX: 503-982-8268

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### **Morrow County**

Community Action Program East  
Central Oregon  
721 SE Third, Suite D  
Pendleton, OR 97801  
Phone: 541-276-1926  
Toll-free: 800-752-1139  
FAX: 541-276-7541

Hermiston Multiple Services Office  
950 SE Columbia Drive, Suite E  
Hermiston, OR 97838-9422  
Phone: 541-567-2274  
TTY: 541-564-9366  
Toll-free: 800-374-8080  
FAX: 541-567-4893

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### **Multnomah County**

Multnomah Area Agency on Aging  
421 SW Oak Street, Suite 510  
Portland, OR 97204  
Phone: 503-988-3646  
FAX: 503-988-3656

Multnomah County Aging and  
Disability Services  
Nursing Facility Office  
4610 SE Belmont  
Portland, OR 97215-1752  
Phone: 503-988-4450  
TTY: 503-988-4493  
FAX: 503-988-4480

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Mid-area Aging and Disability  
Services Office  
2900 SE 122nd Avenue, B303  
Portland, OR 97236  
Phone: **503-988-5480**  
Phone: **503-988-5436** (voice/TTY)  
FAX: **503-988-3490**

East Multnomah County Aging &  
Disability Services  
600 NE Eighth Street, Room 100  
Gresham, OR 97030-7327  
Phone: **503-988-3840**  
Phone: **503-988-5678** (voice/TTY)  
FAX: **503-988-5676**

Portland Northeast Area Agency  
on Aging  
5325 NE Martin Luther King Blvd,  
B-328  
PO Box 11366  
Portland, OR 97211-0366  
Phone: **503-988-5470**  
FAX: **503-988-5430**

Portland Southeast Area Agency  
on Aging  
4610 SE Belmont Street, 2nd floor  
Portland, OR 97215-1752  
Phone: **503-988-3660**  
TTY: **503-988-6026**  
FAX: **503-988-3784**

Portland Southeast Disability  
Services Office  
4610 SE Belmont, Suite 200  
Portland, OR 97215  
Phone: **503-988-3660**  
FAX: **503-988-3784**

Portland West Area Agency  
on Aging  
1111 SW Tenth Avenue, 2nd Floor  
Portland, OR 97205  
Phone: **503-988-5460**  
FAX: **503-988-3560**

Portland West Disability Services  
Office  
1111 SW Tenth Avenue, 2nd Floor  
PO Box 8309  
Portland, OR 97207-8309  
Phone: **503-988-5460**  
FAX: **503-988-3560**

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## **Polk County**

Mid-Willamette Valley Senior  
Services Agency  
Dallas Office  
182 SW Academy Street, Suite 102  
PO Box 89  
Dallas, OR 97338-0089  
Phone: **503-623-2301**  
Toll-free: **800-469-8772**  
FAX: **503-623-2804**

Polk Disability Services Office  
163 SW Academy Street  
Dallas, OR 97338  
Phone: **503-831-0581**  
TTY: **503-623-5219**  
FAX: **503-623-5178**

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## **Sherman County**

Mid-Columbia Senior and Disabled  
Services  
700 Union Street, Room 203  
The Dalles, OR 97058-1843  
Phone: **541-298-4114**  
FAX: **541-298-1251**

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## **Tillamook County**

Tillamook Area Agency on Aging  
Wilson River Building  
4670 E Third Street  
Tillamook, OR 97141  
Phone: **503-842-2770**  
Toll-free: **800-584-9712**  
FAX: **503-842-6290**

Tillamook Disability Services Office  
Wilson River Building  
4670 E Third Street  
Tillamook, OR 97141  
Phone: **503-842-2770** (voice/TTY)  
Toll-free: **800-584-9712**  
FAX: **503-842-6290**

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## **General Resource List**

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## Umatilla County

Community Action Program East  
Central Oregon  
721 SE Third, Suite D  
Pendleton, OR 97801  
Phone: **541-276-1926**  
Toll-free: **800-752-1139**  
FAX: **541-276-7541**

Hermiston Multiple Services Office  
940 SE Columbia Drive, Suite E  
Hermiston, OR 97838-9422  
Phone: **541-567-2274**  
TTY: **541-564-9366**  
Toll-free: **888-374-8080**  
FAX: **541-567-4893**

Milton-Freewater Multiple  
Services Office  
309 N Columbia Street  
Milton-Freewater, OR 97862  
Phone: **541-938-4925**  
FAX: **541-938-4927**

Pendleton Multiple Services Office  
1555 SW Southgate Place  
Pendleton, OR 97801-2580  
Phone: **541-278-4161**  
TTY: **541-278-1094**  
Toll-free: **800-442-4352**  
FAX: **541-278-0140**

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## Union County

Community Connection of  
Northeast Oregon, Inc.  
104 Elm Street  
La Grande, OR 97850-2621  
Phone: **541-963-3186**  
FAX: **541-963-3187**

La Grande Multiple Services Office  
1607 Gekeler Lane  
La Grande, OR 97850-2900  
Phone: **541-963-7276** (voice/TTY)  
Toll-free: **800-430-7231**  
FAX: **541-963-7698**

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## Wallowa County

Community Connection of  
Northeast Oregon, Inc.  
104 Elm Street  
La Grande, OR 97850-2621  
Phone: **541-963-3186**  
FAX: **541-963-3187**

Enterprise Multiple Services Office  
104 Litch Street  
PO Box 180  
Enterprise, OR 97828-0380  
Phone: **541-426-3155**  
TTY: **541-426-4558**  
FAX: **541-426-3878**

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## Wasco County

Mid-Columbia Seniors & People  
with Disabilities  
700 Union Street, Room 203  
The Dalles, OR 97058-1843  
Phone: **541-298-4114**  
TTY: **541-298-1616**  
Toll-free: **800-452-2333**  
FAX: **541-298-1251**

The Dalles Area Agency on Aging  
700 Union Street, Room 203  
The Dalles, OR 97058-1843  
Phone: **541-298-4114**  
Toll-free: **800-452-2333**  
FAX: **541-298-1251**

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## Washington County

Washington County Department of  
Aging and Veterans' Services  
133 SE Second Avenue  
PO Box 1297  
Hillsboro, OR 97123-4026  
Phone: **503-640-3489** (voice/TTY)  
FAX: **503-640-5879**

Hillsboro Senior Resource Center  
133 SE Second Avenue  
PO Box 1297  
Hillsboro, OR 97123-4026  
Phone: **503-693-0999**  
TTY: **503-640-6398**  
FAX: **503-640-6167**

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Tigard Senior Resource Center  
11515 SW Durham Road, Suite E-5  
Tigard, OR 97224-3647  
Phone: **503-968-2312**  
FAX: **503-624-8128**

Beaverton Disability Services Office  
4805 SW Griffith Drive, Suite B  
Beaverton, OR 97005-8722  
Phone: **503-627-0362** (voice/TTY)  
FAX: **503-671-9076**

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**General  
Resource  
List**

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**Wheeler County**

Mid-Columbia Seniors & People  
with Disabilities  
700 Union Street, Room 203  
The Dalles, OR 97058-1843  
Phone: **541-298-4114**  
TTY: **541-298-1616**  
FAX: **541-298-1251**

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**Yamhill County**

Northwest Senior and Disabled  
Services  
McMinnville Office  
300 SW Hill Road  
McMinnville, OR 97128-0866  
Phone: **503-472-9441**  
FAX: **503-472-4724**

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## Legal Aid and Volunteer Lawyer Programs

Visit [www.oregonlawhelp.org](http://www.oregonlawhelp.org)—the Legal Aid Services of Oregon website—for general legal information on a variety of topics, including elder law.

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### Albany Regional Office - Legal Aid Services of Oregon

433 Fourth Avenue SW, Suite 102  
Albany, OR 97321  
Phone: 541-926-8678  
FAX: 541-926-8919

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### Center for Non-Profit Legal Services

PO Box 1586  
225 W Main  
Medford, OR 97501  
Phone: 541-779-7292  
FAX: 541-779-7308

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### Central Oregon Regional Office - Legal Aid Services of Oregon

1029 NW Fourteenth Street  
Bend, OR 97701  
Phone: 541-385-6944  
FAX: 541-385-8915

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### Columbia County Legal Aid

PO Box 1400  
St. Helens, OR 97051  
Phone: 503-397-1628  
FAX: 503-397-0052

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### Hillsboro Regional Office - Legal Aid Services of Oregon

230 NE Second, Suite A  
Hillsboro, OR 97124-3011  
Phone: 503-648-7163  
FAX: 503-648-0513

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### Juvenile Rights Project, Inc.

123 NE Third, Suite 310  
Portland, OR 97232  
Phone: 503-232-2540  
FAX: 503-231-4767

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### Lane County Legal Aid Service, Inc.

376 E Eleventh Avenue  
Eugene, OR 97401-3246  
Phone: 541-342-6056  
FAX: 541-342-5091

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### Lewis & Clark Law School Legal Clinic

310 SW Fourth Avenue, Suite 1018  
Portland, OR 97204  
Phone: 503-768-6500  
FAX: 503-768-6540  
Website: [www.lclark.edu/dept/lclinic](http://www.lclark.edu/dept/lclinic)

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### Lincoln County Office - Legal Aid Services of Oregon

PO Box 1970  
304 SW Coast Highway  
Newport, OR 97365-1032  
Phone: 541-265-5305  
FAX: 541-265-9356

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### Marion-Polk Legal Aid Service, Inc.

1655 State Street  
Salem, OR 97301  
Phone: 503-581-5265  
FAX: 503-581-5627  
Website: [www.mplas.org](http://www.mplas.org)

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**Multnomah County Office -  
Legal Aid Services of Oregon**

921 SW Washington Street, Suite 500  
Portland, OR 97205  
Phone: 503-224-4086  
FAX: 503-295-9496

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**Native American Program,  
Legal Aid Services of Oregon  
(NAPOLS)**

812 SW Washington, Suite 700  
Portland, OR 97205  
Phone: 503-223-9483  
FAX: 503-294-1429

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**Oregon Advocacy Center**

620 SW Fifth Avenue, 5th Floor  
Portland, OR 97205  
Phone: 503-243-2081  
FAX: 503-243-1738  
E-mail: welcome@oradvocacy.org

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**Oregon City Regional Office -  
Legal Aid Services of Oregon**

421 High Street, Suite 110  
Oregon City, OR 97045-2249  
Phone: 503-655-2518  
FAX: 503-655-2701

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**Oregon Law Center**

971 SW Washington, Suite 816  
Portland, OR 97212  
Phone: 503-473-8324  
FAX: 503-295-0676

Coos Bay Office  
455 S Fourth, Suite 5  
PO Box 1098  
Coos Bay, OR 97420-0241  
Phone: 541-269-1226  
FAX: 541-269-1372  
E-mail: olccb@yahoo.com

Grants Pass Office  
PO Box 429  
Grants Pass, OR 97528  
Phone: 541-476-2154  
FAX: 541-476-4478  
E-mail: olcgp@yahoo.com

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**Pendleton Regional Office -  
Legal Aid Services of Oregon**

PO Box 1327  
365 SE Third Street  
Pendleton, OR 97801  
Phone: 541-276-6685  
FAX: 541-276-4549

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**Roseburg Regional Office -  
Legal Aid Services of Oregon**

PO Box 219  
700 SE Kane Street  
Roseburg, OR 97470  
Phone: 541-673-1181  
FAX: 541-673-1183

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**St. Andrew Legal Clinic**

Clackamas County  
421 High Street, Suite 210  
Oregon City, OR 97045  
Phone: 503-557-9800  
FAX: 503-557-9814

Multnomah County  
807 NE Alberta  
Portland, OR 97211  
Phone: 503-281-1500  
FAX: 503-282-5642

Washington County  
232 NE Lincoln Street, Suite H  
Hillsboro, OR 97124  
Phone: 503-648-1600  
FAX: 503-693-2408

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**General  
Resource  
List**

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### **Volunteer Lawyers Project**

921 SW Washington Street, Suite 500  
Portland, OR 97205  
Phone: 503-224-4086  
FAX: 503-295-9496

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### **Woodburn Legal Aid Services of Oregon - Farmworker Program**

397 N First Street  
Woodburn, OR 97071  
Phone: 503-981-5291  
FAX: 503-981-5292

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## **Other Resources**

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### **American Association of Retired Persons (AARP)**

Oregon State office  
9200 SE Sunnybrook, Suite 410  
Clackamas, OR 97015-5762  
Phone: 866-554-5360 (toll-free)  
Website: [www.aarp.org](http://www.aarp.org)  
E-mail: [oraarp@aarp.org](mailto:oraarp@aarp.org)

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### **Governor's Advocacy Office, Department of Human Services**

*Serves citizens who are experiencing a problem with, or seeking information about, programs or services provided by the Department of Human Services (DHS).*

Phone: 503-945-6904  
Toll-free: 800-442-5238  
E-mail: [dhs.info@state.or.us](mailto:dhs.info@state.or.us)

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### **Oregon Department of Human Services**

Seniors & People with Disabilities (SPD)  
500 Summer Street NE  
Salem, OR 97301

General Information: 503-945-5811 or 800-282-8096 (toll-free)  
Janay Haas, Legal Services Developer: 503-945-8999  
Website: [www.dhs.state.or.us/aboutdhs/structure/spd.html](http://www.dhs.state.or.us/aboutdhs/structure/spd.html)

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### **Social Security Administration**

Phone: 800-772-1213 (toll-free)  
Website: [www.ssa.gov](http://www.ssa.gov)

Check the federal government listings in your telephone directory for the address of the office nearest you.

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## Useful Websites (current as of 2006)

*Please Note: Quality and accuracy of website information varies.*

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### Federal Government

#### Administration on Aging

[www.aoa.gov](http://www.aoa.gov)

#### Centers for Medicare & Medicaid Services

[www.cms.hhs.gov](http://www.cms.hhs.gov)

#### Department of Health and Human Services

[www.hhs.gov](http://www.hhs.gov)

#### Equal Employment Opportunity Commission

[www.eeoc.gov](http://www.eeoc.gov)

#### FedWorld

[www.fedworld.gov](http://www.fedworld.gov)

#### National Family Caregiver Support Program

[www.aoa.gov/prof/aoaprogram/caregiver/caregiver.asp](http://www.aoa.gov/prof/aoaprogram/caregiver/caregiver.asp)

#### National Institute on Aging

[www.nia.nih.gov](http://www.nia.nih.gov)

#### Pension Benefit Guaranty Corporation

[www.pbgc.gov](http://www.pbgc.gov)

#### Veterans Affairs Department

[www.va.gov](http://www.va.gov)

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### State Government

#### Oregon Department of Human Services

[www.oregon.gov/DHS](http://www.oregon.gov/DHS)

#### State of Oregon Home Page

[www.oregon.gov](http://www.oregon.gov)

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### General

#### AARP Grandparent Information Center

[www.aarp.org/families/grandparents](http://www.aarp.org/families/grandparents)

#### Age of Reason

[www.wiredseniors.com/ageofreason](http://www.wiredseniors.com/ageofreason)

#### Environmental Alliance for Senior Involvement

[www.easi.org](http://www.easi.org)

#### National Senior Citizens Law Center

[www.nslc.org](http://www.nslc.org)

#### SeniorNet

[www.seniornet.org](http://www.seniornet.org)

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### General Resource List

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**Senior.com Online Community**

[www.senior.com](http://www.senior.com)

**Senior Sites**

[www.seniorsites.com](http://www.seniorsites.com)

**The Senior Times**

[www.theseniortimes.com](http://www.theseniortimes.com)

**Third Age**

[www.thirdage.com](http://www.thirdage.com)

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**Health and Research**

**Centers for Disease Control and Prevention**

[www.cdc.gov](http://www.cdc.gov)

**Genealogy Home Page**

[www.genhomepage.com](http://www.genhomepage.com)

**Geropsychology Central**

[www.premier.net/~gero/geropsyc.html](http://www.premier.net/~gero/geropsyc.html)

**Healthfinder**

[www.healthfinder.gov](http://www.healthfinder.gov)

**The Institute of Gerontology**

[www.iog.wayne.edu](http://www.iog.wayne.edu)

**Intergovernmental Health Policy Project  
(Forum for State Health Policy Leadership)**

[www.ncsl.org/programs/health/forum](http://www.ncsl.org/programs/health/forum)

**National Coalition for Cancer Survivorship**

[www.canceradvocacy.org](http://www.canceradvocacy.org)

**National Institutes of Health**

[www.nih.gov](http://www.nih.gov)

**National Library of Medicine's MedLine Plus**

[www.nlm.nih.gov/medlineplus](http://www.nlm.nih.gov/medlineplus)

**NOAH-New York Online Access to Health on Aging  
and Alzheimer's Disease**

[www.noah-health.org/en/bns/  
disorders/alzheimer/what/basics.html](http://www.noah-health.org/en/bns/disorders/alzheimer/what/basics.html)

## CHAPTER 1

# Social Security and Other Benefit Programs

The first part of this chapter discusses Social Security benefits. It will explain what the benefits and eligibility requirements are for Social Security retirement benefits, disability benefits and survivors' benefits. In addition, this chapter offers advice on how to apply for Social Security benefits and how to appeal if Social Security denies, reduces or ends your benefits.

Other benefit programs described in this chapter are: Railroad Retirement; Supplemental Security Income (SSI) eligibility, benefits, application, overpayments and appeals; disability compensation for veterans; and private employee pension benefits.

Social Security, Railroad Retirement and SSI are not the only benefit programs available to older adults. Oregon's Department of Human Services (Seniors and People with Disabilities Division) and local Area Agencies on Aging handle several financial aid programs in most counties. These offices offer information on food stamps, emergency help, community services and more, all of which are described later in this chapter.

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## Social Security

The Social Security Administration (SSA) manages Social Security benefits. **Social Security** is a federal program providing benefits to eligible workers and their families when the worker retires, becomes severely disabled or dies.

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### General Eligibility

To qualify for Social Security benefits, you must have worked in a job where you or your employer paid the Social Security tax. Certain relatives also may qualify for benefits on your account. You must have worked a certain amount of time to earn **quarters of coverage**, or **credits**. The number of credits you earn while you work now depends upon your covered wages. When you earn enough credits, you become eligible for benefits. The amount of benefits you will receive each month depends upon the amount of your average yearly earnings.

## CHAPTER 1

### Social Security and Other Benefit Programs

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To find out how many credits you have or need to qualify for benefits, contact the Social Security Administration. (See Resources at end of chapter.) Social Security also will provide you with a benefit estimate. If you work and file an income tax return, you should already be receiving an annual “Personal Earnings and Benefit Estimate Statement.” You also can request the calculation online at [www.ssa.gov](http://www.ssa.gov). Your local Social Security office can estimate retirement benefits, as well.

If your earnings record is incorrect, you can give your local Social Security office proof of additional wages, such as your W-2 form. If you do not have your W-2 form and cannot get any other evidence from your employer, it is possible to have statements from your fellow employees accepted as proof of additional wages.

---

## Retirement Benefits

You must meet the following requirements to be eligible for **retirement benefits**:

- You are 62 or older;
- You have enough credits; and
- You are retired or are employed and have limited earnings.

Your spouse and unmarried children may also receive benefits when you do based on your earnings if:

- Your spouse is 62 or older; or
- Your non-working spouse is younger than 62 and is caring for your child who is younger than 16 or disabled.

Your non-working divorced spouse also may receive benefits if:

- He or she is 62 or older; or
- He or she is younger than 62, has not remarried and is caring for your child who is younger than 16; and
- You were married to each other for at least 10 years.

In some cases, your former spouse may receive benefits even if you (wage earner) do not.

---

## Early Retirement and Full Retirement Age

Your check will be permanently reduced if you retire between age 62 and **full retirement age**. For those born before 1937, full retirement benefits are available at age 65. Persons born later must work longer to claim full retirement benefits, increasing finally to age 67 for those born after 1959.

Spouses’ and widows’ benefits will also be reduced under certain circumstances. For the amount of the reduction in your case, contact your local Social Security office.

---

## Earnings After Retirement

If you retire before your full retirement age but then resume work, your earnings may reduce the amount of Social Security benefits you receive until you reach full retirement age. Your Social Security benefit level will not be affected during this time if your earnings stay under the annual exempt amount. In 2006, the exempt amount was \$12,480. Earnings over the exempt amount will reduce your retirement benefits by \$1 for every \$2 you earn, until the year you reach full retirement age. In that year only, in the months before your actual full retirement age, your benefits will be reduced by \$1 for every \$3 you earn over \$33,240. Once you reach full retirement age, there is no more limit to how much you can earn without its reducing your benefit amount.

You should immediately report extra earnings before that time to your local Social Security office. If the money you earn after retirement would increase your monthly benefit amount, the amount will be automatically recalculated and sent to you. If high earnings result in your being overpaid Social Security benefits, you may have to pay them back. (See the section on “overpayment,” page 22.)

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## Disability Benefits

Disability means a physical and/or mental handicap, or a combination of handicaps, that stops you from having substantial gainful employment. If you have enough credits and become disabled before age 65, you may be eligible for **disability benefits**. Certain relatives may also be eligible with you. You may qualify for disability benefits if:

1. You cannot do any substantial kind of work because of a physical and/or mental impairment, or combination of impairments, considering your age, education and experience. (It is not enough to show that you cannot do your old job.);
2. The impairment either will result in death or has lasted or is expected to last for 12 or more months; and
3. You worked under Social Security and earned 20 credits in the 10 years immediately before you became disabled. (If you do not have enough work credits, you still may qualify for Supplemental Security Income; see page 21 for more information.)

If you qualify for disability payments, your children, spouse and former spouse also may qualify for payments, as described in the retirement benefits section on page 16.

After you have received disability benefits for 24 months (sooner for some people on dialysis), you will be eligible for Medicare federal health insurance. (See Chapter 2 for more information on Medicare and Medicaid.)

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## Survivors' Benefits

If you are insured at the time of your death, a family member may receive benefits if he or she is:

### CHAPTER 1

## Social Security and Other Benefit Programs

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## LOOKING FOR A PARTICULAR BENEFIT PROGRAM?

### *Social Security:*

Pages 15-19

### *Railroad Retirement:*

Pages 19-21

### *Supplemental Security Income:*

Pages 21, 22

### *Veterans' Benefits:*

Pages 22-24

### *Employee Pensions:*

Pages 24, 25

### *State Financial Programs:*

Pages 25-27

### *Elderly Rental Assistance:*

Page 27

### *Other Programs for Seniors:*

Page 27

1. A widow(er) aged 60 or older;
2. A widow(er) aged at least 50 who becomes disabled within seven years of your death, or within seven years from the time she or he received benefits on your work record;
3. A surviving divorced spouse who meets either requirement #1 or #2 and who was married to you for at least 10 years; or
4. An unmarried dependent child who is younger than 18 or disabled.

A surviving widow(er) or dependent children can receive a lump sum death benefit of \$255 in addition to monthly survivors' benefits.

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## How to Apply

To receive any type of benefit for yourself or your family, you must apply. Apply for Social Security benefits at your local Social Security office, or call SSA's toll free number. (See Resources at end of chapter.) Call first to schedule an appointment to apply for benefits. You must have the following documents available:

1. Your Social Security card or a record of your Social Security number;
2. Your birth certificate or other proof of your date of birth;
3. Proof of age for all applicants on your account;
4. A marriage certificate for all benefits going to your spouse or children;
5. A divorce decree for any benefits going to your former spouse;
6. Your W-2 and wage and tax information for the last year;
7. Proof of the worker's death, if you are applying for survivors' benefits;
8. Military discharge papers if you had military service;
9. Proof of citizenship (or lawful alien status if you were not born in the U.S.); and
10. Name of bank and account number.

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## Your Right to Appeal

If Social Security denies, reduces or ends your benefits, you may appeal the decision. You also may appeal if Social Security says it overpaid you. You may have a lawyer, paralegal or other person represent you. Usually it does not cost to talk to a lawyer who practices Social Security law, unless the case is won.

The appeals process includes the following steps:

1. **Reconsideration:** If you think the initial decision is incorrect, you may ask Social Security to reconsider. **You must request reconsideration by contacting your local Social Security office within 60 days** of the day you were notified of the initial decision.

If you have been receiving benefits, in some cases Social Security will continue to pay your benefits while deciding your appeal. You must ask for continuation of benefits **within 10 days** of the date you receive

the letter notifying you of the initial decision. If you lose your appeal, you may have to pay the money back.

2. **Hearing:** If you lose the reconsideration, you may request a hearing before an administrative law judge. This is your chance to explain your situation. You must request a hearing **within 60 days** of receiving the reconsideration decision.
3. **Appeals Council Review:** If you lose the hearing, you may ask the Appeals Council to review the decision. You have **60 days** from the date of the administrative law judge's decision to request this review.
4. **Judicial Review:** If you disagree with the Appeals Council's review, you may appeal to the United States District Court **within 60 days** from the date of the Appeals Council's decision. You can get more information on how to prepare for Social Security appeals from your local Legal Aid Services office. (See General Resource List.)

## CHAPTER 1

### Social Security and Other Benefit Programs

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### Direct Deposit of Social Security Checks

Although it is possible to receive your Social Security checks by mail, it is safer to have the checks deposited directly into a bank account. You can then write checks on the account or use a debit card for your expenses. If you have no account already, shop around—avoid financial institutions that charge high fees for checks or check cashing. Contact Social Security, your bank or other financial institution to arrange direct deposit. (See Chapter 4 for more information on direct deposit. Also, listen to the Oregon State Bar's Tel-Law topic 1096, "Social Security," for more information.)

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## Railroad Retirement

The federal Railroad Retirement Board handles this benefit program for eligible workers and their families.

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### General Eligibility

Like Social Security, Railroad Retirement benefits are based on months of service and earnings credits. Employees of railroads engaged in interstate commerce, some related industries, railway associations and national railway labor organizations qualify for Railroad Retirement after 10 years of credited work—or five years for credited work performed after 1995.

---

### Retirement Benefits

Railroad employees with at least 30 years of service on or after January 1, 2002, can get full benefits (called "annuities") at age 60. The rate paid depends on the employee's earnings.

Employees with fewer than 30 years of service (but at least 10 years) can get reduced benefits at age 62 and full benefits at full retirement age (under the same age guidelines as Social Security).

Spouses may be eligible for retirement benefits, too, depending on the employee's age at retirement and years of railroad service.

A spouse of any age can get a spouse annuity when the employee qualifies for a retirement annuity, as long as the spouse is caring for the employee's unmarried minor child or a child who became disabled before age 22.

Divorced spouses may be eligible for an annuity, too. They must have been married to a retired employee for at least 10 years and not remarried. Both the retired employee and the ex-spouse must be at least one month older than 62 when the ex-spouse applies.

Payment of benefits is **NOT** automatic. To receive any type of benefit for yourself or your family, you must apply. See "HOW TO APPLY" under the program(s) for which you are qualified.

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## **Earnings After Retirement**

No benefits are available in any month in which a retired railroad employee works for a railroad industry covered by the retirement benefit law. Other kinds of earnings may result in reductions in benefits, similar to the reductions for Social Security retirement.

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## **Disability Benefits**

A railroad employee with at least 10 years of credited service who becomes totally disabled for all regular work can get a disability annuity. For employees 60 years old or older with 10 years of service, or of any age with at least 20 years' service, a second kind of disability annuity is available. This benefit is for employees who are permanently disabled from their regular railroad occupation. In some cases, disabled employees can get additional ("supplemental") benefits when they turn age 60 or 65, but they must meet several requirements to do so. The Railroad Retirement Board can give detailed information on these requirements.

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## **Survivors' Benefits**

The benefits available to surviving spouses and children are similar to those offered by Social Security. For families who qualify, a one-time death benefit is available as well.

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## **How to Apply**

You must apply to receive any kind of benefit for yourself or your family. Call the nearest Railroad Retirement Board office to schedule an appointment to apply for benefits; be sure to ask what documents you will need to bring to show that you are eligible.

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## **Your Right to Appeal**

If the Railroad Retirement Board denies, reduces or ends your benefits, you may appeal its decision. You can appeal if the board says it overpaid you, too. You can be represented by a friend, family member, paralegal or lawyer. The appeal process is very similar to that for Social Security benefits.

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## Direct Deposit of Railroad Retirement Checks

Railroad Retirement checks can go directly to your bank account.

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## Supplemental Security Income (SSI)

**Supplemental Security Income (SSI)** is a federal program that provides a basic level of income to anyone with limited income and resources who is 65 or older, or who is blind or disabled. The Social Security Administration manages this program. You do not need to have a work history or be eligible for Social Security to be eligible for SSI. However, if you are receiving Social Security benefits, you also may qualify for SSI if your income still is under the limit and you meet the resource limitations.

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### CHAPTER 1

### Social Security and Other Benefit Programs

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### Eligibility

To be eligible for SSI payments, you must meet the following requirements:

1. You must be 65 or older, or disabled or blind;
2. You must have limited income and resources; and
3. You must meet the citizenship/alien status requirements.

The disability standard is the same as Social Security's disability standard (see page 17). There are special rules for persons with a visual impairment. If you see 20/200 or worse in the stronger eye while using a corrective lens, you qualify as blind. You also may be considered blind if you have a visual field restriction. Even if you do not pass the blindness test, you may still be able to collect SSI as a disabled person.

**Countable resources** are a factor in determining eligibility. You must have less than \$2,000 in countable resources for one person or \$3,000 for a couple to qualify for SSI. Countable resources do not include your home, nor some of your personal belongings. Usually, countable resources do not include your automobile or a separate burial fund. Countable resources do include cash, bank accounts, stocks and bonds. Always check with Social Security to determine if your property is a countable resource. If you disagree with the answer you are given, you can file an application and appeal the decision.

If you are unemployed as of January 2006, your countable monthly income must be less than \$603 per month for an individual or less than \$904 per month for a couple to qualify for SSI. This limit usually goes up every year to reflect cost of living increases. If most of your income is from working, eligibility rules are very complicated and require an individual calculation. These rules change periodically. If you think you qualify for SSI, contact Social Security to file an application.

**Important Note:** A person who receives SSI can qualify for Medicaid to help pay health care bills. Even a few dollars of SSI benefits enable a person to get Medicaid. You must apply separately for Medicaid. Someone who gets SSI also may be eligible for Medicare prescription coverage. (See Chapter 2 for more information on Medicare and Medicaid.)

---

## How to Apply

Contact your Social Security office to apply for SSI. You can apply by telephone or in person at your local office. You may need to make an appointment, so call the toll-free number first for instructions. Have the following information available when you apply:

1. Your Social Security card or number;
2. Proof of your age;
3. Information about where you live, such as your latest property tax bill, assessment notice or rent receipt, if you rent;
4. Bank books and other financial records;
5. Motor vehicle documents if you own your car;
6. Pay slips or tax returns showing income;
7. Medical records or other information showing you have a disability;
8. Information about your spouse's income and resources, if you are married; and
9. Proof of citizenship (or lawful alien status if you were not born in the U.S.).

For additional sources of information about Social Security and other benefit programs, refer to the **RESOURCES** listing on pages 28-29.

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## Overpayment

If you receive SSI or Social Security benefits, you might receive a notice that you have been overpaid. If you think the Social Security Administration made a mistake about the overpayment, ask for a reconsideration. The overpayment may not have to be paid back. Even if you agree you were overpaid, you still have the right to request a waiver of the overpayment. You can get this waiver if you cannot afford to pay and were without fault in causing the overpayment. Contact the local Social Security office, or seek legal help from the legal aid office nearest you. (See General Resource List.)

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## Appeals

The appeal process for SSI is the same as for Social Security. (See page 18. Also, listen to Tel-Law topic 1094, "Supplemental Security Income (SSI)," for other information.)

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## Veterans' Benefits

If you are a veteran, you may be eligible for the benefits listed below.

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### Service-Connected Disability Compensation

If you are disabled because of an injury or disease that began or worsened during military service, you should receive compensation benefits. Disabilities are rated according to severity. Greater disability means

greater benefits. There is no time limit by which to apply, but if you apply within one year of release from active duty, you may be able to get retroactive benefits.

---

## Disability Pension

Pensions are available to veterans who meet the following requirements:

1. You served 90 days or more, one day of which was during a war;
2. Your income is within certain limits; and
3. You are permanently and totally disabled or over the age of 65.

If your condition makes you homebound or you are living in a care facility, you may be entitled to a higher benefit. You may qualify for more money to have a family member or other person give you care at home.

---

## Dependents

If you receive monthly Department of Veterans Affairs (VA) benefits because of a disability, your spouse and dependents may receive an additional monthly benefit. A surviving spouse and dependent children also receive VA benefits.

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## Other VA Benefits

The following other VA benefits are available:

1. Free or reduced-cost inpatient and outpatient care at VA facilities;
2. Death benefits for survivors of a disabled veteran;
3. Prosthetic appliances, aids and services for the blind;
4. Reimbursement for burial expenses, burial flags, burial in national cemeteries, headstones or grave markers;
5. Loan and guaranty (meaning that the VA will essentially "co-sign" a qualifying veteran's loan so that the lender is guaranteed payment even if the borrower does not pay);
6. Education and training;
7. Free counseling at any of Oregon's **vets' centers**; and
8. Insurance. **Note:** It is not a good idea to decline Medicare hospital and medical coverage, even if you have VA health insurance coverage. You also may want to consider a Medicare prescription drug plan. Confer with an Oregon Senior Health Insurance Benefits Assistance (SHIBA) representative first.

---

## How to Apply

To apply for VA benefits, contact the Veterans Affairs regional office nearest you. For additional help, call the State of Oregon Department of Veterans' Affairs, a veterans' service organization or the federal Veterans Affairs office. You also can apply online. (See Resources at end of chapter.)

## CHAPTER 1

### Social Security and Other Benefit Programs

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## Your Right to Appeal

If you are denied VA benefits, you have one year from the date you were notified of the denial to ask for a hearing. The local office holds the hearing. If your claim is denied again, you can appeal to the Board of Veterans Appeals. You can choose someone to represent you at the hearing and on appeal.

Many benefit programs offer the safety and convenience of depositing payment checks directly to your bank account.

---

## Employee Pensions

A pension plan is an agreement between an employee, the person's employer and, for some jobs, the employee's union. Sometimes only the employer contributes to the pension fund, and sometimes the employee does as well. Employers are not required to have pension plans. Federal law provides some stability for private pension programs. The **Employee Retirement Income Security Act of 1974 (ERISA)** sets the standards for private pensions. It also provides guaranteed pensions in some cases.

---

## Your Right to Participate

You must be permitted to participate if you are 21 or older or if you have worked for at least a year. This means your time at the job will be counted toward qualifying for retirement benefits.

---

## Your Right to Information

ERISA requires that all plan rules be in writing. The plan administrator must explain all facts and rules about your employee benefit plan. You can get the plan rules, your employment records and a statement of the credit you have earned to date. You can then find out when you will be eligible for benefits and can calculate the approximate amount of your benefits. You also may request copies of the Plan and Trust and a plan description, which outlines your rights, from the plan administrator.

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## Eligibility for Benefits

You earn credits by working in a job covered by an employee benefit plan. The plan rules specify how much work an employee must do to earn a year of credit. The rules also explain how many years of credits you need to qualify for benefits.

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## Absences from Employment

Employees who work for a short time or who have long absences from work may not be eligible for benefits. Find out how your employee benefit plan handles absences from work.

---

## Payment of Pension Benefits

If you have not done so, it is wise to contact your plan administrator about pension benefits. The plan administrator has 30 days to give you

written notice of your benefit amount and when you are entitled to receive it.

Some plans may offer early retirement benefits and disability benefits. Some plans may give you a lump sum payment if the amount of your benefit is less than \$3,500. When you select what type of retirement benefit you want, your spouse will usually be notified and asked to sign a release or consent form.

**Most private employee benefits are treated as taxable income once you start collecting them.**

---

## Social Security and Pension Benefits

Under some pension plans, Social Security and pension benefits are integrated, which means that the amount of the pension can be reduced by all or part of your Social Security check. Since 1988, plans are required to leave at least half of your pension in the plan.

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## Survivors' Pension Benefits

Under most pension plans, employees can choose to have pension payments go to their surviving spouses. Check to see whether survivors' benefits and early death forfeiture clauses are in your pension. **Early death forfeiture** means that your spouse does not receive benefits if you die before the early retirement age in the plan. If you die while you are eligible for employee benefits under an employee benefit plan, your spouse may receive a death benefit. If you wish to have someone else receive this death benefit, tell your plan administrator.

---

## Your Right to Appeal

The plan administrator is required to let you know, in writing, if he or she denies your application for benefit payments. The plan administrator must give you specific reasons for the denial. You have the right to a full review of the denial by all the trustees of the plan. If you are still unhappy with the decision, you may file a lawsuit in federal district court.

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## State Financial Programs

Oregon's Department of Human Services Seniors and People with Disabilities office (SPD) controls several financial aid programs. In most counties, the local Area Agency on Aging (AAA) handles the programs. (See the General Resource List for locations and phone numbers of AAA/SPD offices nearest you.)

Most AAA offices provide information and referral services. AAA can tell you where to apply for **food stamps**, emergency help, help for winter heating, medical help and other community programs. Other programs include meals, transportation, counseling, case management, respite for family caregivers, protective services and in-home support services.

## CHAPTER 1

### Social Security and Other Benefit Programs

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Check with your local AAA/SPD office or senior center to see if other programs are available. AAA/SPD offices can direct you to your local senior center. You should call to find out for certain if you are eligible for these programs, and always apply in writing. You have the right to appeal a denial.

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### **Temporary Assistance for Needy Families**

If your children, grandchildren or other relatives younger than 18 live with you and rely on you for their care, you may be eligible for Temporary Assistance for Needy Families (TANF). Contact your local Children and Family Services office for more information. (See Resources at end of chapter.)

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### **Food Stamp Benefits**

The state issues food stamp benefits under a federal program. Food stamps help people buy food. You cannot use food stamps to purchase pet food, soap, paper products, tobacco or alcohol. Low-income people of any age may qualify. If you qualify, the amount you receive depends on your income, needs and family size.

If you are now receiving SSI or benefits from a similar program, you may automatically qualify for food stamps. However, you must still apply for the food stamps. Generally, you must have less than \$3,000 in countable resources. Countable resources do not include your home or automobile. You also must have an “adjusted gross income” (after certain expenses are deducted) of less than about \$1,000 per month for an individual or \$1,400 for a couple. If you are disabled or over age 60, the deduction is larger.

The state now issues food stamp benefits electronically (**Electronic Benefits Transfer**). You will be given a card with a magnetic strip that you can use like a debit card at the grocery store.

Contact your local AAA/SPD office to check your eligibility. (See General Resource List.)

---

### **Your Right to Appeal**

If you disagree with a food stamp decision, you may request a hearing. You have 90 days to appeal from the date of a decision that denies benefits. If you are already receiving benefits, appeal within 10 days from the date of the decision in order to continue your benefits during the appeal time. Continuation of your benefits after the appeal depends on the outcome of your particular case.

---

### **Consumer Grievances**

You also have the right to make a written complaint about poor treatment by a state worker. To make a complaint, ask for a grievance form (available from the agency). Complete the “Consumer” section, and send it back to the office. Doing this may make the agency review your case to make sure you get the services you deserve. Complaining also causes a supervisor to discuss your complaint with the worker. The agency cannot

discriminate against you for making a complaint. You can contact Oregon Children and Family Services for more information. You also may be able to get help from the Governor's Advocacy Office in Salem. (See General Resource List.)

## Elderly Rental Assistance

For the rental assistance program:

1. You or your spouse must be 58 or older on December 31 of the preceding year;
2. Your total household income cannot be more than \$9,999 for the year;
3. You must pay more than 20 percent of your household income for rent, fuel and utilities; and
4. If you and your spouse are between ages 58 and 65, your combined assets must not exceed \$25,000. There is no limit on assets if one of you is over 65.

Contact the Oregon Department of Revenue for Form 90R to fill out and file with your tax return. (See Resources at end of Chapter 6.)

## Other Programs for Seniors

To find out more about other programs, contact your local senior center or AAA/SPD office. (See General Resource List.)

**Meals:** Some community programs serve hot meals at noon or deliver meals to your home.

**Senior Community Service Employment Program:** The federal government and the American Association of Retired Persons (AARP) fund a program that provides on-the-job training for people aged 55 and older. Older adults work for non-profit organizations, four hours a day, five days a week, for minimum wage. The program places people in part-time or full-time jobs when jobs become available.

**Home repair and modifications:** Getting repairs made and having ramps, railings and other aids installed can enable people to continue living safely at home.

**Emergency help** may be available for low-income persons who need help with energy costs, weatherization, food, shelter and transportation.

Other services may include: counseling; **respite services**; support and training for family caregivers; in-home support (help with housekeeping or personal care); protective services (investigating reports of abuse or neglect of elderly and disabled persons); public guardian/conservator programs; and help with choosing a living facility.

## CHAPTER 1

### Social Security and Other Benefit Programs

If you are denied benefits or receive reduced benefits, you have the right to appeal.

See the information on APPEALS under the program(s) for which you feel you are qualified.

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## A Final Note

If you think you might be eligible for one or more of the programs listed in this chapter, contact the proper agency and fill out an application. Do not be discouraged from applying! Insist on completing an application even if an agency tries to turn you away. If you complete your application, the agency must tell you in writing if it thinks you are not eligible for benefits—and why. If you think this decision is wrong, you can appeal. But if you don't complete your application, you will not have a decision to appeal, and you may miss out on benefits to which you were entitled.

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## Resources

See **General Resource List** for AAA/SPD offices, legal aid offices, OSB Tel-Law service and more.

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### Oregon Department of Human Services

Seniors and People with Disabilities (SPD) office  
500 Summer Street NE, E02  
Salem, OR 97301  
503-945-5811 or 800-282-8096; TTY: 800-282-8096  
[www.oregon.gov/DHS/spwpd/](http://www.oregon.gov/DHS/spwpd/)

Children, Adults and Families Division  
(For information about TANF and food stamps programs)  
500 Summer Street NE  
Salem, OR 97301  
503-945-5651; TTY: 503-945-5896

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### Oregon Department of Veterans' Affairs

Oregon Veterans Building  
700 Summer Street NE  
Salem, OR 97301  
503-373-2000 or 800-828-8801; TTY: 503-373-2217  
[www.odva.state.or.us](http://www.odva.state.or.us)

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### Oregon State Bar Tel-Law Topics

1094 - Supplemental Security Income (SSI)  
1096 - Social Security  
503-620-3000 or 800-452-4776  
[www.osbar.org](http://www.osbar.org)

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### Social Security Administration

800-772-1213  
[www.ssa.gov](http://www.ssa.gov)

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## **“Social Security Disability and SSI”**

A publication about applying for Social Security Disability and SSI, Disability Hearings and Overpayments. Available from Oregon Legal Aid Services and other legal services programs in Oregon. (See General Resource List for numbers.)

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## **U.S. Department of Veterans Affairs**

(regional office)  
Green-Wyatt Federal Building  
1220 SW Third Avenue  
Portland, OR 97204  
**800-827-1000**  
[www.va.gov](http://www.va.gov)

## **CHAPTER 1**

### **Social Security and Other Benefit Programs**

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## **U. S. Railroad Retirement Board**

(field office)  
Green-Wyatt Federal Building  
1220 SW Third Avenue, Room 377  
Portland, OR 97204  
**503-326-2143** (9:00 a.m. - 3:30 p.m. Monday-Friday)  
[www.rrb.gov/default.asp](http://www.rrb.gov/default.asp)

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## **Veterans’ Service Organizations**

American Legion: **503-685-5006**

AMVETS: **503-777-6677**

Disabled American Veterans: **503-326-2620**

Jewish War Veterans of the USA: **202-265-6280**

Military Order of the Purple Heart: **503-373-2388**

Paralyzed Veterans of America: **503-362-7998** or **800-333-0782**

Veterans of Foreign Wars: **503-326-2614**

Vietnam Veterans of America: **800-VVA-1316** (**800-882-1316**)

National Veterans Legal Services Program: **202-265-8305**

Veterans Consortium Pro Bono Program: **202-628-8164** or **888-838-7727**

National Association for Black Veterans: **877-622-8387**

Veterans’ Centers:

Eugene Vet Center: **541-465-6918**

Grants Pass Vet Center: **541-479-6912**

Portland Vet Center: **503-273-5370**

Salem Vet Center: **503-362-9911**

U.S. Dept. of Veterans Affairs Vet Center (Roseburg): **541-440-1000**

## Glossary of Terms

**Appeals Council:** *The council that reviews the decision made in a hearing during the appeals process for Social Security benefits.*

**Countable Resources:** *The resources that are counted to see if you qualify for Supplemental Security Income. Examples are cash, bank accounts, stocks and bonds.*

**Credits:** *Also known as quarters of coverage. Credits are needed to receive Social Security benefits. Credits are earned during one's work life and now depend on how much money is earned. Up to four credits can be earned per year.*

**Direct Deposit:** *See Chapter 4.*

**Disability Benefits:** *Social Security benefits available if one becomes disabled before age 65, has enough credits and meets certain requirements.*

**Early Death Forfeiture:** *A clause in some pension plans that means your spouse does not receive benefits if you die before the early retirement age in the plan.*

**Elderly Rental Assistance:** *A rental refund paid by the state for seniors aged 58 or older who meet certain requirements.*

**Electronic Benefit Transfer Card (EBT):** *A debit card that allows you to access your food stamps and other state cash benefits either at a store or an automatic teller machine (ATM).*

**ERISA:** *Employee Retirement Income Security Act of 1974. It sets the standards for private pensions and also provides guaranteed pensions in some cases.*

**Family Caregiver Support Program:** *A statewide program providing respite care, supplemental services and products to make caregiving easier for caregivers of family members who are over age 60, and for people over age 60 who are caring for minor children.*

**Food Stamps:** *A federally funded program that helps low-income people buy food.*

**Full Retirement Age:** *For maximum Social Security retirement benefits, the earliest age at which you can retire from work covered by Social Security.*

**Hearing:** *The second step of the appeals process for Social Security benefits after losing the reconsideration. You request a hearing before an administrative law judge to explain your situation.*

**Judicial Review:** *The last step in an appeals process for Social Security benefits when you are dissatisfied with the Appeals Council's review. You then appeal to the United States District Court.*

**Quarters of Coverage:** *See credits.*

**Reconsideration:** *The first step of the appeals process when you ask the Social Security Administration to review its decision to deny you benefits.*

**Respite Care:** *Temporary care for a disabled or ill person for whom a family member normally cares.*

**Retirement Benefits:** *Monthly benefits you receive from Social Security if you are 62 or older, have enough credits, and are retired or employed with limited earnings.*

**Service-connected Disability Compensation for Veterans:** *Benefits for those who have a disability from an injury or disease that began or worsened during military service.*

**Social Security:** *A federal program providing benefits to eligible workers and their families when the worker retires, becomes severely disabled or dies.*

**Supplemental Security Income (SSI):** *A federal program providing a basic level of income to anyone who is at least 65 years old or blind or disabled, has limited income and resources, and meets the citizenship/alien eligibility requirements.*

**Survivors' Benefits:** *Social Security benefits paid to the surviving family members of an eligible worker who has died.*

**Vets' Centers:** *Centers that offer peer counseling services for veterans and family members.*

## CHAPTER 1

### Social Security and Other Benefit Programs

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## CHAPTER 2

# Medicare and Medicaid

Medicare and Medicaid are two very different programs with names that sound alike. **Medicare** is a federal health insurance program for people aged 65 and over and for people with disabilities. It has premiums, co-payments and deductibles. **Medicaid** is a government assistance program created to pay for health care for low-income families and individuals of any age. You or someone you know may need Medicaid assistance to help pay for long term care in a nursing home or other setting.

This chapter explains the basic eligibility requirements for Medicare and Medicaid. It also discusses which services are covered and which are not. Finally, it provides information on how to appeal if you disagree with a decision about eligibility or coverage.

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## Medicare

Medicare is a federal health insurance program managed by the Centers for Medicare and Medicaid Services (CMS). It helps pay hospital and medical costs for people who are 65 or older and for some disabled people who are under 65. Beginning in 2006, it pays a part of some prescription costs, too.

**Medicare hospital insurance** is also called **Part A**. It usually covers a necessary stay in the hospital. Sometimes, it covers skilled care in a nursing facility or certain health care in your home after you leave the hospital. It can cover hospice care, too. Part A does not cover doctors' services.

**Medicare medical insurance** is also called **Part B**. It covers doctors' services. It also covers outpatient hospital services, diagnostic tests and medical supplies. It can cover home health services prescribed by a doctor even if you have not been in the hospital.

**Medicare+Choice or Medicare Advantage** is the managed-care or HMO (health maintenance organization) form of Medicare coverage, which offers hospital and medical coverage and limited prescription coverage.

**Medicare Part D** is the general name of the new prescription drug plans available for Medicare beneficiaries. Although people must have either Medicare Part A or B or Medicare Advantage in order to qualify for a prescription drug plan, the plans are operated by insurance companies, not by Medicare.

Medicare does not cover some common health care expenses, including dental care, eyeglasses, hearing aids and most long term care. It does cover regular gynecological and mammography treatment, smoking cessation counseling, and heart and diabetes screening.

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## Medicare Eligibility

You are eligible for Part A (hospital insurance) if any of the following situations apply:

1. You are 65 or older and qualify for Social Security or Railroad Retirement benefits, even if you are not actually receiving them;
2. You are a former federal employee who retired in or after 1983;
3. You are disabled and have met the Social Security or Railroad Retirement disability requirements for two years; or
4. You have end-stage kidney disease and have been treated on dialysis for three months.

You are eligible for Part B (medical insurance) if:

1. You meet the requirements for Part A (listed above), although you do not have to have signed up for Part A; and
2. You pay a monthly premium (\$88.50 in 2006), which usually increases annually.

If you are 65 or older but not eligible under the above requirements, you may still choose to enroll in the Medicare program. You must live in the United States and be a citizen or a legal resident for at least five years. If you choose to enroll, you must pay monthly premiums. You can sign up for Part A without having Part B, and for Part B without having Part A. If you have a "Medicare+Choice" medical plan that requires you to use a health maintenance organization (HMO) for all of your care, you may hear that option called Medicare Part C. It goes by other names, too, such as Medicare Advantage, Medicare Health Plan and Medicare Managed Care. These terms can be confusing.

---

## How to Enroll

You should enroll for Medicare benefits shortly before your 65th birthday, even if you are not planning to retire at age 65. If you are going to sign up for Social Security benefits at age 65, you can sign up for Medicare at the same time. You can enroll at your local Social Security office or by mail.

**If you don't sign up when you turn 65, remember that the longer you wait, the more the coverage will cost.**

If your income and resources are low, Social Security can help you apply for "extra help," a subsidy to help pay the premiums, deductibles and copayments for the drug prescription plan. If Social Security turns you down, and you believe you are eligible, you have the right to appeal the decision.

If you are already receiving reduced Social Security benefits when you reach age 65, you will receive a Medicare card showing your enrollment

## CHAPTER 2

### Medicare and Medicaid

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in Part A (hospital insurance) and Part B (medical insurance). The premium is then deducted from your monthly Social Security check. You can refuse Part B medical benefits by returning the proper form that comes with your original Medicare Card. If you are not receiving Social Security benefits and do not plan to when you reach age 65, but wish to receive Medicare, you should enroll about three months before your 65th birthday. In this case, you will be billed for the premiums.

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## Services Covered

### PART A

Services covered under Part A are:

1. **Hospital services**, which are covered if Medicare finds that they are **reasonable and necessary**:
  - Bed and board;
  - Routine nursing services;
  - Inpatient drugs;
  - Supplies;
  - Equipment normally furnished by the hospital;
  - Operating and recovery room costs; and
  - Diagnostic, therapeutic or rehabilitative services and items the hospital normally furnishes.
2. Some **skilled nursing home services**, which are covered for a limited period of time after you have been in the hospital for at least three days:
  - Bed and board;
  - Skilled nursing care;
  - Inpatient drugs;
  - Physical, occupational and speech therapy; and
  - Medical social services.

A nursing facility may also provide intermediate or custodial care, which is *not* covered by Medicare. **Medicare pays only if you receive skilled services and under very specific circumstances.**
3. Certain **home health care services**, when ordered by a doctor and given by a Medicare-certified home health care agency:
  - Part-time skilled nursing care;
  - Physical therapy;
  - Part-time services of home health aides;
  - Medical social services;
  - Medical supplies;

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### Medicare and Medicaid

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You should enroll for **MEDICARE** benefits shortly before your 65th birthday, even if you are not planning to retire at age 65.

- Equipment provided by the agency; and
- Some speech and physical therapy.

Medicare pays for home health care only if you need occasional skilled nursing care or rehabilitative services.

4. **Hospice services** to provide supportive care for terminally ill patients and their families, at home or in a facility:

- Skilled nursing care;
- Physical and speech therapy;
- Medical social services;
- Home health aid and homemaker services;
- Medical supplies and appliances;
- Prescription drugs;
- Physician services;
- Counseling; and
- Short-term inpatient care.

To get Medicare coverage for hospice services, you must sign a request choosing hospice **instead** of other Medicare-covered services. If you choose hospice, you can change your mind later.

#### PART B

Services covered under Part B include:

- A “Welcome to Medicare” physical examination;
- Periodic diabetes, cardiovascular and gynecological examinations;
- Smoking cessation services;
- Physicians’ services;
- Some hospital outpatient services and supplies (such as diagnostic tests, x-rays and radiation treatment);
- Ambulance services;
- Rental or purchase of durable medical equipment (such as wheelchairs and walkers);
- Outpatient physical therapy and speech pathology;
- Surgical dressings, splints and casts;
- Prosthetic devices; and
- Certain home health services.

## PART C (MEDICARE ADVANTAGE)

Services covered under Medicare Advantage include:

- HMO and preferred provider organization services, covering both Part A and Part B; and
- Some kinds of medicines.

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### Services and Supplies *Not* Covered by Medicare

Though Medicare has broad coverage, it does not pay for many services and supplies. These uncovered services and supplies include:

- Medicine you buy without a doctor's prescription, or with a doctor's prescription if you have no prescription drug plan or your plan does not cover the specific medication;
- Care in a nursing facility (unless it meets the Medicare requirements for skilled care and it follows a hospital stay of at least three days);
- Care in an adult foster home, residential care facility or assisted living facility;
- Most in-home services;
- Services not reasonable or necessary as defined by Medicare;
- Routine check-ups;
- Hearing aids/examinations;
- Eyeglasses/examinations;
- Chiropractic services;
- Cosmetic surgery;
- Dental care;
- Services the patient has no legal duty to pay for;
- Services paid by a government agency;
- Personal comfort items;
- Optional private hospital rooms; and
- Orthopedic shoes.

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### Medicare's Basic Payment Policies

Like private insurance policies, Parts A and B have **deductibles** you must pay before Medicare pays anything. Parts A and B also have **co-insurance payments** for most services. You are responsible for paying the deductible and making the co-payments to the health care provider unless you have a Medicare supplemental insurance policy ("**Medigap**" coverage) that covers these costs or you belong to a health maintenance organization (HMO).

#### Part A

Medicare measures your use of Part A hospital insurance with benefit periods called **spells of illness**. Your first benefit period begins the first

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### Medicare and Medicaid

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day you enter the hospital after your insurance goes into effect. A new benefit period begins after you have not been in the hospital (or skilled nursing facility) for 60 days in a row. There is no limit to the number of spells of illness (benefit periods) you can have.

**HOSPITAL CARE:** With Part A, you receive up to 90 days of hospital care for each spell of illness. The following is what **you** must pay:

- The first 60 days: You pay the deductible of \$952 in 2006. Medicare pays the remaining covered expenses.
- The next 30 days: You pay a co-payment of \$238 in 2006. Medicare pays the remaining covered expenses.
- After 90 days: You may use some of your 60 **lifetime reserve days**. For each used lifetime reserve day, you pay \$476 per day (in 2006) of the initial cost. Medicare pays the remaining covered expenses for each day up to a 60 lifetime-day maximum. However, people rarely stay in the hospital for more than a few days at a time. If you need to stay longer and your doctor agrees, Medicare must continue to pay, so long as you still have lifetime reserve days. Hospitals have a financial incentive to discharge Medicare patients as soon as possible. Medicare has developed a system of diagnosis related groups (DRGs) that determines how much the hospital is paid. Medicare bases its payment on the average length of stay for a patient with your diagnosis and not on the actual number of days you spend in the hospital.

**SKILLED NURSING CARE:** Medicare pays for the first 20 days of **covered** skilled nursing care in a Medicare facility **after you pay the Part A deductible** and after a minimum three-day hospital stay. For days 21 to 100, Medicare will pay a certain amount, while you pay the remaining balance (\$119 per day in 2006). After 100 days, you pay the full amount, and Medicare pays nothing. People rarely spend as long as three months in this kind of facility.

**HOME HEALTH VISITS:** Part A pays for the full approved cost of home health visits by a licensed home health agency that follows a treatment plan prepared by a physician. However, strict requirements limit the coverage of home health services. You must be homebound **and** you must need the skilled services only periodically (not every day). If you meet the Medicare requirements, there is no deductible, no co-payment and no limit on the number of visits.

**HOSPICE CARE:** Medicare covers hospice care for two periods of 90 days each and one following period of 30 days. The usual deductible and co-payments do not apply to hospice care. You must pay 5 percent of the cost for prescription drugs, or up to \$5 per prescription. You also must pay 5 percent of the cost of respite care, up to a maximum equal to the inpatient hospital deductible.

#### Part B

Under Part B, Medicare pays 80 percent of the **approved charge** for covered services after you pay the annual deductible (\$124 in 2006) and the monthly premium (\$88.50 in 2006). The approved charge is the value that Medicare has set for the service you received. It often is lower than the amount the provider bills you. You pay 20 percent of the Medicare

approved charge, plus the difference between the approved charge and the actual bill. The provider cannot charge a difference that is more than 15 percent of the approved charge. For example:

The doctor bills you:	\$100
The Medicare approved charge is:	\$90
The difference is:	\$10
Medicare pays 80 percent of \$90:	\$72
You pay 20 percent of \$90:	\$18
Plus the difference between \$90 and the actual bill:	\$10
For a total of:	\$28

If the doctor accepts **assignment**, he or she has agreed to accept the amount of the Medicare approved charge as full payment. This often decreases the total you have to pay. For example:

A doctor who accepts assignment bills you:	\$100
The Medicare approved charge is:	\$90
Medicare pays 80 percent of \$90:	\$72
You pay 20 percent of \$90:	\$18
You do <b>not</b> pay the \$10 difference between \$90 and the actual bill:	\$0
So your total payment is:	\$18

The Social Security office and CMS have lists of doctors who have agreed to accept assignment.

Oregon helps pay the monthly Part B premium for some lower-income people, known as "Qualifying Individuals." To get this help, a person must have Part A coverage and have monthly income below 135 percent of the federal poverty level. In 2006, that amount equals \$1,123 for one person and \$1,505 for a couple. Oregon's Area Agency on Aging and Seniors and People with Disabilities offices have information on this program. (See General Resource List.)

## Part D

Medicare's new drug benefit has these general features:

- This plan is optional. You do not have to sign up for the drug benefit when you first become eligible for it. But if you decide to sign up later, it will cost more.
- There is a monthly premium for the drug benefit, costing between \$8 and \$90 per month, depending on the plan.
- Because private companies offer the plans, they vary in what medications they cover (their "formulary").
- You have to pay a \$250 deductible every year.
- After the deductible, Medicare covers approximately 75 percent of your drug costs, up to a total cost of \$2,250. You are responsible for approximately 25 percent of the cost. The percentage varies from plan to plan.

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### Medicare and Medicaid

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- If your drug costs reach \$2,250, Medicare will stop paying until you have paid all of the next \$2,850 for drugs on the plan formulary. (Payment for other drugs doesn't count toward this amount.)
- After you have spent that amount, Medicare will cover approximately 95 percent of your further medication costs. You will be responsible for the larger of 5 percent or \$2 (generic) or \$5 (brand name) of the prescription costs.
- Expect the costs to rise every year, although not necessarily in the same amounts as your Parts A and B coverage.
- If you have drug coverage through your insurance from an employer or former employer, you may not need a Medicare drug prescription plan. If your employer has sent you a letter saying your current coverage is "creditable," you should probably not get a Medicare plan. Be sure to save this letter if you get one. If you change to a Medicare drug plan later, the letter will be needed to avoid a late enrollment penalty.
- Enrolling in the right prescription plan can be quite complicated. Get help from a Senior Health Insurance Benefits Assistance (SHIBA) volunteer in your community before deciding on a plan.

People who are "Qualifying Individuals" for Medicare Part B also get help with their prescription costs under Part D, paying \$2 or \$5 per prescription. Information about this program is available from Area Agencies on Aging and Senior and People with Disabilities offices. (See General Resource List.)

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### Medicare Claims and Payments

Under Medicare, you do not have to file claims or send in any bills you receive from hospitals, skilled nursing facilities or home health agencies. These providers bill Medicare directly for services under Part A. In Oregon, most Part A claims are processed by Noridian Administrative Services. (See Resources at end of chapter.) Noridian will send you a notice showing what benefits you used, the amount that Medicare has paid, and any deductible or co-payment amounts. It is a very good idea to ask your hospital for an itemized bill for its services so that you can make sure all of the charges are proper.

Providers also bill Medicare directly for services under Part B. If the provider accepted assignment, he or she will receive payment directly from Medicare. If the provider did not accept assignment, you will receive the payment from Medicare and be responsible for paying the provider's bill. In Oregon, most Part B claims are processed by Noridian Administrative Services. (See Resources at end of chapter.) Noridian will send you an Explanation of Medicare Benefits form or Medicare Summary Notice form showing whether the claim was approved or denied, whether the provider accepted assignment, the Medicare approved charge, the amount Medicare has paid, and the deductible and co-payment amounts, if there are any.

Unless you have a Medicare supplement insurance policy or belong to a health maintenance organization (HMO), you pay the Medicare

deductible amounts, plus any co-payments, directly to the provider. For more information about Medicare supplement (also called "Medigap") insurance and HMOs, see Chapter 12.

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## Medicare Denials and Appeals

### Parts A and B

If you are in a hospital or a skilled nursing facility, your doctor or someone from the facility may tell you that Medicare will not pay for you to stay there any longer. If you disagree, you can appeal, but you must do so right away. The facility should give you written notice of noncoverage, which explains how to appeal the decision. Whether you get a written notice or not, the first step in the appeal process is to call the Oregon Medical Professional Review Organization (OMPRO) at 503-279-0100 or 800-785-0411 and ask for an immediate review.

If **MEDICARE** denies your claim, you have the right to appeal.

If Medicare denies a claim for payment under Part A or Part B, the Medicare notice will include your appeal rights. You have 120 days from the date you get the notice to ask for an informal review, called "redetermination." Your request must be in writing. If you disagree with the redetermination decision, you have 180 days from the date you get the decision to ask for a "reconsideration." If you disagree with the result at this level, and if your claim involves at least \$100, you can ask for a hearing in front of a CMS administrative law judge. You can get the form used to request a hearing from a Social Security office. It also is available on the Internet from the Centers for Medicare and Medicaid Services. (See Resources at end of chapter.)

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## Medicare Health Maintenance Organizations (HMOs)

If you belong to an HMO, you have the right to appeal decisions that deny coverage or access to services. You have 60 days from the date you get a written notice from the HMO to ask the HMO to reconsider its decision. If you do not get a written notice, you can still ask for reconsideration. Your request must be in writing. If the HMO continues to deny the coverage or deny your access to services, the HMO will send the information from your file to the Center for Health Dispute Resolution. The Center for Health Dispute Resolution has a contract with Medicare to review HMO cases that are appealed. If you disagree with its decision and there is at least \$110 at stake (for services under Part A, Part B, Part D or any combination of those programs), you have 60 days to ask for a formal hearing in front of a CMS administrative law judge. (Note: The minimum amount of money that must be at stake in order to request a hearing is adjusted each year; \$110 is the threshold for 2006.)

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## Further Appeals

The administrative law judge's decision regarding services under Part A, under Part B or from an HMO can be appealed to the Medicare Appeals Council of the Center for Medicare and Medicaid Services. You have 60 days to request an Appeals Council review. If you disagree with the review decision and there is at least \$1,090 at stake, you have 60 days to file a civil complaint in the U.S. District Court. (Note: The minimum

amount of money that must be at stake in order to file a complaint in district court is adjusted each year; \$1,090 is the threshold for 2006.)

Social Security publishes a free detailed Medicare Handbook each year. Listen to the following Tel-Law topics for more information: 1097 and 1107, "Medicare Eligibility and Benefits, Parts 1 and 2;" and 1106, "Medicare Claims and Appeals."

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**CHAPTER 2****Medicare and Medicaid**

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**Supplemental Health Insurance: "Medigap"**

Since Medicare does not pay all of your health care expenses, private insurance companies sell insurance to supplement Medicare. This is known as Medicare Supplement insurance or Medigap. Before buying such insurance, make sure it does not duplicate your Medicare coverage. (See Chapter 12 for information on health insurance.) If you have Medicaid, you do not need Medigap coverage.

The Medicare prescription plan may affect your Medigap policy if that policy provides drug coverage. You will not be able to have both the Medicare drug benefit and the Medigap drug benefit beginning in 2006. You must choose between them if you want to have a drug benefit. You will no longer be able to purchase Medigap drug benefits if you do not then already have that coverage. If you decide to change from Medigap drug coverage to Medicare drug coverage after the time you first become eligible for the Medicare coverage, you will have to pay a penalty. The penalty amount rises each month that you delay.

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**Help in Making Medicare Health Plan Decisions**

Oregon's Senior Health Insurance Benefits Assistance program (SHIBA) can provide you with information and counseling by trained volunteers to help you come to an informed decision about your choices for health insurance generally and Medicare in particular. Seniors find the SHIBA program helpful and knowledgeable about the Medicare prescription drug program.

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**Medicaid**

Medicaid helps pay for health care for people who have low incomes and limited assets. The Oregon Health Plan is a Medicaid program. Medicaid covers many items and services, including the full range of long term care. People who have Medicare coverage may also qualify for Medicaid. When they do, Medicaid may pay for the Medicare premiums, as well as the deductibles, co-payments and health care not covered by Medicare.

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**Medicaid Eligibility**

People who receive certain government benefits are automatically entitled to Medicaid. These include recipients of Supplemental Security Income (SSI) who are over the age of 65 or disabled. In 2006, the income standard for SSI is \$603 per month for one person and \$904 per month for a couple.

The asset limit is \$2,000 for one person and \$3,000 for a couple. Certain assets are exempt and are not counted in determining eligibility for SSI or Medicaid. These include the person's home (regardless of its value), one vehicle (regardless of its value if it is needed for work or medical purposes), clothing and household items up to a value of \$2,000, and a burial fund of up to \$1,500.

According to the state office for Seniors and People with Disabilities, the average cost for long term care is over \$4,000 per month. Few people can afford to continue paying that much for very long. People with higher incomes (up to three times the SSI standard, or \$1,812 for one person in 2006) may qualify for Medicaid assistance if they need long term care in a nursing home, adult foster home, residential care facility, assisted living facility, adult day services program or their own homes. A person whose income is over the Medicaid limit may still be able to qualify for assistance by creating a special type of trust, called a Medicaid income cap trust. The asset limit for someone who needs Medicaid for long term care is \$2,000, the same as for SSI. The same assets are exempt as for Medicaid purposes.

If you are facing long term care bills and think that you have too many assets to qualify for Medicaid, do not give your assets away. If you or your spouse gives assets away within the five years before you apply for Medicaid, you will not be eligible for assistance for up to five years after you apply, based on the value of what was given away. Certain transfers are permitted. Talk to an elder law attorney or another lawyer who has experience in this area. You may be able to keep some of the assets, or use them in a way that will benefit you and your spouse.

If you are married, the Medicaid rules allow the spouse who does not need care to keep a share of the couple's income. Generally, this is one-half of the total assets belonging to either spouse or both the husband and the wife, up to \$99,540 in 2006. The well spouse may also get a monthly allowance from the ill spouse's income. The standard allowance is the amount needed to bring the well spouse's gross income up to at least \$1,604 per month (in 2006), and possibly higher. If these amounts are not sufficient to cover the well spouse's expenses, an attorney can explain the options that are available to increase the amount of assets or income or both.

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## How to Apply

You can apply for Medicaid through a local Area Agency on Aging or Seniors and People with Disabilities office. (See the General Resource List for locations and telephone numbers.) The eligibility worker at these locations can help you complete the application, but is not able to advise you on what steps you (or your spouse) can take to avoid having the well spouse become impoverished.

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## Services Covered

Medicaid covers a broad range of services, including:

- Hospital services;
- Doctors' services;
- Prescription drugs;

## CHAPTER 2

### Medicare and Medicaid

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- Medical equipment and supplies;
- Eyeglasses;
- Hearing aids;
- Some dental care;
- Mental health services;
- Diagnostic tests;
- Ambulance services and medical transportation; and
- The full range of long term care services.

Medicaid does have limitations. First, most people who get Medicaid assistance have to join a Health Maintenance Organization (HMO) or other managed care plan. The primary physician is responsible for deciding when his or her patients should get medical items or services. Second, the state has a list of treatment priorities. Treatment for certain medical conditions—those that are least likely to be helped by treatment—is not covered if the conditions are not within the current priorities.

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#### Payment for Services

Medicaid pays the health care provider or managed care plan directly. There are no claim forms to complete. If you have Medicaid, you should tell the doctor or other health care provider before you receive treatment or other items or services. You may need to get a referral from your primary physician or prior authorization from your managed care plan. Health care providers are not allowed to charge you additional amounts for services covered by Medicaid.

People who are not eligible for SSI and who are not receiving long term care may be able to get coverage under the Oregon Health Plan by paying monthly premiums and modest co-payments. The availability of this program changes with changes in the state budget for health care.

People who are getting long term care services will have to pay some or most of their income toward the cost of their care. The amount that each person pays depends on the setting in which the care is being provided, whether the person is single or married, and a number of other factors.

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#### Estate Recovery

The state wants to be reimbursed for what it spends on care for Medicaid recipients. But there are limits on what the state can do and when it can do it. For example, the state cannot collect its Medicaid claim while the Medicaid recipient is alive or has a surviving spouse or a minor or disabled child living in the family home. After the spouse passes away, the state can make a claim against the spouse's estate to collect whatever it could have collected from the estate of the Medicaid recipient. Oregon does not place a lien on the person's home or on another piece of property. If you have questions about how estate recovery will affect your property, or if you have received a Medicaid claim from the state, contact a lawyer for advice.

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## Medicaid Denials and Appeals

You will receive a written notice from the Area Agency on Aging or the Seniors and People with Disabilities office if your application for Medicaid assistance is denied or if your benefits are being reduced or terminated. The notice will give the reason for the action, tell you which administrative rules are involved, and explain how to request a hearing. The hearings are held by administrative law judges who work for the state. The hearing may be in person at the local office or by telephone. You may want to have an attorney represent you at the hearing. You may be able to get representation through a legal aid office near you. (See the General Resource List for locations and telephone numbers.)

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## Managed Care Issues

Each HMO or managed care organization that serves people who receive Medicaid assistance has an Exceptional Needs Care Coordinator (ENCC). The role of the ENCC is to help people who are having difficulty getting the care they need through the managed care system. If you are having problems, ask your primary physician to help. If your primary physician is the problem, ask to change to another primary physician or contact the ENCC. If the problems continue, you may want to change to a different HMO. You may also be able to get information and advice from a legal aid office. (See the General Resource List for locations and telephone numbers.)

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## Resources

See **General Resource List** for AAA/SPD offices, legal aid offices, OSB Tel-Law service and more. Also, see Resources at end of Chapter 12 for more information about insurance.

For more information about Medicare and Medicaid, call your nearest senior center. Some centers have SHIBA (Senior Health Insurance Benefits Assistance) volunteers. These volunteers are trained to help you. For more information, call your local AAA/SPD office.

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## Centers for Medicare and Medicaid Services (CMS)

[www.cms.hhs.gov](http://www.cms.hhs.gov)

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## Noridian Administrative Services

Medicare Parts A and B information  
901 40th Street South, Suite 1  
Fargo, ND 58103  
**877-908-8431**  
[www.noridianmedicare.com](http://www.noridianmedicare.com)

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## Oregon Insurance Division

350 Winter Street, Room 440  
PO Box 14480  
Salem, OR 97309  
503-947-7984 or 888-877-4894  
www.insurance.oregon.gov

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## Oregon State Bar Tel-Law Topics

1097 - Medicare Eligibility and Benefits, Part 1  
1107 - Medicare Eligibility and Benefits, Part 2  
1106 - Medicare Claims and Appeals  
1108 - Medicare Prescription Drug Program  
503-620-3000 or 800-452-4776  
www.osbar.org

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## Senior Health Insurance Benefits Assistance (SHIBA)

250 Church Street SE, Suite 200  
Salem, OR 97301  
800-722-4134 or 503-378-2051  
www.oregonshiba.org

Also, call or write for the booklet *“Oregon Consumer Guide to Medicare Supplemental Insurance and HMOs.”*

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## Glossary of Terms

**Approved Charge:** *The value that Medicare has set for the service received. It is often lower than the amount the provider bills.*

**Assignment:** *A method of payment under Medicare Part B. The doctor agrees to accept the amount of the Medicare approved charge as full payment.*

**Co-insurance Payments:** *Payments you make to share costs with Medicare.*

**Deductible:** *Amount of medical bill you must pay annually before Medicare pays anything.*

**Hospice:** *Supportive care provided for terminally ill patients and their families at home or in a facility.*

**Lifetime Reserve Days:** *Sixty extra days you may use for hospitalization. You share daily costs with Medicare. These days can be used only after you have stayed more than 90 days in a hospital and can be used only one time.*

**Medicaid:** *A program that helps pay some health care costs for qualifying individuals with low incomes and limited assets. It will cover some expenses that Medicare does not.*

**Medicare:** *A federal health insurance program for people aged 65 and over and for certain people with disabilities.*

**Medicare Advantage:** *See Medicare+Choice.*

**Medicare Hospital Insurance:** *Also called Medicare Part A. Health insurance that usually covers a necessary hospital stay and sometimes covers skilled care in a nursing facility or certain health care in your home after you leave the hospital.*

**Medicare Medical Insurance:** *Also called Medicare Part B. Insurance that covers doctors' services, outpatient hospital services, diagnostic tests and medical supplies. It can cover home health services prescribed by a doctor even if you have not been in the hospital.*

**Medicare Part D:** *The general name of the new prescription drug plans available for Medicare beneficiaries. Although people must have either Medicare Part A or B or Medicare Advantage in order to qualify for a prescription drug plan, the plans are operated by insurance companies, not by Medicare.*

**Medicare+Choice:** *Also called Medicare Advantage. The managed-care or HMO (health maintenance organization) form of Medicare coverage, which offers hospital and medical coverage and limited prescription coverage.*

**Medigap:** *See Chapter 12.*

**Spells of Illness:** *Benefit periods beginning with the first day you enter the hospital after your Medicare goes into effect. A new benefit period begins after you have not been in the hospital (or skilled nursing facility) for 60 days in a row. There is no limit to the number of spells of illness that qualify for Medicare.*



## CHAPTER 3

# Nursing Homes and Other Residential Facilities

Continuing care retirement communities, assisted living facilities, residential care facilities, adult foster care homes and nursing facilities are the options available to Oregonians who are considering moving to a place where they can receive help with many of their daily activities. Each facility offers a different range of services. This chapter describes each type of facility and what it offers, in order to help you decide which one would best satisfy your needs. This chapter not only describes the facilities' services, but also outlines strategies you can use to research the services. Also, you will find out some of the rights you have as a resident of these facilities.

Oregon has a unique range of residential facilities for older adults who need help with medical or social problems or with the usual activities of daily living. Help may be available in one's own home as well. Medicare can pay for some home health visits and physical therapy under certain very limited conditions. Oregon Project Independence (OPI) and the Medicaid program can help impaired seniors with daily activities, such as shopping, bathing and housecleaning. See Chapter 2 for more information on Medicare and Medicaid, or contact your local Area Agency on Aging/Seniors and People with Disabilities Services office for more information. (See General Resource List.)

## CHAPTER 3

### Nursing Homes and Other Residential Facilities

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## Choosing a Facility

When considering a specific facility, be sure the facility and its administrator have current licenses as required by law. Consider whether you would get along with the people who live there. Inspect the home carefully. Make sure that the facility will provide the maximum opportunity for independence and mobility. Talk to the current residents about their lives in the facility. For example, ask about the quality of food, recreation, exercise, clubs or organizations, entertainment, and planned trips, as well as the freedom to have visitors and personal possessions such as furniture, bedspreads and curtains of your choice. Mealtime can be a good time to visit and see how people live.

Check on policies about visiting hours, phone calls, room assignments and access to your bank accounts. Also, make sure that your personal

doctor can care for you at the facility. Ask the facility for a copy of its policies and procedures. An attractive exterior could be hiding a place that provides inadequate care. On the other hand, a floor that does not shine may mean that the facility is making a safer environment for those with vision problems. Make sure the place you choose will meet your needs.

Because visits from friends and relatives are very important, you should choose a facility near them. To help you choose, you can ask family, friends and doctors to participate in the decision process.

The following information is a brief summary of the services offered in Oregon.

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## **Continuing Care Retirement Community**

This residential facility provides a certain amount of care for longer than one year. About 15 of these communities are located throughout Oregon. The facility charges an entrance fee and monthly fees. The entrance fee is 12 or more times the monthly charge. The facility must provide you with a description of the services it offers and the fees required if you want to sign a contract to live there. As a prospective resident, you must be given information about how to cancel your contract and a copy of the facility's last audited financial statement.

Ask the following questions if you want to find out more about this type of community:

1. Are entrance fees refundable?
2. How does the facility handle transfers to nursing care or a nursing home?
3. Is a transfer decision made by the staff only, or do I, my physician and my family have a say in it?
4. How many nursing home beds are available?
5. What happens if no bed is available when I need it?
6. Can the facility increase the fees?
7. Am I required to have health insurance, and if so, would I be paying double?

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## **Assisted Living Facility**

This type of residential setting, licensed by the state, offers:

1. Room and board in private apartments;
2. Small kitchen facilities;
3. Housekeeping services;
4. Intermittent nursing services;

5. Medication and behavior management;
6. 24-hour supervision and protection;
7. Organized activities; and
8. Help, if it is needed, with dressing, bathing and personal hygiene.

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## Residential Care Facility

This type of facility is often called a retirement home. It offers:

1. Room and board;
2. Organized activities;
3. Security; and
4. Limited housekeeping and personal care, such as help with dressing and bathing.

This type of state-licensed facility serves six or more residents.

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## Adult Foster Care Home

This facility has a smaller, homelike setting, often with a family, for five or fewer residents. It offers:

1. Room and board;
2. Medication management;
3. Help with dressing, bathing and personal hygiene;
4. Some nursing care; and
5. Activities.

This type of facility is licensed under state law and offers 24-hour supervision and service

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## Nursing Facility

This facility may be called a nursing home, care center, convalescent center or rehabilitation facility. It offers:

1. Room and board;
2. 24-hour nursing;
3. Personal care;
4. Administration of medications;
5. Management of chronic medical problems;
6. Organized activities;

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### CHAPTER 3

#### Nursing Homes and Other Residential Facilities

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#### **YOU DO NOT GIVE UP YOUR RIGHTS**

when you move into a residential facility. See “The Resident’s Bill of Rights” on pages 53-54.

7. Social services; and
8. Discharge planning.

A skilled nursing facility also offers daily medical evaluation and rehabilitation services by physical, speech and occupational therapists.

It is important that the person who is to live in a facility makes the final decision about living there. Often, particularly in the middle of a crisis, facilities turn to the spouse or adult children to make the decisions because it is more convenient. Family members and friends can offer advice, but the prospective resident should make the decisions.

Social workers and the Area Agency on Aging/Seniors and People with Disabilities office (AAA/SPD) can give information about arrangements that are appropriate for you. If you are actually in a hospital, a service called pre-admission screening is available to you. This service can help you make the decision about where you want to live based upon your particular needs and wants. For instance, if you need daily skilled care by licensed nurses, then you might want to choose a nursing home. If you need someone to help make sure you turned off the stove burners and took your prescribed medications, an adult foster care home or assisted living facility may be a better choice. If you are not in a hospital, you may have a pre-admission screening by contacting your local AAA/SPD office. (See Resources at end of chapter and General Resource List.)

## Some Questions to Ask

Consider asking the following questions as well as questions of your own. Note the answers, and learn the name and position of the staff members who answer your questions.

1. Is the facility licensed? Is the license in danger of being revoked, suspended or not renewed? Ask the staff if you can see a recent inspection report. Check with the local AAA/SPD office and the state office of the Long Term Care Ombudsman for more information, such as possible abuse complaints from facility residents. (See Resources at end of chapter and General Resource List.)
2. Does the facility have a contract with the state and accept Medicaid payment?
3. What level of nursing care is provided?
4. Are organized activities available? What about religious services?
5. What rehabilitation and physical therapy facilities and staff are available?
6. When are visiting hours? Are there any restrictions on the number of visitors?
7. Do staff members receive regular training and attend educational programs?
8. Does a registered dietician plan meals? Are special diets available? (Ask to see menus, and visit during mealtime.)

Don't be afraid to ask questions BEFORE you select or move into a residential facility. See some suggestions on page 52.

9. Does the facility have safety features? Ask about smoke detectors, alarms, sprinklers, hand rails, grab bars and wide doors.
10. What is the basic monthly rate, and what services does this rate include? How much do additional services cost?
11. Are any deposits required? (The facility cannot require Medicaid residents to pay a deposit charge.)
12. If the facility uses a particular pharmacy, are the prices competitive with local pharmacy prices?
13. Does the facility provide a safe place to keep valuables? Have there been any problems with theft?

Nursing facility advocate organizations have helpful information for residents and their families. AARP's Internet website ([www.aarp.org](http://www.aarp.org)) has an excellent questionnaire for use in evaluating facilities. The National Citizens Coalition for Nursing Home Reform offers useful tips on its website ([www.nccnhr.org](http://www.nccnhr.org)), and the National Senior Citizens Law Center published in 2006 a short book called *20 Common Nursing Home Problems, and How to Resolve Them*. (See General Resource List.)

The Office of the Long Term Care Ombudsman and the Department of Human Services Facilities Licensing Office maintain a list of all of the facilities of all types in Oregon. They also record complaints about violations of state and federal law by facilities; those records are available to the public.

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## Things to Observe

- Possible safety hazards, such as poor lighting, blocked fire doors, loose cords or torn carpets;
- Cleanliness (check for dust, clean bathrooms and deodorants used to cover up smells);
- Cozy touches such as flowers, art and seasonal decorations; working televisions and radios; pleasant public areas and accessible telephones;
- Happy and involved residents; and
- The staff's attitude toward residents. (Are residents treated with respect and dignity? How much privacy do residents have?)

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## The Resident's Bill of Rights

Laws and regulations assure that each facility resident:

- Is fully informed of all rules for resident conduct and responsibilities when the resident moves in;

- Is fully informed of services available in the facility, related charges, charges not covered by Medicaid or the facility's basic daily rate when the resident moves in;
- Is fully informed by a physician of his or her medical condition;
- Can participate in medical treatment planning;
- Can refuse to undergo any kind of medical treatment so long as the resident understands the consequences of refusing treatment;
- Can refuse to participate in experimental research;
- Is transferred or discharged only for medical reasons, the resident's best interests or non-payment;
- Is given reasonable advance notice for orderly transfer or discharge;
- Is encouraged to exercise all rights as a resident, voice grievances, and recommend changes in policies and services;
- Is free from restraint, interference, coercion, discrimination or reprisal;
- Can manage personal financial affairs, or, if the facility is handling the finances, be given a written report of financial transactions made on his or her behalf at least once a quarter or whenever the resident asks for a report;
- Is free from mental and physical abuse and from unnecessary chemical and physical restraint that are not prescribed by a doctor to treat symptoms;
- Is assured confidential treatment of personal and medical records, and may approve or refuse their release to any person outside the facility (except if transferring to another health care institution);
- Is treated with consideration, respect and full recognition of dignity and individuality, including privacy in treatment and care for personal needs;
- Is not required to perform services for the facility that do not have therapeutic purposes in a plan of care;
- May communicate privately with persons of his or her choice and send or receive personal mail unopened;
- May keep personal clothing and possessions as space permits;
- If married, is assured privacy for visits by his or her spouse; and
- Is allowed to share a room with his or her spouse, if husband and wife are both residents in a facility.

**Residents in all types of facilities have similar rights.**

## **Paying for Facility Care**

Find out, at the beginning, what the facility will cost. The law requires that the facility inform all residents of the services available. It also must

tell you what the cost will be, including any “extra” charges not covered under Medicare or Medicaid.

Facilities with Medicaid contracts cannot ask the resident or friends or relatives to pay money in addition to the Medicaid rate for covered services. All of the beds in a Medicaid facility (except for an assisted living facility) are available for Medicaid participants.

The cost information must be available to the resident before admission. It is also a good idea to get a copy of the admission agreement from a facility to review before signing because you may want to negotiate changes with the facility.

Paying for long term care is difficult. Medicare may pay for a limited number of days of skilled nursing care and other costs. Private insurance may be available to help pay costs, too. Medicaid payment is available for those with limited resources and income. (See Chapter 2 for more information on Medicare and Medicaid.) A person who has money to pay for long term care in the beginning may eventually run out of money and become eligible for Medicaid. A lawyer who is familiar with the Medicaid program can provide advice about how to qualify for Medicaid assistance.

## CHAPTER 3

### Nursing Homes and Other Residential Facilities

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#### Medicaid

Medicaid is a financial assistance program. It will pay for nursing home care, adult foster home care, assisted living facility care, residential care facility care and in-home services for an unlimited time for persons who qualify under the income and assets guidelines. The Oregon Health Plan is another name for Medicaid. (See Chapter 2 for more information on Medicaid.)

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#### Medicare

Medicare is a federal health insurance program for persons aged 65 and older and certain disabled persons under 65. The Social Security Administration manages Medicare. It helps pay for skilled nursing home care, for a limited time, with some co-payment requirements. (See Chapter 2 for more information on Medicare.)

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## Complaints

If you have a complaint about a nursing home or other facility, you have a right to make your complaint known without fear. You can report your complaint to:

1. The nursing home administrator or resident manager;
2. The state’s long term care ombudsman (see Resources at end of chapter);
3. The Seniors and People with Disabilities Services’ Client Care Monitoring Unit (see Resources at end of chapter);

4. A residents' case manager at a local AAA/SPD office (see General Resource List);
5. Your state and local elected representatives or your U.S. representative and senators; or
6. A knowledgeable private lawyer or your local legal aid office.

If you believe that a resident of a facility is being abused, neglected or exploited, call the Protective Services worker at your local AAA/SPD office or call the Long Term Care Ombudsman Program. The situation will be investigated, and help will be offered.

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## Resources

See **General Resource List** for AAA/SPD offices, legal aid offices, OSB Tel-Law service and more.

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### Eldercare Locator

Maintains a list of facilities and non-facility services nationwide.

**800-677-1116**

[www.eldercare.gov](http://www.eldercare.gov)

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### Office of the State Long Term Care Ombudsman (LTCO)

3855 Wolverine NE, Suite 6  
Salem, OR 97305

**503-378-6533** or **800-522-2602**

[www.oregon.gov/LTCO](http://www.oregon.gov/LTCO)

The LTCO has volunteer ombudsmen in many of the nursing and adult foster care facilities throughout Oregon. Each facility should have a large poster with the name and telephone number of the ombudsman assigned. If there is none, contact the LTCO Salem office to get information about and/or solve any problem within a facility.

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### Oregon State Bar Tel-Law Topic

1194 - Nursing Home Residents' Rights

**503-620-3000** or **800-452-4776**

[www.osbar.org](http://www.osbar.org)

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## Seniors and People with Disabilities Services, Client Care Monitoring Unit (CCMU)

Field Offices

**Medford:** 541-776-6086

**Tualatin:** 503-691-6587

**Salem:** 503-373-0200

The CCMU licenses all nursing facilities in the state. The latest survey results are available at the facility and from the Seniors and People with Disabilities (SPD) central office (503-945-5811 or 800-282-8096). CCMU also investigates some complaints.

SPD has a brochure about long term care called "Choices." You can get it free of charge by calling 800-282-8096.

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## Glossary of Terms

**Adult Foster Care Home:** *A residence for up to five older or disabled adults that offers 24-hour service in medication management, personal care, nursing care and organized activities.*

**Assisted Living Facility:** *Private apartments with baths and kitchens that have intermittent nursing services, medication and behavior management, protection, supervision, organized activities, and dressing and personal hygiene assistance.*

**Medicaid:** *See Chapter 2.*

**Medicare:** *See Chapter 2.*

**Nursing Facility:** *Facility offering skilled and/or intermediate care including medical evaluation and management, 24-hour nursing supervision, rehabilitation services, stabilization of chronic medical problems, organized activities, social services and discharge planning.*

**Residential Care Facility:** *Facility for six or more older or disabled adults offering room, board, organized activities and security. It offers limited services for housekeeping and personal care.*



## CHAPTER 4

# Managing Your Property and Personal Affairs

Health problems can make it difficult for you to manage your property or care for yourself. However, with careful planning you can arrange how your affairs will be managed if you become ill. You can enlist the help of others to manage your property and personal affairs in different ways. Some methods are simple, such as having your government payments automatically deposited into your bank account. Other methods are more complex, such as appointing an agent or attorney-in-fact. This chapter will explain these methods and outline their benefits and limitations.

Topics relating to financial matters covered in this chapter are direct deposits, shared bank accounts, power of attorney, representative payee and conservatorship. Other topics regarding health care issues (and sometimes some financial matters as well) are guardianship, advance directives for health care and mental commitment.

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## Direct Deposit

**Direct deposit** is a free service that sends your checks directly into your bank account. You can use direct deposit if you receive Social Security, Supplemental Security Income (SSI), Railroad Retirement, veterans' benefits or government retirement benefits. The federal government strongly encourages people to use direct deposit. To sign up, take your next federal government check to your financial institution and fill out form 1199A. The financial institution will give you a different form for Oregon Public Employees Retirement System (PERS) checks. (See Resources at end of chapter.) Your payments should begin to go directly into your account within 60 to 90 days.

You can often arrange for similar direct deposits for payments from private sources. Contact the source of your payment to find out what information you need to set up direct deposit.

You should check your bank statement each month to make sure the deposits were received. You also should make sure that none of your creditors has taken more than it is entitled to from your account.

Direct deposit has these advantages:

1. It ends worries about lost or stolen checks or late mail;
2. It allows you to travel away from home without worrying about your checks being left in an unprotected mailbox; and
3. You begin earning interest earlier if you have an interest-bearing account.

You can change your direct deposit to a new or different account by filling out a new form. If you plan to close your old account, do not close it until payments are sent to your new account.

## CHAPTER 4

### Managing Your Property and Personal Affairs

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A power of attorney **DOES NOT** take away the principal's rights to make his or her own decisions about financial matters.

## Shared Bank Accounts

Most financial institutions have several options allowing more than one person to control funds in a bank account. The most common is a **joint account**. A joint account is an account that allows two or more people each to deposit and withdraw money from it. The persons named on the account do not need permission from each other to use the account. If one of the account holders dies, the funds in the account belong to the other account holders.

Chapter 5 discusses the use of shared accounts in estate planning. The primary issue is whether or not you want the money in your shared account to go to the other account holders after your death. The main advantage of shared accounts is convenience. The disadvantage is the risk of holding an account with other people. If the persons who have a joint account with you are untrustworthy, they could empty your account without your knowledge or permission. If they owe back taxes, get divorced or have judgments against them, you could lose the money in the joint account.

## Power of Attorney

A **power of attorney** gives another person the legal authority to manage some or all of your financial affairs. A power of attorney is created when a person (called the **principal**) gives someone else (called the **agent** or **attorney-in-fact**) written permission to act on his or her behalf. The attorney-in-fact does **not** have to be a lawyer and may be a spouse, relative or friend. Pre-printed power-of-attorney forms are available. Remember that a power of attorney can be an extremely powerful document, however. You should not give anyone such powers without fully understanding what doing so means. You should check with a lawyer before granting a power to anyone.

A power of attorney can give the attorney-in-fact authority to manage almost all business that may require the principal's presence or signature. For example, if you are physically unable to go to the bank, you could give someone the power to deposit and withdraw money from your account. For this particular purpose, the principal could create a **limited power of attorney**. This grants permission to another person to perform only certain acts. In other situations, the principal could create a **general power of attorney**. This grants permission to another person to handle a broad range of financial affairs.

A power of attorney does **not** take away the principal's rights to make his or her own decisions about financial matters. The principal can end the power of attorney at any time by simply telling the attorney-in-fact in

writing. The principal should send copies of the notice to anyone (such as the bank) with whom the attorney-in-fact did business. A power of attorney ends automatically when the principal dies.

The principal must be mentally competent to grant a power of attorney. The power of attorney must be in writing and signed. Customarily, it is notarized, but it does not need to be witnessed. If a power of attorney is used to transfer real property, it must be notarized and must be recorded in the clerk's office in the county where the property is located. (See Chapter 6 for more information on transfer of real property.)

In Oregon, a power of attorney is **durable**. This means that it continues to be valid even if the principal becomes incapacitated. However, the principal can state in the document that the power is to end earlier. In this case, it can last only until the ending date or until the principal revokes it.

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## Representative Payee

Some government programs allow benefits payable to one person (beneficiary) to be paid to another person called a **representative payee**. Social Security, Railroad Retirement and the Veterans Administration programs all use representative payees. The benefits are to be used for **the person entitled to the money**.

You can appoint a representative payee if you are unable to manage the benefits you receive. You or someone on your behalf must apply to the agency paying the benefits. A power of attorney will not work to endorse or cash federal checks.

It is not necessary to be legally incapacitated or incompetent to qualify for a representative payee. Getting a representative payee does **not** require court action or a lawyer. However, if you do not want a representative payee or wish to have a different person serve, you can ask the agency to change its decision. It must review its decision to see whether you need a payee.

A representative payee must account for the funds used and saved. If a representative payee is not using funds properly, the agency should be told immediately to protect the beneficiary. If the representative payee purposely misuses funds, he or she may be prosecuted. If the agency does not stop paying the representative payee after misuse was reported and the misuse continues, the agency may have to repay the beneficiary.

To get information about representative payees, contact the paying agency. Social Security, Railroad Retirement and the Veterans Administration have pamphlets that explain the duties of a representative payee. (See Resources at end of Chapter 1.)

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## Conservatorship

A **conservatorship** is a legal proceeding that gives a person (called the **conservator**) power over the property and finances of a financially

## CHAPTER 4

### Managing Your Property and Personal Affairs

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With careful planning, you can arrange for others to manage your property and personal affairs should you become unable to do so.

incapable person (the **protected person**). A conservatorship may be established for a person who cannot manage his or her financial resources effectively. Only a court can grant a conservatorship; it is usually the choice of last resort. A financially incapable person may ask the court to appoint a conservator. A person who does not want a conservator may object to the court if someone else wants a conservator appointed. The court will hold a hearing if an objection is filed. The person who does not want a conservator has a right to be represented by a lawyer at a hearing on the objection.

A conservator must follow these basic rules:

1. The conservator has the power to manage the protected person's money and property for the benefit of the protected person;
2. Each year, the conservator must tell the court how he or she managed the money and property; and
3. The conservator does **not** have the power to make personal decisions for the protected person.

The protected person can always ask the court to end the conservatorship. The court may end the conservatorship after finding that the protected person no longer needs it. If a conservator misused the property, the company providing the conservator's bond—which is required by the court—may be ordered by the court to pay the protected person.

The advantage of a conservatorship is that the conservator is usually bonded and is accountable for all funds and property. The disadvantages of a conservatorship are that it can be expensive, the records are public, and it can be difficult to end.

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## Guardianship

**Guardianship** can occur because a person becomes incapacitated, or unable to make decisions for his or her well-being and safety. Guardianship is the alternative of last resort after all other solutions have failed. Creating a guardianship is a court procedure. A **guardian** is appointed by the court when a person (the **protected person**) becomes so incapacitated that she or he is in danger of serious physical injury or illness without a guardian to make decisions. A person interested in the welfare of another may petition the court to set up a guardianship. The court then directs a qualified person to act as a visitor to interview the person seeking appointment, the proposed protected person and others involved. The visitor submits a report to the court. The court may also require that the proposed protected person be examined by a physician or psychologist.

The person who is the subject of the proceeding is given notice and may object. The court will hold a hearing if an objection is filed. The proposed protected person can be represented by an attorney. The person who filed the petition has to prove that there is no better way to deal with the situation. If the court finds that the proposed protected person is incapacitated, it will establish a guardianship to provide continuing care and supervision.

The law requires that the guardianship order specifically outline the duties and responsibilities of the guardian. The order must be attached to the “Letters of Guardianship,” which is the court paper showing the authority of the person named as guardian. If the court order so directs, the guardian can control where the protected person lives and can consent to any necessary medical or professional care and treatment. Furthermore, if there is no separate conservatorship, the guardian may receive money and tangible property of the protected person and use it to pay for support and care.

The guardian’s responsibility ends when the protected person dies or the court agrees that the protected person is no longer incapacitated.

## Advance Directive and POLST

Oregon law allows you to name a person (called a **health care representative**) to speak for you about medical treatment if you cannot speak for yourself. This instruction is called an **advance directive**. The advance directive document allows you to give to your physician and your health care representative directions about treatment, particularly about procedures that will artificially prolong your life. An advance directive remains valid for the time you state on the form, or until you revoke it. You can revoke it at any time by telling your health care provider or your health care representative.

You can give specific instructions to your health care representative about surgery, diagnostic tests or the need for nursing home care. Even if a guardian is appointed for you, the health care representative named in your advance directive would still be the one to make the health care decisions unless the court takes that power away.

You must complete a special Oregon form to create an advance directive. You cannot use an all-purpose power of attorney or other form such as the forms you might find on the Internet. You must sign the advance directive in front of two witnesses, one of whom must be unrelated to you. The health care representative also must sign the form to show she or he agrees to assume this duty.

Although the law requires use of the form, you can make additions to the form that can make your wishes clearer about what kinds of care you do or do not want for yourself. It is best to get advice and assistance from a lawyer about the use of the form.

While an advance directive expresses your wishes about health care, those who provide treatment may not always understand your wishes or follow them despite your best intentions. So the law also provides for a **Physician’s Order for Life-Sustaining Treatment**, or **POLST**, on which your doctor can order certain care in the event of a very serious medical problem. Hospital staff must follow the doctor’s order. Your doctor’s office may have a copy of this form for you to look at. Your doctor can counsel you about the choices on the form. After your doctor signs the POLST, keep the form in a place where it is easy for anyone to find, such as on your refrigerator door.

# Mental Commitment

A person can be involuntarily committed if he or she has a mental disorder and is a danger to himself or herself or to others.

One way the civil commitment process begins is when two people file a written notice to the county Mental Health Division. Within 15 days, the Mental Health Division investigates to find out if there is cause to believe that the person is mentally ill. The Mental Health Division then submits a report to the court. If a hearing is to be conducted, the court will appoint a psychiatrist or other certified mental health examiner to assess the person's mental health.

At the hearing, the alleged mentally ill person is entitled to an attorney. The court will make one of the following determinations:

1. The person is not mentally ill and will be released;
2. The person is mentally ill and willing to receive treatment;
3. The person is mentally ill and will be released to a guardian; or
4. The person is mentally ill and committed to the Mental Health Division for care, custody and treatment.

At the end of 180 days of commitment, any person whose status has not been changed to voluntary is released, unless the Mental Health Division certifies that the person is still mentally ill and needs further treatment. If the person protests, the court will hold another hearing.

Any person committed under Oregon law has the right to:

1. Communicate freely in person, by mail and by reasonable access to telephones;
2. Wear his or her own clothing;
3. Keep personal possessions;
4. Practice religious freedom;
5. Use private storage areas;
6. Have a reasonable supply of writing materials and stamps;
7. Be informed of his or her progress through a written treatment plan;
8. Be represented by an attorney;
9. Refuse to perform routine labor tasks of the facility; and
10. Be given reasonable compensation for all work performed other than personal housekeeping duties.

## CHAPTER 4

### Managing Your Property and Personal Affairs

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## Resources

See **General Resource List** for local AAA/SPD offices, legal aid offices, OSB Tel-Law service and more. Also, check the front of your telephone directory for Community Service Numbers.

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### **Alzheimer's Association**

Oregon Chapter  
1311 NW 21st Avenue  
Portland, OR 97209  
Helpline: **800-733-0402**  
Business Line: **503-413-7115**  
[www.alzheimers-oregon.org](http://www.alzheimers-oregon.org)

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### **"Making Health Care Decisions: A Consumer Guide"**

Oregon Health Decisions  
**503-241-0744** or **800-422-4805**

(\$5.00 for advance directive forms and booklet explaining how to use the directive.)

[www.oregonhealthdecisions.org](http://www.oregonhealthdecisions.org)

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### **Oregon Public Employees Retirement System (PERS)**

11410 SW 68th Parkway  
PO Box 23700  
Tigard, OR 97281-3700  
**503-598-7377** or **888-320-7377**  
24-hour hotline: **503-603-7600**  
TTY: **503-603-7766**  
[oregon.gov/PERS](http://oregon.gov/PERS)

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### **Oregon State University Extension Service**

*"Helping Memory Impaired Elders: A Guide for Caregivers"* (PNW 314)

Cost: \$2.50 per booklet

To order this booklet, or for a free catalogue of resources,  
e-mail: [puborders@oregonstate.edu](mailto:puborders@oregonstate.edu).

For more information call **541-737-2513** or **800-561-6719**.

[extension.oregonstate.edu](http://extension.oregonstate.edu)

## Glossary of Terms

**Advance Directive:** *A special form used to give directions to doctors and other health care providers, and used to name another person (health care representative) to make health care decisions for you when you cannot speak for yourself.*

**Agent:** *See Attorney-in-Fact.*

**Attorney-in-Fact:** *The person who is named as an agent by another person who creates a power of attorney.*

**Conservator:** *The person appointed by the court to manage the financial affairs of a protected person.*

**Conservatorship:** *A legal proceeding to give a person (the conservator) power to manage the property and finances of someone who is financially incapable.*

**Direct Deposit:** *A free service allowing you to have your government payments sent directly to your checking or savings account.*

**Durable:** *A term meaning that power of attorney continues to be valid even if the principal later becomes incapacitated.*

**General Power of Attorney:** *Legal authority, in writing, to handle a range of financial affairs for the person creating the power of attorney.*

**Guardian:** *The person appointed by the court to have the responsibility of caring for and supervising an incapacitated person in a guardianship.*

**Guardianship:** *A legal proceeding to give a person (the guardian) power to supervise an incapacitated person.*

**Health Care Representative:** *A person named in an advance directive to speak for you about treatment if you cannot speak for yourself.*

**Joint Account:** *An account that allows two or more people each to deposit and withdraw money from it.*

**Limited Power of Attorney:** *Legal authority, in writing, to perform a specific act or acts on behalf of another (e.g., the power to cash another person's check).*

**Mental Commitment:** *A court proceeding in which a person who is found dangerous can be placed in the custody of the Mental Health Division for treatment and care.*

**Physician's Order for Life-Sustaining Treatment (POLST):** *An official order from a doctor that requires medical providers to honor your wishes about the kind and extent of care you want when you are near death.*

**Power of Attorney:** *Legal authority, in writing, given by a person to an agent to manage some or all of that person's financial affairs.*

**Principal:** *The person who grants, in writing, power of attorney to another.*

**Protected Person:** *Someone who has been found to be financially incapable (in a conservatorship proceeding) or incapacitated (in a guardianship proceeding).*

**Representative Payee:** *Another person who has been given the responsibility to receive and use benefit payments solely for the person entitled to receive the benefits. This arrangement is generally used by a government agency.*

### CHAPTER 4

## Managing Your Property and Personal Affairs

## CHAPTER 5

# Estate Planning

Various options are available to you when planning how to pass on your **estate**. To plan the distribution of your assets, you must decide what to give away, when to give it and who will receive it. You may also want to decide which method is the least expensive and which will reduce any estate taxes.

This chapter addresses important estate planning issues such as making a will, distributing property when there is no will, the probate process, bank account options, trusts, life insurance and estate taxes.

Wills, trusts or documents of ownership that transfer property are very complex at times. This chapter tries to explain the basics of each of these choices, and the advantages and disadvantages they present. From this information, you will be better able to seek legal advice about the choices that would benefit you and your family the most.

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## Passing on Property

The law recognizes two types of property: real property and personal property. **Real property** includes land, buildings and structures placed on land, such as houses, commercial buildings and agricultural buildings. **Personal property** includes all property other than real property, such as cars, boats, furniture, clothing, bank accounts, stocks, bonds and personal items.

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### Intestate Succession

If you do not have a will, your property will be disposed of through a process called **intestate succession**. Oregon law explains who will receive your property if you die without a will. For example, if you are married when you die, your spouse will receive all your estate. This happens either if you had no children or if all of your children belong to both of you. Different rules apply if you die leaving a spouse and children who do not belong to your surviving spouse. In this case, the surviving spouse receives one half of your net estate and your children receive the other half. If you are not married at the time of your death, any children will receive all of your property in equal shares. If you have no spouse or children, your parents will receive your property. If your parents have died, your brothers and sisters will receive your property. The State of Oregon will get your property only if you have no family and you do not dispose of the property in your will or trust.

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**CHAPTER 5****Estate Planning**

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**Wills, trusts, or documents of ownership** that transfer property are very complex at times, and usually require further legal advice.

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**Wills**

A **will** is a formal statement signed by you and witnessed by at least two other people. It describes how your estate will be divided after you die. You can use a will to give anything you own—including real estate, cars, business holdings, money and personal property—to anyone you want after payment of your estate debts. A will also may state whom you want as a guardian for your minor or disabled adult children. You can appoint a personal representative to complete your affairs after your death. (Listen to Tel-Law topics 1116, “Your Will,” and 1121, “Estate Planning for Parents of the Disabled,” for more information on wills and other estate planning issues.)

To make a will, you must meet these minimum legal requirements:

1. You must be at least 18 years old;
2. You must be “of sound mind.” This means you must understand what property you have to give and to whom you are giving this property after your death;
3. The will must be in writing and dated. It should be typed if possible;
4. If you are making a will, you or another person acting under your supervision must sign it. If another person is signing for you because you are not physically able to sign, he or she must sign the will at your request and in your presence;
5. Two witnesses must sign the will. They must sign in your presence and certify that you were of sound mind when the will was signed; and
6. You must be making the will the way you are because you want to, and not because someone else is making you do it.

Preparing your own will is not recommended because any errors can have serious consequences. A lawyer can tell you why you need a will and what to dispose of through a will. You may not be able to dispose of some of your property. (See Chapter 6 on transfer of real property.) The lawyer can make sure that the will reflects your wishes about your property. Be sure to let the lawyer know if any of your intended heirs receives SSI benefits or relies on Medicaid—a gift of even limited value may raise their income or assets above eligibility levels and thus make the person ineligible for needed medical assistance.

If you have a will, you should review it periodically to make any needed changes in the amount or kind of property you have, new family members or deaths and divorces among relatives, changes in tax laws, or a move to a new state or country.

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**Probate**

**Probate** is a process that takes place after your death. During this process, your property is distributed either according to your will or through intestate succession. A **personal representative** manages your property, pays the expenses and debts, and then distributes the property to your heirs. The probate court supervises the personal representative. You can appoint a personal representative in your will. If you do not have a personal representative or a will and your property passes by intestate

succession, the court will appoint a personal representative for you.

Probate clears the titles to stocks, bonds, other securities and cars; officially puts real estate into the name of the person who inherited it; and stops others, including creditors, from claiming any of the property after the probate ends.

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## Small Estate or Regular Probate

If at the time of your death you have an interest in property that does not automatically pass to another through a survivorship estate or trust, then your will must be probated to pass your property on to your heirs. (See Chapter 6 for information on survivorship estates.) If the value of your interest in the property is under the limits set by Oregon law, the probate may be done through a **small estate proceeding**. A small estate proceeding usually takes less time and requires less paperwork and expense.

A small estate is defined as real property with a fair market value of no more than \$150,000 and personal property valued at no more than \$50,000. This type of probate takes about four to six months and can be handled informally. It is fairly inexpensive.

However, if you have real property valued at more than \$150,000, personal property valued at more than \$50,000, or both, then the estate must go through **regular probate**. Regular probate usually takes a minimum of about nine months. It may take a longer time depending on the size and complexity of the estate. Probating a large and complex estate can be expensive. If you have a large estate, you should contact an attorney to discuss the merits of estate planning. (Listen to Tel-Law topic 1117, "What is Probate?" for more information.)

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## Survivorship Interests

Holding property with a **survivorship interest** can be an inexpensive alternative to a will. It applies to both real and personal property. (See Chapter 6 for more information on survivorship interests.)

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## Payment on Death (POD Accounts)

**POD accounts** are another alternative to wills and intestate succession. A POD account is treated like a normal bank account during the lifetime of the person putting the money into the account (the **payer**). On the payer's death, any funds remaining in the account belong to the people named on the account by the payer (the **payees**). The payees have no control over the account during the payer's lifetime. If you wish to set up a POD account, contact your local bank or financial institution.

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## Trusts

A **trust** is a right to property, real or personal, held by one person for the benefit of another. There are basically two types of trusts: testamentary trusts and living trusts. A **testamentary trust** is set up in your will. It takes effect only after your death and after your estate has been probated. (Listen to Tel-Law topic 1119, "What is a Trust?" for more information.)

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## Living Trusts

A **living trust** is an increasingly popular alternative to a will and probate. A living trust may be revocable or irrevocable. In a living trust, one or more persons (**trustors**) put property or money for themselves and others (**beneficiaries**) into the trust. Instead of giving the property and its income directly to the beneficiaries, the trustor places it under the control of a person called the **trustee**.

Typically, the trustee will invest the property (called the **principal**) and pay the beneficiaries any interest earned on the principal. When the trust expires, the trustee will distribute the property to the beneficiaries. Most people who can handle their financial affairs can also be the trustees of the trusts they set up. The trustors can name their children, relatives, friends or bank to assume those responsibilities if the trustee becomes disabled or dies.

A living trust has several important advantages if it is set up properly and is **fully funded**, meaning all the trustor's assets are placed in the trust.

First, a fully funded trust will avoid the need to probate the estate of the trustor. If it is a joint trust, it will also avoid probate upon the death of the joint trustor spouse. Second, a living trust may avoid the need for a **conservatorship** for the trustor if he or she becomes legally disabled. (See Chapter 4 for more information on conservatorship and **guardianship**.) Third, a living trust can offer tax advantages for persons with large amounts of assets. For example, for a married couple, a proper trust will increase the federal estate tax exemption to \$1,000,000. The trust can save the surviving spouse a significant sum in federal estate taxes. However, a properly drafted complex will can also achieve the same estate tax savings.

Initially, trusts are more expensive to prepare than wills. However, they may save you thousands of dollars if you have a large estate or if you use a trust to avoid a conservatorship. Upon your death or at any other time established by the terms of the trust, the property held in the trust can be distributed immediately by the trustee, without a court probate. One disadvantage of avoiding probate is that with probate, creditors of the deceased have a brief time in which to make a claim against the estate. If there is only a trust, creditors may have a much longer time to assert their claims.

Living trusts are complex legal documents that require the use of competent and experienced estate planning attorneys. Preparing, funding and managing the trust can be expensive. If trusts are not drafted correctly, the trustor's wishes may not be carried out and the estate taxes may be higher. You should not try to create your own trust.

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## Life Insurance

Life insurance benefits usually pass to whomever you have named to receive those benefits. The beneficiary is the person who receives the benefits. You have to name the beneficiary in writing when you purchase your policy. The insurance company will have a record of the beneficiary you chose. (See Chapter 12 for more information on insurance.)

You do have the option to change the beneficiary you chose. You must tell your insurance company in writing if you wish to do this. Most insurance companies provide a form to change the beneficiary. If your

named beneficiary is alive when you die, the insurance company will pay the money due under the policy to the beneficiary, even if your will says something different. It is wise to name another person as an alternate beneficiary in case your first beneficiary dies before you do. This kind of planning will keep the insurance proceeds from being paid to your estate and potentially increasing the cost of your probate proceeding.

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## Estate Taxes

In 2006, no state estate taxes are payable on estates valued at less than \$1,000,000 in total assets. The exempt amount under federal tax law is even higher. With proper planning, a married couple in Oregon can transfer up to \$2,000,000 or more to their children without paying any federal estate tax. If the combined value of your estate and your spouse's estate is close to these amounts, consult a tax lawyer about estate taxes under state law. For tax purposes, your estate includes all property in which you have an interest. This includes the proceeds of life insurance, property held with a survivorship interest and certain life estates. (See Chapter 6 for more information on life estates.) The value of your property for estate tax purposes is its fair market value on the date of your death. (Listen to Tel-Law topic 1118, "What Taxes Have to be Paid When Someone Dies?" for more information.)

Keep an up-to-date itemized list of all your debts and property, including:

- Insurance policies
- Securities
- Bank accounts
- Safe deposit boxes
- Real estate
- Jewelry
- Artwork
- Pension plans

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## General Advice

Keep an up-to-date itemized list of all your debts and property. This includes insurance policies, securities, bank accounts, safe deposit boxes, real estate, jewelry, artwork and pension plans. You also should record where you put your will or trust. Give a copy of this list to someone you trust and to your lawyer or financial adviser.

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## Resources

See **General Resource List** for AAA/SPD offices, legal aid offices, OSB Tel-Law service and more.

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## Oregon State Bar Tel-Law Topics:

- 1116 - Your Will
- 1117 - What Is Probate?
- 1118 - What Taxes Have to Be Paid When Someone Dies?
- 1119 - What Is a Trust?
- 1120 - What Is a Living Will?
- 1121 - Estate Planning for Parents of the Disabled
- 1122 - Powers of Attorney and Other Decision-making Tools
- 1123 - Financial Planning for Health Care (For more information on Medicare/Medicaid, refer to Chapter 2.)

**503-620-3000** or **800-452-4776**  
www.osbar.org

# Glossary of Terms

**Beneficiaries:** *People who receive money or property from a trust or life insurance policy.*

**Conservatorship:** *See Chapter 4.*

**Estate:** *All personal and real property.*

**Fully Funded:** *All of the trustor's assets are placed in a trust.*

**Guardianship:** *See Chapter 4.*

**Intestate Succession:** *A process in which Oregon law decides how your property will be distributed upon your death if the property is not disposed of through your will.*

**Living Trust:** *A type of trust in which one party puts property or money into a trust for themselves and others during their lifetime. The property is under the control of a trustee and is distributed according to the terms of the trust.*

**Payee(s):** *The people who receive the money from a Payment on Death (POD) Account after the payer's death.*

**Payer:** *The person who sets up a POD Account.*

**Payment on Death (POD) Account:** *A bank account that belongs to people named by the account holder upon the account holder's death.*

**Personal Property:** *All property other than real property, such as cars, boats, clothing, stocks, bonds and personal items.*

**Personal Representative:** *The person who handles your affairs after your death. This person is either appointed by you in your will or by a court.*

**Principal:** *Typically, a trustee will invest the property (called the principal) and pay the beneficiaries any interest earned on the principal. When the trust expires, the trustee will distribute the property to the beneficiaries.*

**Probate:** *The legal process by which your property is collected and distributed according to your will or by intestate succession.*

**Real Property:** *Land and buildings or structures placed on land, such as houses, commercial buildings and agricultural buildings.*

**Regular Probate:** *A formal probate process that is required if your real property is valued at no less than \$150,000 and/or your personal property is more than \$50,000.*

**Small Estate Probate:** *An informal probate process that takes about four to six months. It applies if your real property is valued at less than \$150,000 and your personal property is less than \$50,000.*

**Survivorship Interest:** *See Chapter 6.*

**Testamentary Trust:** *A type of trust that is set up in your will. It takes effect only after your death.*

**Trust:** *An arrangement in which one person (trustee) holds property for the benefit and use of another (beneficiary).*

**Trustee:** *The person who manages and distributes the property held in a trust.*

**Trustor:** *A person or persons who put money or property into a trust.*

**Will:** *A signed, written legal document that shows how you want your estate to be divided after you die.*

## CHAPTER 5

### Estate Planning

## CHAPTER 6

# Property Ownership, Transfers of Real Property, and Taxes

This chapter begins with a discussion about the various types of property ownership. It is very important to understand the ways that you can own property. With this information, you will know what rights you have to the property during your lifetime and how the property will be transferred upon your death.

The types of ownership discussed are sole ownership, tenancy in common, survivorship interest and life estate. Knowing how you own property will help you decide how to transfer it to others, whether by selling it or by giving it away through a will, trust or survivorship interest. This chapter also explains deeds and the different types you can use to transfer your property. In addition, you will find out how to give property legally to someone as a gift.

If you wish to give someone else the power to transfer your property for you, you may use a power of attorney, also explained in the chapter.

Finally, this chapter discusses the sale-of-residence tax exemption and property tax deferrals available to older adults, as well as steps to take to ensure that your property taxes are fair.

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## Types of Ownership

In Oregon, title to **real property** can be held in several different ways. The way title is held is important because it affects what happens to the property in your lifetime and upon your death.

The principal types of ownership are:

1. **Sole ownership;**
2. **Tenancy in common;**
3. **Survivorship estate; and**
4. **Life estate.**

You should know what type of ownership you have. The type of ownership will tell you what your rights are concerning property you fully or partially own.

## CHAPTER 6

### Property Ownership, Transfers of Real Property, and Taxes

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#### Sole Ownership

If you own property solely in your name, you own all the rights to that property. If you want to transfer property that is solely in your name upon your death, you must do so by a will or trust.

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#### Tenancy in Common

If you own property with another person, by law you own that property as a tenant in common unless a deed or other document states otherwise. A tenant in common is a person who owns an undivided interest in the entire property, such as a one-half, one-third or one-fifth interest. This interest can be sold to others. It also may be transferred to others through a will or trust.

If you are a tenant in common, you may name a specific person or persons in your will to receive your interest. The person receiving the property will then hold your interest in the property with the other tenants in common.

Tenants in common who cannot agree on how to sell or manage the property usually have to go to court to settle their differences

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#### Survivorship Estate

In Oregon, persons may hold property together with a **survivorship interest**. A survivorship interest assures that when one owner dies, the remaining co-owner(s) will automatically receive the deceased owner's share of the property through a survivorship estate. For example, a husband and wife usually hold property together with this **right of survivorship**. This particular form of ownership between husband and wife is also called a **tenancy by the entirety**. Tenancy by the entirety means that if one spouse dies, his or her interest will automatically go to the surviving spouse. Married couples who do not want this to occur should hold title as tenants in common instead.

You can hold title with a survivorship interest with someone other than your spouse. Friends, relatives and business partners use this form of ownership when they want to own property jointly and have the property pass to the survivor(s) on death.

Property that is held subject to a survivorship interest cannot be transferred by the will of the party who dies first. If you own property in this way and you want to pass that property to a particular person or entity, you should contact a lawyer for advice.

Creating a survivorship interest requires special words when used in a **deed, trust or will**.

There are risks in creating survivorship interests in both real and personal property; for example:

1. If you name someone as a joint tenant with the right of survivorship on a bank account, that person can take part or all of the money out without your permission. (See Chapter 4 for more information on joint accounts.);
2. Survivorship interest may cause the property to go to someone other than your intended heirs; and
3. Sometimes a creditor of the other person you named on your property with a survivorship interest can take all or part of that property to pay debts.

You should talk to a lawyer about the advantages and disadvantages before trying to create a survivorship interest.

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## Life Estate

A life estate usually is created to protect a person's right to live on property and, on that person's death, have it pass to another. For example, if you want to give your property to a friend or your children, but you want to live on that property or receive income from it until your death, you would want to create a life estate. You would do so by deeding the property to whomever you want to have it on your death and reserving a life estate to yourself until your death.

A life estate also may be created by a will. For example, suppose you want your friend, Harry, to own property. When he dies, you want the property to pass to your brother, Bill. You can let Harry keep the property until his death by creating a life estate in your will. On Harry's death, you can have the property go to Bill. Bill's interest is then called a **remainder interest**.

There are many ways that a person can hold title other than those described. If you have any question about the nature and extent of your interest, or if you want to create one, you should contact a lawyer.

The title to real property is held in one of four ways:

- Sole ownership
- Tenancy in common
- Survivorship estate
- Life estate

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## Transfer of Your Ownership Interest

You can transfer your interest in your house and other real property to another person in several ways:

1. By a sale;
2. By giving it away during your lifetime; or
3. By giving it away upon death through a will, a trust agreement (such as a living trust), or a survivorship estate.

Property is usually sold for cash or for installment payments (money paid over a period of time). The balance due is secured by a mortgage, trust deed or land sale contract. Each of these ways to secure the transfer of property has special characteristics. The one you use should be chosen after you get sound legal advice.

Before you choose among a mortgage, trust deed or land sale contract, ask your adviser to explain the differences. Also, find out how those

## CHAPTER 6

### Property Ownership, Transfers of Real Property, and Taxes

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In order to transfer your interest in real property, you must do so in writing with a document called a deed.

differences affect your particular transaction. Unless you are familiar with real estate transactions under Oregon law, you should not try to create your own legal documents. Title documents should be prepared only by a lawyer or title company. (Listen to Tel-Law topic 1201, “Buying and Selling Real Estate,” for more information.)

Often, older adults want to give their property away. The reasons for this may include:

1. They want to give property to a deserving friend or relative;
2. They want to avoid payment of estate taxes;
3. They want to preserve and protect their estate before incurring large medical bills so there is something left to give away; or
4. They are asked to by friends or relatives.

Some gifts may create tax problems for the former owners or recipients. Heirs and others may claim an interest in the property. Also, most transfers for less than fair market value make the donor and his or her spouse ineligible for Medicaid benefits that may be needed to help pay for long term care. (See Chapter 2 for more information on Medicaid.) Do not try to accomplish estate planning or preservation of your estate without first contacting a lawyer.

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## Deeds

If you want to transfer your interest in real property, you must do so in writing. The document used to transfer your interest is called a deed. There are four types of deeds in Oregon:

1. **Warranty deed;**
2. **Special warranty deed;**
3. **Bargain and sale deed;** and
4. **Quitclaim deed.**

Each of these deeds transfers property differently.

A **warranty deed** tells the person to whom the property is being sold or transferred that you are warranting the title. This means that you will guarantee you own the entire property free and clear except for any conditions specifically listed in the deed.

A **special warranty deed** is most often used in fulfillment of a land sale contract and is similar to a warranty deed.

A **bargain and sale deed** transfers whatever title or interest you may have at the time of the transfer or later acquire. However, it does not give any warranty that your title is good.

A **quitclaim deed**, on the other hand, transfers only the title you may have at the time of the transfer.

If you are going to give property to another person as a gift, you should use a bargain and sale deed. You may choose to use a warranty deed if you pay a title company to review the title to your property and provide title insurance.

You must give the deed to the person receiving the property. It does no good to fill out a deed, sign it and keep it in the desk drawer or other place for safe keeping. If you want to give your real property to someone, you must complete the deed properly, sign it in front of a notary public and give it to the person you want to receive the property.

A deed is not a will and does not legally operate like a will. To give property to someone on your death, you must either set up a survivorship estate by deed (as discussed before), set up a trust, or set up a transfer of your property through your will.

Creating a survivorship interest in a deed has many possible legal consequences. Several consequences are:

1. If you sign a deed transferring real property to yourself and someone other than your spouse, and you and this other person have the right of survivorship, you may have made a gift. This kind of transfer may require you to file federal and state gift tax returns.
2. Once the deed is signed, you cannot take the property back. You will have trouble selling or mortgaging the property without the agreement and signature of the other person you have named on the deed.
3. The property held subject to a survivorship interest passes to the survivor. **Even if you name someone else to receive property in your will, a deed of that same property decides who receives it.**

There are a few practical matters you should know about completing a deed:

1. The property must be legally described by lot and block numbers if it is located in a subdivision.
2. It must be described by a method called "metes and bounds" or by a sectional description if not in a subdivision. A tax lot number or street address is not enough.
3. The deed must state what was given or paid (called **consideration**) for the property. If the property is a gift, the deed can say that the consideration is love and affection.
4. Never sign a deed someone else has prepared for you unless you know and understand the results.
5. The deed must be signed or acknowledged before a notary public.
6. Once a deed has been received or delivered, you must record it with the County Clerk or Recorder for the county where the property is located.

All deeds, mortgages, contracts and other writings about ownership interests in real property should be recorded. Recording protects you and the person receiving the property. You could lose your title to the property if the deed is not recorded and the property is sold again by the same person who transferred it to you. An unrecorded deed also could create problems with transferring the property in the future.

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**CHAPTER 6****Property Ownership,  
Transfers of  
Real Property,  
and Taxes**

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## Power of Attorney for Real Property

A power of attorney is used to give another person the same legal authority as yourself. A power of attorney can be general or special. (See Chapter 4 for more information.)

A **general power of attorney** gives authority to another to act on your behalf in all your affairs. A **special power of attorney** (also called a limited power of attorney) allows a person to act on your behalf only on specific issues, such as selling a business or a piece of property. Special limitations can be placed on a general power of attorney as well, such as prohibiting the sale of particular property. You may want to make sure in a power of attorney that the agent has the authority to put property in his or her own name only as an agent for you, not as the sole owner of the property himself or herself.

If you want another person to sell or transfer your real property, you should specifically say so in the power of attorney you sign. **The power of attorney must be notarized and recorded with the County Clerk or Recorder.**

If you make a power of attorney but decide later you do not want the person appointed to act for you, you must revoke the power of attorney in writing. The revocation should be notarized and recorded where the power of attorney was recorded. The power of attorney will automatically be revoked upon your death.

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## Gifts

A **gift** is voluntary transfer of personal or real property. The person who makes the gift, called the **donor**, receives nothing in return. The donor must intend to make the gift. The gift must be delivered, and the person who is offered the gift must accept it.

Most gifts are made during the lifetime of the donor. Once this type of gift is given, it cannot be taken back unless the person receiving the gift agrees and actually returns it. However, if you are the donor and give a gift solely because you think you are terminally ill and are going to die, you may take it back when you do not die. You cannot make a gift that is to take effect on your death unless you put it in a will or a trust.

A gift must be delivered to be valid. For example, suppose you want to give a special ring to your niece. If you put a note on it saying, "This ring is for my niece when I die," the gift will not be valid because the ring was not delivered.

If you want to give something that is very large, such as a piano, you may do so by **symbolic delivery**. Symbolic delivery occurs when you give something that represents what you actually want to give, such as a written description of the item or a model of it.

Sometimes a person may be too sick to give the actual gift item. In this situation, a **constructive delivery** of the gift will work. A constructive delivery means the person receiving the gift is given the means to obtain the gift. For example, that person may be given the keys to a safety deposit box or to a car.

If there is a dispute, the court will decide if the donor intended to make a gift, if the gift was delivered, and if the gift was accepted.

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## Sale of Residence Tax Exemption

There was a significant revision of the **capital gains tax** beginning in 1997. Capital gains tax is a tax on the difference between the original price of your house (plus improvements) and the selling price (assuming you sell your house for more than you paid). Sale of a house now is no longer subject to a capital gains tax so long as the taxable gain does not exceed \$250,000 for individuals or \$500,000 for married couples. To exclude gain on the sale of your house, you must have lived in it for at least two of the five years preceding the sale of your house.

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## Property Tax Deferral

An Oregon homeowner who is disabled or who is at least age 62 may defer paying property taxes on his or her residence. To qualify for this deferral:

1. You must be either totally and permanently disabled or 62 years old by April 15 of the year you file your application;
2. You must have a recorded deed to the property, or you must be buying the property under a recorded instrument of sale. You are not eligible if you have only a life estate interest in the property;
3. You must live on the property. This restriction does not apply if you are absent for health reasons. A doctor's statement must be sent to the Department of Revenue in this case;
4. Your total household income for last year (2005) must be less than \$35,000. This amount changes annually. Household income includes both taxable and non-taxable income, including Social Security and pensions; and
5. You must meet the annual household income test each year once you have been approved.

After the Oregon Department of Revenue has approved your application, you must tell your mortgage holder that the state will be paying your taxes.

Your application must be filed with your county assessor between January 1 and April 15 to defer the taxes that would be billed to you the next fall. Applications and income worksheets are at your assessor's office. The Oregon Department of Revenue will not pay taxes you have not paid in the past when you apply.

After the first filing, you don't need to file an application for deferral each year. However, you must meet the annual income test.

You must pay the deferred taxes (plus interest of 6 percent per year on the taxes deferred) when any of the following occurs:

## CHAPTER 6

### Property Ownership, Transfers of Real Property, and Taxes

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1. The taxpayer getting the deferral dies. (If a spouse survives, he or she may continue to defer past and future taxes);
2. You sell the property or in some other way change the ownership. For example, if you deed your property to your survivors through a life estate or trust, you will be disqualified from the program; or
3. You stop living permanently on the property. However, temporary absences due to vacation, travel or illness do not disqualify you. If you move for medical reasons, you must submit a doctor's statement to the Department of Revenue.

In addition to deferral of property taxes, you may be able to defer payments on certain "special assessments" against your property. Such assessments include those made by city, county and sanitary districts for streets, sidewalks, sewers and water. The requirements for deferral of special assessments are very similar to those for deferral of real property taxes. You can get information about deferrals from the Oregon Department of Revenue. (See Resources at end of chapter.)

## Property Tax Assessments and Challenges

Each year, Oregon counties notify property owners about the property tax value of their properties. The county assessor uses a standard method to determine what that value will be. If you find the assessor made an error in applying that method, or if you think the assessment is too high because it didn't take certain things into account, you can ask for the tax value to be changed. You can deal first informally with the assessor's staff; if negotiations are unsuccessful, you must file a petition with the county Board of Property Tax Appeals to get a formal hearing. You can petition for a hearing between the time you receive your tax statement and December 31 of the year the assessment is made and you are billed. Information on how and when to file an appeal is included with the property tax statement. It is a good idea to get some legal advice before starting this process.

## Veterans' Property Tax Exemption

Some low-income veterans—including some members of the Oregon National Guard—who served during wartime, or their surviving spouses who have not remarried, are entitled in tax year 2006-2007 to an exemption for the first \$15,000 of property value, if they own the home in which they live. This amount changes annually. For certain veterans with limited income and service-connected disabilities, or for their surviving spouses, the exemption is \$18,000. Contact the tax assessor in your county for more information. The application has to be filed before April 1 of each year.

If you feel that you have been wrongly denied the veterans' property tax exemption, you can appeal to your county government. Ask your assessor's office for information.

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## Resources

See **General Resource List** for AAA/SPD offices, legal aid offices, OSB Tel-Law service and more.

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### Oregon Department of Revenue

955 Center Street NE  
Salem, OR 97301  
503-378-4988 or 800-356-4222  
TTY: 800-886-7204  
www.oregon.gov/DOR

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### Oregon State Bar Tel-Law Topics

1232 - Federal Tax Benefits for Persons Age 65 or Older  
1201 - Buying and Selling Real Estate  
503-620-3000 or 800-452-4776  
www.osbar.org

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## Glossary of Terms

**Bargain and Sale Deed:** *A type of deed that transfers whatever title or interest you may have at the time of the transfer or gain later.*

**Capital Gains Tax:** *A tax on the amount that is the difference between the original price of a home (plus improvements) and the selling price (assuming you sold it for more than you paid).*

**Consideration:** *What was given or paid in return for property.*

**Constructive Delivery:** *Delivery in which the person receiving a gift is given the means of receiving a gift. For example, the person receives the keys to a safety deposit box or to a car.*

**Deed:** *A document used to transfer your interest in real property.*

**Donor:** *The person who makes a gift.*

**General Power of Attorney:** *See Chapter 4.*

**Gift:** *A voluntary transfer of real or personal property for nothing in return.*

**Life Estate:** *A type of ownership that protects a person's right to live on property during that person's lifetime. After the person's death, it passes to another.*

**Power of Attorney:** *See Chapter 4.*

**Property Tax Deferral:** *A benefit allowing senior homeowners aged 62 or older to delay paying property taxes. The taxes must be paid with interest when the owner dies, sells the property or moves, or when the property changes ownership.*

**Quitclaim Deed:** *A type of deed that only transfers whatever title or interest you may have at the time of the transfer.*

## CHAPTER 6

### Property Ownership, Transfers of Real Property, and Taxes

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**Real Property:** *See Chapter 5.*

**Remainder Interest:** *A type of ownership interest in which your rights arise after someone else's rights end. (See life estate.)*

**Right of Survivorship:** *The right a person has to receive property when a co-owner dies.*

**Sole Ownership:** *A type of ownership in which you own property solely in your name, giving you all rights to that property.*

**Special Power of Attorney:** *Also called Limited Power of Attorney. Legal authority to perform a specific act of behalf on another. (See Chapter 4.)*

**Special Warranty Deed:** *A type of deed usually used in fulfillment of a land sale contract, similar to a warranty deed.*

**Survivorship Estate:** *An estate that arises when a person becomes entitled to property because he or she survived another person who had an interest in it.*

**Survivorship Interest:** *A present interest that may become a survivorship estate on the death of another.*

**Symbolic Delivery:** *A way to deliver a very large gift by giving something that represents the gift.*

**Tenancy by the Entirety:** *A form of ownership between husband and wife. If one spouse dies, his or her interest will automatically transfer to the surviving spouse.*

**Tenancy in Common:** *A type of ownership in which you own property with another person. If one owner dies, the property does not automatically transfer to the co-owner(s).*

**Trust:** *See Chapter 5.*

**Veterans' Property Tax Exemption:** *A benefit allowing some veterans who served during wartime, or their surviving spouses who have not remarried, to exempt part of the value of their homes from property taxes.*

**Warranty Deed:** *A type of deed that transfers all of your title or interest in the property and guarantees the title except for any conditions specifically listed in the deed.*

**Will:** *See Chapter 5.*

## CHAPTER 7

# Landlord and Tenant Rights and Duties

When renting a place to live, whether it is an apartment or a space in a mobile home park, you must be prepared to deal with landlords, rent agreements, privacy issues, eviction and much more. This chapter will explain renting issues and your rights and duties as a landlord or tenant under Oregon law.

Under Oregon’s **Residential Landlord and Tenant Act**, both landlords and tenants have certain rights and duties. Tenants have the right to a fit place to live, prompt repairs, reasonable privacy, and freedom from retaliation and discrimination. Landlords have the right to receive rent on time and to be notified of problems. Landlords also have a right to tenants who do not disturb others or damage the property.

Tenants who live in government-subsidized housing or who own mobile homes—also known as “manufactured dwellings”—in mobile home parks have additional rights. Tenants in these situations sometimes have special protection against eviction except for “good cause.” Tenants in mobile home parks have some protection in some cases against unfair rule changes. Other examples follow. (Several Tel-Law topics give more detail about the rights and duties of landlords and tenants. See Resources at end of chapter.)

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## Oregon Law

If you rent the place where you live, the Oregon landlord-tenant law applies to you, except in the following situations:

- If you live in a place because living there is required for your job;
- If you are buying the place where you live (unless you’re buying under a lease option and haven’t exercised the option);
- In certain farming situations;
- In a vacation rental; or
- If you live in an institution or care facility.

The law may apply to you even if you live in a motel or hotel. It **does not** apply if the hotel or motel is not your primary address, you are charged by the day, and you get maid service at least three times a week.

## CHAPTER 7

### Landlord and Tenant Rights and Duties

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The landlord has the right to enter rentals at reasonable times with good reason. However, the tenant must be given 24 hours' written notice, unless it is an emergency.

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### Discrimination

Landlords may not evict or refuse to rent because of sex, race, color, marital status, children, national origin, physical or mental disability, the need for a guide dog or other service animal, source of income, or because you've won an eviction case. Landlords cannot discriminate against you because you have been the victim of family abuse, sexual assault or stalking crimes. Some Oregon cities have adopted local ordinances prohibiting discrimination based on sexual orientation. In some cases, extra charges may be the result of discrimination. If you believe a landlord is illegally discriminating against you, take action immediately.

You may be able to get assistance from Oregon's statewide Fair Housing Hotline at 800-424-3247. You can file a claim with the Civil Rights Division of the Oregon Bureau of Labor and Industries. In some cases, the federal Housing and Urban Development Department (HUD) will accept claims. (See Resources at end of chapter and, for contact information for the Civil Rights Division, at end of Chapter 10. Also, listen to Tel-Law topic 1248, "Illegal Housing Discrimination.")

These organizations will investigate your claim and attempt to settle the dispute. Sometimes a lawsuit may be necessary. Tenants and prospective tenants who win these cases may be able to move into a place they were unlawfully denied or stay in a place after a landlord has attempted illegally to evict them. They also may be entitled to cash damages.

---

## Moving In

Before you rent a place, make sure it meets your needs and you can afford it. Be sure you understand who is paying for heat, water, electricity and trash collection. You should inspect the place very carefully. Write down the condition of the walls, floors, doors, ceilings and fixtures, and keep this list. Talk to the landlord about problems right away. It's also a good idea to have a witness look at the place and take pictures before you move in. This will help you to enforce your rights for repairs or the return of your security deposit. Landlords also have the right to charge nonrefundable fees for certain things. (Listen to Tel-Law topic 1260, "Fees and Deposits," for more information.)

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### Your Rental Agreement

When you move in, you and the landlord will agree to the rent amount, where to pay it, and when it is due. These terms and any others you agree to are your **rental agreement**. Your agreement with the landlord does not have to be in writing, except in mobile home parks and in government-subsidized housing.

If you have a written rental agreement, be sure to get a copy of the agreement and keep it for your records. You also should get copies of rent

receipts and receipts for deposits you pay the landlord. Keep these for your records as well.

Some kinds of agreements are against the law! The landlord cannot rent you a place to live “as is,” for example, even if you are renting with an option to buy your place. The landlord cannot physically remove you without giving you written notice and a chance to appear in court. If your rental agreement is not in writing, the landlord cannot charge you with a late payment fee. The same is true if you have a written rental agreement that does not allow late fees. In mobile home parks, rental agreements entered into after October 31, 1997, may not require a monthly payment for the pets of mobile home owners residing there. The agreements can, however, require tenants to carry reasonable pet insurance.

The tenant is entitled to a rental that is kept in good repair, no matter how low the rent.

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## Rent

In most kinds of housing, the landlord has the right to raise rent. The landlord should do this by telling you, in writing, at least 30 days before the new rent goes into effect. However, there are exceptions to this rule. The landlord may not raise the rent if you signed a lease that fixes the rent amount for a specific term. The landlord cannot increase rent to retaliate against you for exercising certain tenant rights. If you live in government-subsidized housing, the landlord must follow specific procedures before raising the rent. (See Chapter 8 for information on housing programs.) If you live in your own mobile home in a mobile home park, you are entitled to a minimum of 90 days’ notice before a rent increase.

---

## Deposits and Fees

Oregon landlords can require most tenants to pay deposits or fees for pets, security and cleaning. Deposits are refundable, but fees are not. The landlord is required to refund any deposit unless the landlord can account for all the charges that were made against the deposit. (See “Refund of Deposits,” page 87.) A landlord who charges both fees and deposits must deduct any charges first from the fees paid, and then, if any charges remain, from the deposit.

Some landlords also charge an application fee before letting you apply to rent a place. This fee covers the cost of investigating your credit and tenancy background and is refundable only if the landlord fills the vacancy before screening the applicant. The landlord must give the applicant a receipt for the fee and follow other rules to avoid liability for a refund and penalties. Ask before you pay, and be wary of paying very high application fees.

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## Privacy Rights

The landlord has the right to enter your place at reasonable times with good reason. The landlord must give you 24 hours’ notice before entering. If you ask in writing for repairs, you automatically give the landlord the right to come in without notice for the next seven days. In the letter

requesting repairs, the tenant can specify allowable times. The only exceptions to these rules are an emergency (such as a fire or flood) or if you have agreed in writing to let the landlord in without notice. Such an agreement must be separate from the rental agreement and signed by both parties. The landlord must pay you in some way for this privilege.

## CHAPTER 7

### Landlord and Tenant Rights and Duties

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## Needed Repairs

The landlord must keep your place and the surrounding property (such as hallways in an apartment building) in good repair. No matter how low the rent is, the tenant is entitled to the following:

1. Effective waterproofing and weather protection;
2. Hot and cold running water connected to a sewage system;
3. Safe drinking water;
4. Smoke detectors (Note: The tenant has a duty to test the detector regularly and to replace worn out batteries.);
5. Safety from fire hazards;
6. Appliances and air conditioning in working order if the landlord provides them;
7. Good ventilation;
8. Working keys, locks and window latches for all entrances and windows;
9. No garbage or rodents in or around your place;
10. Garbage containers and trash collection service, unless you agree otherwise in writing;
11. Adequate plumbing, heating and electrical equipment in good working order; and
12. Walls, ceilings, floors, stairways and railings in good repair.

If your place needs repairs, tell the landlord immediately. If this doesn't get results, write a letter. Make sure you keep a copy of the letter. If you still get no results, you may need legal help. If you have an emergency, such as a broken water pipe, and your landlord will not help, get legal advice immediately. You also may want to contact building inspectors, health inspectors or fire inspectors for your city or county.

Some tenants try to force landlords to make repairs by withholding rent until the repairs are made. This is a drastic step, and you should use it only in very limited circumstances. Oregon has a "repair and deduct" statute, but it has strict requirements and is very limited. This remedy should be used only after receiving advice from a lawyer.

If, **after getting legal advice**, you decide to withhold rent, save the money. If the landlord tries to evict you for not paying the rent on time, you may have to show the court you actually had the money to pay.

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## Moving Out

If you plan to move and you pay rent monthly, let your landlord know, in writing, at least 30 days before you move. You can give this notice on any day of the month. You still have to pay rent for the full 30 days after you give the landlord notice that you are leaving. If you do not pay, the landlord may deduct the rent from your deposit and might sue you in small claims court. However, in some cases, the landlord may let you move early without paying for the full 30 days.

There are some exceptions to the 30-day notice requirement, such as if a government agency posts your home as unsafe to live in. Get legal advice right away in this situation.

If you move out early, the landlord must make reasonable efforts to find a new tenant. You should not pay for any time a new tenant lives in the place.

You should clean your place, remove your possessions and haul away your garbage when you move. Take pictures and notes to show what you did to clean the place. Have a witness with you if you think that the landlord will later accuse you of leaving a mess. If you do not clean the place, the landlord can keep some or all of your deposit. The law requires that you leave the place clean and undamaged except for normal wear and tear.

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## Refund of Deposits

Be sure you give your landlord your new address when you move away. Within 31 days after you move and turn in your keys, the landlord must either return all of your deposit or tell you in writing what your money, or any part of it, is being kept for. If the landlord does not return your deposit or give you a written reason, you may sue for twice the amount withheld. Or you can sue for twice the amount of the portion that the landlord does not have a good reason to keep. In some cases, the landlord may counterclaim for unpaid rent or property damage. A landlord who charges both fees and deposits must deduct any expenses from the fees first.

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## Legal Methods the Landlord Can Use to Move a Tenant

If you are a tenant, a landlord can use three legal ways to get a rented place back from you:

1. You move out and return the keys;
2. You move out, abandon the place and do not tell anyone of plans to return; or
3. The landlord goes to court and gets an order, after a hearing, to have the sheriff move you out.

The landlord cannot change the locks, shut off utilities, remove your belongings or do anything else outside of court to force you to move.

If your landlord illegally shuts off your utilities, call the utility company to have service restored immediately. If you are locked out illegally, ask the

landlord to let you back in. If the landlord will not let you in, you have the right to get in through a window or some other way. If the landlord takes your belongings, make a list of everything that was taken. In any of these situations, you should get legal help immediately.

## CHAPTER 7

### Landlord and Tenant Rights and Duties

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## Eviction

A landlord must go to court to get an order saying a tenant must leave. The landlord must first give the tenant a **termination notice**. The law allows a variety of such notices:

1. If you are a month-to-month renter, the landlord can give you a 30-day notice to leave without giving a reason. However, the landlord cannot use this notice to retaliate or discriminate against you. If you live in your own mobile home in a mobile home park and you haven't waived your right to notice at the end of your lease term, or if you live in some kinds of government-subsidized housing, the landlord **must** state a good reason to evict.
2. The landlord can give a 30-day **"for cause" notice**, stating a good reason to evict. In regular housing, this notice must give the tenant 14 days to solve most kinds of problems. In mobile home parks, the mobile home owner has 30 days to solve the problem. The tenant can stay if the problem is corrected within the time limit.
3. If a tenant causes the same problem within six months after receiving a "for cause" notice, the landlord may give another notice without a chance to fix the problem. The time allowed varies with different types of rental housing.
4. The landlord can give a 10-day notice to remove a pet kept in violation of the rental agreement. If a tenant does not remove the pet within 10 days, the landlord can go to court.
5. If the tenant is more than seven days late in paying rent, the landlord can give the tenant a 72-hour notice to pay or move, or a 144-hour notice when rent is five days late. The landlord must accept the rent if it is offered during the notice period.
6. The landlord can give a 24-hour notice if someone in the tenant's household endangers others, causes major property damage or commits an "outrageous act." This kind of notice also applies if the original tenant moved out and someone else moved into that household in violation of the first tenant's written rental agreement.
7. Non-profit landlords and housing authorities with housing for people in treatment for drug or alcohol abuse can give a 48-hour "for cause" notice if a tenant uses alcohol or drugs in violation of the rental agreement.

Each of these notices must follow very specific legal rules. Each kind must be delivered to the tenant in specific ways. Each kind merely allows the landlord to start a court eviction only **after** the time limit in the notice. If you are a renter and receive an eviction notice that you don't understand, or if you believe you shouldn't have to move, get legal advice immediately.

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## Landlord Retaliation

A landlord may not retaliate against a tenant by increasing rent, decreasing services, giving a termination notice or starting an eviction case after a tenant:

1. Complains to the landlord about needed repairs;
2. Complains that the landlord violated the rental agreement;
3. Complains to building, fire or other safety enforcement agencies;
4. Joins or starts a tenants' union;
5. Testifies against the landlord in court; or
6. Wins an eviction case against the landlord in the preceding six months.

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## The Termination Notice Time Limit and Court

After the time limit in a termination notice is up, the landlord has to go to court to get a judge to force the tenant to move. This kind of lawsuit is called an **eviction case**. The tenant will get a copy of the papers the landlord has filed. The papers will tell the tenant when to be in court for the "first appearance."

If you are a tenant, you must tell the judge at the first appearance if you think you should be allowed to stay in your home. If you do think so, you must ask for a trial to decide your rights. If you want a trial, you must file an **answer**, which is a legal form stating your defenses to the eviction. If you do not attend the first court appearance to ask for a trial, the landlord wins automatically. If you ask for a trial, the court will set a trial date within 15 days of the first appearance. At the trial, both sides will explain their stories. (In some counties, the court will ask the tenant and the landlord to try to mediate their dispute with a trained court employee, so as to avoid the added costs of a trial.)

Your courthouse will have answer forms you can fill out. If you cannot afford to pay the court fee to file your answer, you should ask the judge at your first appearance to let you defer payment. Most courthouses have forms for this purpose as well.

The side that wins at trial usually wins the right to make the other side pay all the costs of the lawsuit, including attorney fees. If the landlord wins, the court will order you to move by a certain date. If you have not moved by that time, the landlord can have the sheriff put a four-day final notice on your door. At the end of the four days, the sheriff will come back to make sure you move.

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**CHAPTER 7****Landlord and Tenant  
Rights  
and Duties**

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**Storage of Your Belongings After You Move Out**

If you move away and leave behind any of your belongings, your landlord must store them for a short time. The landlord must send a 15-day notice of abandoned property to your last known address, asking you to pick up your belongings. You should call or write to your landlord to arrange to pick up your belongings during the 15 days. The period is longer for recreational vehicles or mobile homes that have been left behind. If you were evicted, the landlord cannot force you to pay rent or court costs before giving you your belongings. However, the landlord can add the cost of the storage to the eviction court judgment against you.

If the landlord gave proper notice and you miss the 15-day deadline, the landlord can sell your belongings to pay for the notice, boxing, storage, sale and unpaid rent (if any). The landlord may throw out or give away belongings under a certain value that cannot be sold for a profit.

If the landlord won't give back your belongings during the notice period, you can file a claim in district court to get them back. The court provides forms for this purpose.

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**Resources**

Landlord-tenant law can be extremely complicated. General information about landlords' and tenants' rights is available from several sources.

Some low-income tenants can get free legal advice from their local legal aid offices. In some cases landlords and tenants older than 60 can get free legal advice through volunteer lawyer programs at senior centers.

See **General Resource List** for AAA/SPD offices, legal aid offices, OSB Tel-Law service and more

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**Fair Housing Hotline**

(for housing discrimination only)  
**800-424-3247**

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**Mobile Home Park Mediation, Oregon Housing and  
Community Service Department**

Mobile home park tenants and landlords can take advantage of the Oregon Housing and Community Service Department's mobile home park mediation services. Mediators will help work out problems with rules, management and other conditions at the parks. For more information call:

**503-986-2145 (Salem) or 800-453-5511**

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## **Oregon State Bar Tel-Law Topics**

1246 - Rights and Duties of Tenants

1247 - Rights and Duties of Landlords

1248 - Illegal Housing Discrimination

1249 - Rights of a Mobile Home Owner Threatened with Eviction from a Mobile Home Park

1250 - Rent Increases

1251 - Reasonable Rules in Mobile Home Parks and Floating Home Facilities

1252 - Landlord Rules in Conventional Rental Housing

1253 - Eviction Notices

1254 - Evictions

1255 - Eviction Defenses

1256 - Getting Repairs Made

1257 - When Tenants Leave Belongings Behind

1258 - Tenant Privacy/Landlord Access

1259 - Habitability

1260 - Fees and Deposits

**503-620-3000 or 800-452-4776**

[www.osbar.org](http://www.osbar.org)

## ***Landlord Organizations***

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### **Manufactured Housing Communities of Oregon**

**503-391-4496 (Salem) or 800-488-6426**

[www.mhco.org](http://www.mhco.org)

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### **The Oregon Rental Housing Association**

The Oregon Rental Housing Association is an umbrella organization in Salem with about a dozen local affiliates. It offers forms, education and other assistance to landlords.

**503-364-5468 (Salem)**

[www.oregonrentallhousing.com](http://www.oregonrentallhousing.com)

## Tenants' Organizations

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### Community Alliance of Tenants (Portland)

Renters' Rights Hotline  
503-288-0130  
www.oregoncat.org

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### National Alliance of HUD Tenants (Boston)

This agency accepts complaints of unlawful housing discrimination under both federal and state laws. It investigates the claims and tries to resolve them.

617-267-2949  
www.saveourhomes.org

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## CHAPTER 7

### Landlord and Tenant Rights and Duties

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## Glossary of Terms

**Answer:** *A legal form used in court to state your defense against an eviction.*

**Discrimination:** *Landlords may not evict or refuse to rent because of sex, race, color, marital status, children, national origin, physical or mental disability, the need for a guide dog or other service animal, source of income, or because you've won an eviction case. Landlords cannot discriminate against you because you have been the victim of family abuse, sexual assault or stalking crimes. (For more information on discrimination, refer to Chapter 10.)*

**Eviction Case:** *The name of the lawsuit filed by the landlord to force a tenant to move because he or she has not moved out before the termination notice time limit.*

**For Cause Termination Notice:** *A notice that states the reasons the landlord wants to terminate the rental agreement and that allows the tenant to try to solve the problem within a time limit.*

**Rental Agreement:** *The agreement between the tenant and landlord that states the rent amount, where to pay it and when it is due, together with other conditions.*

**Residential Landlord and Tenant Act:** *The Oregon law that specifies the rights and duties of landlords and tenants.*

**Security Deposit:** *Money the tenant pays to a landlord before moving in. It covers potential costs of any property damage the tenant may cause. Deposits are refundable.*

**Termination Notice:** *A notice the landlord gives to a tenant explaining when the tenant must move out.*

## CHAPTER 8

# Housing Programs

Federal and local governments fund many housing programs for low-income people, including some specifically for seniors. Some housing programs help people pay their rent for houses and apartments owned by private landlords. In other programs, a government agency charges rent based on the tenant's ability to pay. Other programs provide assistance with home ownership. This chapter will discuss the various programs, their eligibility requirements, and their advantages and disadvantages. The federal **Housing and Urban Development Department (HUD)** and Rural Housing Services (formerly called the Farmers' Home Administration) sponsor programs such as Section 8 housing, Section 502 housing, and reduced-rate loans and tax subsidies for low-income first-time home buyers.

Protections from arbitrary eviction, rule changes and unfair rent increases are also important issues discussed in this chapter. Under some government programs, landlords must take certain legal steps before evicting, increasing rent or changing house rules. Tenants need to know what their rights are in order to protect themselves against unlawful practices.

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## Public Housing

The federal Housing and Urban Development Department (HUD) funds public housing in Oregon. Tenants in this housing pay about 30 percent of their adjusted income each month for rent and utilities (electric and gas). Each elderly household receives a \$400 deduction from income and may receive an additional deduction for certain medical expenses. For some tenants, there may also be an allowance for utility costs.

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## Advantages for Seniors

In HUD and Rural Housing rentals, seniors pay less of their income for rent than younger people do. The senior rate is available to individuals older than 62 or to households with one member older than 62. These housing complexes let seniors have one or more pets. Many complexes are built exclusively for older adults and people with disabilities. Some have units designed for wheelchair access and for people who have difficulty using steps. Unless you are applying for special needs housing, no questions can be asked about the nature or extent of the assistance you

need. And if you need a live-in caregiver so as to be able to remain in your home, the housing manager must try to accommodate your needs. (See Chapters 7 and 10 about anti-discrimination laws.)

## CHAPTER 8

### Housing Programs

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#### Rent Subsidies

In addition to public housing at lower rent, HUD sponsors a rental aid program known as the **Housing Choice Voucher Program**. Local housing authorities run the program in their communities. Under this program, low-income tenants choose to rent a house, apartment or space in a mobile home park from a private landlord willing to accept a voucher tenant.

If the housing meets HUD's livability standards and the rent is within reason, a local housing authority can subsidize the rent. The tenant then enters a rental agreement with a private landlord. The tenant is responsible for paying only a portion of the rent. This portion is usually 30 to 40 percent of the tenant's adjusted income. If the tenant's income goes up or down, a new rent will be figured.

In public housing, the tenant must live in a particular place of a particular size for the tenant's household. But under the rent subsidy program, a tenant can rent a unit larger, smaller or more expensive than otherwise allowed by HUD standards. However, the housing authority will limit the rent subsidy to what it would pay for a place that is the approved size. The voucher plan guarantees that the tenant's rent will stay the same **for the first term of the rent, which may be as long as one year**. Once the first term is up, the landlord can raise the tenant's rent. However, the housing authority's share will not go up.

HUD also has a program with privately owned apartment complexes. In addition, complexes that are funded by low-income housing tax credits must accept tenants who have HUD rent subsidy vouchers.

The **Rural Housing Rental Assistance Program** is similar to the HUD public housing program. Eligible tenants pay 30 percent of their adjusted income for rent and utilities. Unlike the HUD housing voucher program, assistance with rent costs is available to the tenants only while they live in Rural Housing apartments.

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#### Low-Cost Housing

Several agencies and private landlords provide low-cost housing. Finding out where they are can be time-consuming and frustrating. The best sources of information are your local housing authority (located in most counties and some cities), the nearest HUD office (listed in the phone book under U.S. Government, Department of Housing and Urban Development), or the district office of Rural Development (listed in the phone book under U.S. Government, Department of Agriculture). The Oregon Housing and Community Services Department also has information about housing assistance programs. The federal government's Eldercare Locator Service has information about other housing options. (See Resources at end of chapter.)

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## Special Housing for Elders

Some newer subsidized housing complexes offer elders not only a place to live, but also some services such as meals, housekeeping, transportation and other services designed to promote an elder's independence. Most of these complexes encourage other family members to live with the elder tenant so families can remain united.

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## Eligibility

You must apply in writing to be admitted into housing programs. You must show your income and expenses to prove your financial eligibility. Financial limitations vary widely, depending on local housing costs and the type of housing. For some housing programs, your annual income (after some adjustments) may need to be as low as \$12,000 for one person. However, in some programs, your allowed annual income can be as high as \$32,000 or more for one person.

Once you meet the eligibility requirements, you may be on a waiting list to get into public housing or to participate in the Housing Choice Voucher program. You may be eligible for a "preference" on the waiting list under certain conditions. The agency can tell you whether it has preferences and what they are. Be sure to inform the person or agency taking your application if any of its preferences apply to you. Sometimes the wait is long, but it's usually worth it.

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## Protection from Eviction and Rent Increases

Tenants in some kinds of government low-cost housing should not be evicted, unless the landlord has **good cause** to evict. Good cause includes failure to pay rent, repeated behavior that unreasonably disturbs other tenants, criminal activity and serious damage to the premises.

Under government programs, the landlord must follow certain steps in order to evict a tenant. The tenant may have a right to an informal meeting with the landlord to try to solve the problems without being evicted. In some situations, the tenant may have a right to a grievance hearing. Ask your landlord for a copy of the grievance procedure that explains your rights. (Also, read your lease.) A landlord who wants to evict must go to court after telling the tenant, in writing, to move. Tenants should always seek legal advice as soon as they learn about a threatened eviction. (See Chapter 7 for more information on evictions.)

A landlord who wants to raise the rent or reduce services in government low-cost housing must get permission from the government to do it. The landlord must show that the change is necessary. The landlord must give tenants advance notice of the plan to change the rent or services, and tenants must have a chance to confirm that there is a good reason for the change. Private landlords who accept tenants under the Housing Choice Voucher Program described above, however, can raise the rent after one year.

## Other Housing Options

### CHAPTER 8

### Housing Programs

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The Rural Housing Service's **Section 502 Direct Rural Housing** program is a direct lending program for very low- and low-income applicants to purchase, build or repair homes located in rural areas. These loans are made to applicants who are without decent, safe and sanitary housing of their own. The current income limits vary depending on the county in which the applicant is interested in purchasing a home and the number of individuals in the household. However, the total annual adjusted household income cannot exceed 80 percent of the area median income. The interest rate charged for the program is fixed. Repayment terms range from 30 to 38 years. Loans are processed and funded by the Rural Housing field offices.

Rural Housing also offers the **Guaranteed Rural Housing** loan program. Under this program, Rural Housing guarantees a loan made by an approved lender. Guaranteed loans may be made to purchase new or existing housing in rural areas. Income limits for applicants vary, depending on the county in which the applicant plans to reside and the number of individuals in the household. These loans are processed and funded by participating lenders.

Oregon also provides reduced-rate loans and tax subsidies for low-income first-time home buyers. More information is available from the Oregon Department of Housing and Community Services or your local Rural Housing office. (See Resources at end of chapter.)

In addition, Rural Housing offers the **Section 504 Home Repair Loan and Grant Program**. This program provides funding for home repairs to assist very low-income homeowners to repair or improve their homes and remove health and safety hazards. The interest rate for loans is 1 percent, and the loan is scheduled for repayment depending on the applicant's ability to pay. A grant may be made only to applicants who are 62 years of age or older and have an income so low that they cannot repay any part of a 504 loan. Examples of needed repairs or changes would be adding bathtub grab bars, wider doorways for wheelchairs and easy-to-climb ramps to replace stairs. Low-interest loans of up to \$20,000 and, in some cases, grants for up to \$7,500 are available for these purposes. Many counties and cities also have in-home rehabilitation programs for low-income persons and seniors. Senior centers, Rural Housing offices, legal aid offices and local AAA/SPD offices can provide information on these resources. (See General Resource List.)

**The Oregon Housing Trust Fund** is a statewide program to restore and maintain existing housing and build new housing. Because this program is fairly new, it is still looking at many ways to achieve this important goal. It may have something to help you. Call the Oregon Department of Housing and Community Services for information. (See Resources at end of chapter.)

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## Tenants' Rights

Even tenants who do not live in government-sponsored housing have some rights under Oregon law. For example, all landlords—public or private—must rent and maintain housing in a safe and healthful condition. Heat, water, plumbing, wiring and appliances supplied by the landlord (such as stoves and refrigerators) must work properly. Windows and doors must close and lock properly. Floors, walls and roofs must keep out the elements, rodents and insects. A landlord cannot retaliate against tenants who complain about bad housing conditions.

Landlords may be able to evict tenants in private housing without giving a reason, but must follow a set legal procedure. An eviction must be handled by a court proceeding after proper notice to the tenant. Landlords and tenants should seek competent legal advice before acting. Low-income seniors can get advice from their local legal aid office. Many senior centers have programs that offer free legal advice on this topic to tenants and landlords. (See Chapter 7 for more information on tenant and landlord rights.)

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## Resources

See **General Resource List** for AAA/SPD offices, legal aid offices, OSB Tel-Law service and more.

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### Eldercare Locator Service

800-677-1116  
[www.eldercare.gov](http://www.eldercare.gov)

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### National Housing Law Project

614 Grand Avenue, Suite 320  
Oakland, CA 94610  
510-251-9400  
[www.nhlp.org](http://www.nhlp.org)

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### Oregon Housing and Community Services

(Contact for your local housing authority.)

725 Summer Street NE, Suite B  
PO Box 14508  
Salem, OR 97309  
503-986-2200  
[www.oregon.gov/OHCS](http://www.oregon.gov/OHCS)

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## U.S. Department of Agriculture Rural Development

(state office)  
1201 NE Lloyd Boulevard, Suite 801  
Portland, OR 97232  
503-414-3300; TTY: 503-414-3387  
www.rurdev.usda.gov

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## U.S. Department of Housing and Urban Development

(field office)  
400 SW Sixth Avenue, Suite 700  
Portland, OR 97204  
971-222-2600  
www.hud.gov

### CHAPTER 8

### Housing Programs

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## Glossary of Terms

**Good Cause:** *The reasons a landlord can use to evict a tenant from government low-cost housing. Examples include failure to pay rent or repeated late payment of rent, substantial violations of the lease or occupancy agreement, conduct or actions of the tenant that unreasonably disturb other tenants or threaten the health or safety of others, and damage to the premises.*

**Guaranteed Rural Housing:** *A loan program in which Rural Housing guarantees a loan made by an approved lender to purchase new or existing housing in rural areas.*

**Housing Choice Voucher Program:** *A rental aid program sponsored by HUD. Under this program, a local housing authority will subsidize the rent for low-income tenants who choose to rent a house, an apartment or space in a mobile home park from a private landlord.*

**HUD:** *U.S. Department of Housing and Urban Development.*

**Oregon Housing Trust Fund:** *A statewide program to restore and maintain existing housing and build new housing.*

**Rural Housing Services Rental Assistance Program:** *A rental program in which eligible tenants pay 30 percent of their adjusted income for rent and utilities only while they live in Rural Housing apartments.*

**Section 502 Direct Rural Housing:** *A direct lending program that helps low-income people in rural areas purchase, build or repair homes at reduced interest rates.*

**Section 504 Home Repair Loan and Grant Program:** *A program designed to provide funding for home repairs to assist very low-income owner-occupants to repair or improve their homes and remove health and safety hazards.*

## CHAPTER 9

# Utilities, Heating, Weatherization and Phone

This chapter discusses your rights regarding utility companies. All types of utilities must treat their customers fairly. However, you need to know the different policies that apply to each type of utility. This chapter explains your rights under public utilities, municipal utilities and co-op utilities. It also provides information on consumer rights organizations if you have a complaint about your utility company.

The costs of heating, weatherization and phone bills can use a significant part of the household budget, especially during the winter months. This chapter offers valuable information on several programs that can help you find a way to keep up with your bills.

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## You and Your Utilities

For many people, the cost of heating and lighting their homes is often higher than their rent or house payment. Fortunately, the law recognizes the importance of these services and provides some protection for consumers. Some utility companies and local governments offer low-cost or no-cost loans for money-saving weatherization. Federal money may be available to low-income households to help with utility payments during high-usage winter months.

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## Basic Consumer Right: Fair Treatment

All utilities (heat, water and phone) have to treat customers fairly. Fair treatment is required for utility hookups, deposits and shut-offs. What is “fair” depends on the type of utility provider.

The following is a list of different types of providers:

1. A private, investor-owned utility company (called a **public utility**);
2. A **municipal utility**, run by a government entity (sometimes a city, county or public utility district); or
3. A member controlled and operated cooperative (**utility co-op**).

If you are unsure what kind of utility provider you have, call the Oregon Public Utilities Commission (PUC) for help. (See Resources at end of chapter.)

## CHAPTER 9

### Utilities, Heating, Weatherization and Phone

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## Your Rights with Public Utilities

The state Public Utility Commission regulates public utilities such as Northwest Natural Gas, Pacific Power and Avista. You have the following rights with these utilities:

1. A utility cannot charge you a deposit if you have a good credit history. If you have to pay a deposit, the company should not charge more than the amount equal to two months' service. The utility should allow you to pay the deposit in installments.
2. You can receive bills and other notices in your own language if you do not speak English.
3. You can ask the utility to send your bills and notices to someone else. You can do this if you cannot read or understand the notices or if someone makes payments for you.
4. For gas and electric service, you can pay your bills on an **equal-payment plan**. This plan allows you to make consistent payments throughout the year.
5. If you cannot pay your electricity or gas bills and the utility wants to cut off service, you may be able to enter a special agreement. This agreement will let you pay the overdue amount over time.
6. A company must tell you before disconnecting your service. Electric and gas companies must give a 15-day notice and another notice five days before disconnection. The company must try to contact you on the day it scheduled the disconnection. Telephone and water companies must give you a written notice at least five days before disconnection. If you receive a notice from the phone company, discuss your situation with the company because the company can choose to limit service rather than to disconnect it.
7. If someone in your household is having a serious health problem when an electric or gas company threatens to shut off service, you may be able to keep your service on. To do this, you need a certificate from a doctor or other health care professional explaining why electric or gas service is needed. The utility company must set up a payment plan with you in this case.
8. Telephone companies must allow you to have 911 phone service—even if you cannot pay for it—if you have been a victim of domestic violence and need emergency phone access. Your phone company or the Public Utilities Commission can give you more information about who is eligible for this service.

More and more people now have cellular telephone service. Cell phone service is not regulated by the Public Utilities Commission. If you have a dispute with your cell phone provider, you may have a remedy under state consumer law. (For more information about consumer rights, see Chapter 13.)

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## Complaints about Public Utilities

If you have a dispute with your public utility company, the PUC Consumer Services Division can help you. (See Resources at end of chapter.) You also may want to contact a lawyer. Working out a problem before your service is shut off can sometimes prevent new hookup charges and deposits later.

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## Your Rights with Municipal Utilities

Municipal utilities must follow their own written procedures when installing service, collecting deposits and disconnecting service. Those rules must be reasonable and apply equally to all consumers.

In addition, the courts say municipal utilities must let consumers know about shut-offs. Consumers must get the notices and understand them. In communities with many non-English speaking residents, utilities have a duty to send notices in the proper language. Also, utilities must send the shut-off notice to the owner of a residence and the renter(s). Usually, the renter would then be able to open an account with the utility in his or her own name.

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## Your Rights with Co-op Utilities

Co-ops are controlled by elected user members. These members determine the rules about installation, deposits and shut-offs. The co-op must then follow those rules. It is unclear what the co-op's duty is to people, such as tenants, who are not co-op members but who use the co-op's service. Call the co-op to find out what its rules are, or call a lawyer.

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## Consumer Rights Organizations

Consumers concerned about unfair rate increases or harsh regulations can get help from Oregon's consumer advocacy groups. The Citizens Utility Board and the Oregon State Public Interest Research Group are active in this area. To reach them or to get the names of other consumer organizations, call the PUC. (See Resources at end of chapter.)

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## Help with Heat Bills

The U.S. Department of Energy sponsors the Low-Income Home Energy Assistance Program in Oregon. Funds are administered by the Oregon Housing and Community Services Department, through various local agencies such as AAA/SPD offices.

To be eligible for cash assistance during the winter, you must have a low income, live in Oregon and be responsible for paying utility or fuel bills, including bills for fuel oil and firewood. The amount of help you receive depends on your household makeup and the amount of your income.

In some communities, community action agencies can help with utility bills. In addition, some families may be eligible for emergency aid from

the state's Adult and Family Services program. Your local senior center, community action agency or AAA/SPD office can inform you about the availability of these resources. (See General Resource List.)

If you are a tenant with high heat bills because your home is not weatherproofed, you should contact your landlord. Your doors and windows should close tightly enough and your walls and ceilings should be in good enough repair to keep out cold air. (See Chapter 7 for more information on your rights to adequate housing. Also, listen to Tel-Law topic 1256, "Getting Repairs Made.")

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## Help with Weatherization

With the high cost of fuel, everyone is concerned with energy conservation. Although winterizing homes costs money, it saves money in the long run. The U.S. Department of Energy has a national weatherization aid program for older adults. Eligibility for the program is based on income and resources. Local senior centers and AAA/SPD offices have more information on this program. (See General Resource List.)

Also, some cities and counties have low-interest loan programs for weatherization. Rural home owners may be eligible for loans or grants for winterization projects from the Rural Housing Services Program. Some public utilities offer free weatherization evaluations of customers' homes and offer loans to make energy-saving improvements. Your utility company can tell you if it has this valuable service.

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## Help with Phone Bills

Oregon residents can receive and maintain basic telephone service under two state programs: the Oregon Telephone Assistance Program and the Link-up America program. (See Resources at end of chapter.) The Oregon Telephone Assistance Program provides for reduced phone bills for qualified low-income customers who are receiving state assistance such as food stamps, Medicaid, the Oregon Health Plan and Supplemental Security Income. The Link-Up America program provides financial help for telephone hookup charges to qualified people. In addition, Oregon law provides for a basic 911 phone connection for people who have been victims of domestic violence and who need a phone for their safety. The PUC and your local phone company can provide further information.

Most utilities are required to have TTY access for people who are hearing or speech impaired. Contact the PUC for more information on TTY services.

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## Resources

See **General Resource List** for AAA/SPD offices, legal aid offices, OSB Tel-Law service and more.

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### Citizens Utility Board of Oregon

610 SW Broadway Street, Suite 308  
Portland, OR 97205  
503-227-1984  
www.oregoncub.org

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### Link-Up America Program

One-time payment that helps pay half of the cost of the line connection fee within 30 days of phone installation.

800-848-4442; TTY: 800-648-3458

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### Oregon Telephone Assistance Program

800-848-4442

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### Public Utility Commission of Oregon

500 Capitol Street NE, Suite 215  
PO Box 2148  
Salem, OR 97308  
800-522-2404; TTY: 800-648-3458  
www.puc.state.or.us/PUC

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### Telecommunications Devices Access Program

Voice: 800-848-4442  
Oregon Relay Services  
TTY (For Hearing and Speech Impaired): 800-648-3458

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## Glossary of Terms

**Equal-Payment Plan:** *A payment plan for gas and electric service allowing you to make consistent payments throughout the year.*

**Municipal Utility:** *A utility run by a government entity (e.g., city, county or public utility district).*

**Public Utility:** *A private investor-owned utility company.*

**Utility Co-op:** *A member controlled and operated cooperative.*

## CHAPTER 9

### Utilities, Heating, Weatherization and Phone

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## CHAPTER 10

# Age Discrimination

Unless you know your rights, it may be difficult to detect age discrimination in employment practices. This chapter will familiarize you with your rights and the law employers must follow to ensure equal employment opportunities.

Oregon and federal laws regarding age discrimination are outlined in this chapter. You will also find out how to file a discrimination charge and which organizations can help you.

*“You are overqualified for this job.”*

*“This is an entry level position.”*

*“This job is too strenuous for you.”*

If you have heard statements like these from an employer or prospective employer, it may mean that he or she is discriminating against you because of your age. Age discrimination can occur in hiring, firing, promotions, transfers and layoffs. **Age discrimination is illegal under state and federal law.**

## Employment Discrimination: Oregon Law

In Oregon, it is unlawful for an employer to fire, refuse to hire or refuse to promote an individual because of race, religion, color, sex, national origin, disability, marital status or age. However, discrimination may not be illegal if a job requirement that causes the discrimination is necessary to the normal operation of the employer’s business. Oregon law applies to every employer in the state regardless of the number of employees. State law protects people 18 and older from unlawful hiring and firing, as well as discriminatory wages, benefits and overtime. Oregon law also forbids age discrimination by labor unions and employment agencies.

A physical disability may be related to age. If you have a disability, state and federal laws forbid discrimination because of it, so long as the disability does not interfere with your ability to perform the essential functions of your job, as defined by your employer. Furthermore, if you ask, your employer is required to make a reasonable accommodation with regard to your disability to help you do your job. For example, an employer may have to provide a telephone amplifier for a receptionist who has a hearing loss.

## CHAPTER 10

### Age Discrimination

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State and federal law make it illegal to discriminate against someone not only if the person has a disability, but also if the employer mistakenly believes the person has a disability. (Listen to Tel-Law topic 1095, “Discrimination in Employment Opportunities,” for more information.)

## Employment Discrimination: Federal Law

The federal **Age Discrimination in Employment Act (ADEA)** protects persons aged 40 or older who are performing their jobs in a satisfactory manner against age discrimination by employers employing 20 or more persons, and by labor organizations with 25 or more members. The ADEA covers all terms, conditions and privileges of employment, including hiring, firing, layoffs, promotions, wages, benefits and training opportunities.

## Protecting Your Rights: Federal and State Law

Although largely similar, federal and state discrimination laws differ in the rights and types of persons they protect. Most importantly, the laws allow different time limits within which to file a complaint charging discrimination. If you have questions about how to protect your rights, contact a lawyer who has experience handling cases involving age and disability discrimination.

Under state law, you have one year from the date of the discriminatory act to file a complaint with the **Civil Rights Division** of the Oregon Bureau of Labor and Industries (BOLI). (See Resources at end of chapter.) Under federal law, you must file a complaint of age or disability discrimination in the workplace with the **Equal Employment Opportunity Commission (EEOC)** within 300 days of the discriminatory act. (If the employer is an agency of the federal government, the rules are different.) Under state law, you may file a lawsuit within one year without first having filed a complaint with BOLI. Under federal law, you must wait 60 days after filing your complaint with the EEOC to file a lawsuit alleging age discrimination. For disability discrimination cases, you must first receive a “right to sue notice” from the EEOC, and then file your lawsuit not later than 90 days after receiving that notice. For other types of discrimination claims, you should seek legal advice regarding any other limits that may apply.

If you do not file a complaint with either the state or federal agency within these time limits, you may lose the right to sue for age or disability discrimination. EEOC and BOLI have a work-sharing agreement which usually means that filing with one agency will result in your complaint being filed with the other agency. However, because of different time limits for filing and different remedies that exist between state and federal law, you may want to file a complaint with both agencies.

State and federal law provide different remedies for persons who establish that they were discriminated against in their jobs because of age. Under

state law, you may recover a maximum of two years' back wages and benefits lost because of discrimination. Federal remedies are broader and include the recovery of lost back wages from the date of discrimination to the date of judgment, plus a penalty equal to the lost wages for willful violations of the ADEA. Remedies under state and federal law for on-the-job disability discrimination allow for a jury trial and for the recovery of lost wages and benefits, plus non-monetary damages for stress and punitive damages. Both state and federal law allow you to recover reasonable attorney fees and costs associated with bringing an age or disability discrimination lawsuit if you win the case. In addition, state law allows for the recovery of expert witness fees.

Not every kind of discrimination because of age is illegal. For example, both federal and state law honor compulsory retirement for certain high-paid executives at age 65 and for tenured faculty at higher education institutions at age 70. Employers may also legally discriminate on the basis of age when a job requirement is necessary to the normal operation of a business, such as safety in the transportation industries.

## CHAPTER 10

### Age Discrimination

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#### Retaliation for Complaining

Under federal and state laws, it is unlawful for an employer to retaliate against you if you have complained to your employer or to an agency about age or disability discrimination. You have the same remedies as those described above, and your rights are subject to the same time limits.

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#### Other Kinds of Discrimination

Older people, particularly those aged 62 and older, have some protections against discrimination by creditors and lenders. Federal laws also forbid age and disability discrimination by programs and activities that receive federal funds. Hospitals, mental health centers, legal aid programs, the Red Cross, government-assisted housing and public schools are examples of programs subject to these laws. However, certain programs are specifically funded to serve people over age 60 or people who have disabilities.

Older people are not protected from age discrimination by private landlords. However, landlords are not permitted to discriminate based on disability. If you have a disability, you are entitled to make reasonable modifications to your housing unit, at your expense, to accommodate your disability. Your rights under state and federal law about this kind of discrimination are similar to those for discrimination in employment. (See Chapter 7 for information on discrimination by landlords.)

If you have a disability, you have the right to "reasonable accommodation" from agencies and most businesses. Under the **Americans with Disabilities Act (ADA)**, motels, hotels and meeting areas should make it possible for you to use a wheelchair in their buildings, get help with hearing or reading (through audio amplifiers, special phone equipment, Braille readers, etc.), and do other reasonable things to make places and services accessible. Restaurants, stores, and medical and law

offices must also make reasonable accommodations to allow the disabled to use their services. The degree of physical accommodation required depends to some degree on when the structure was built. Both federal and state law authorize people to file lawsuits to enforce these rights. The Oregon Advocacy Center also works with individuals who seek modifications in places of public accommodation. (See Resources at end of chapter.)

The federal government has a free special service, the Job Accommodation Network, to help workers with disabilities and their employers develop ways to accommodate workers who have disabilities. (See Resources at end of chapter.)

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## Resources

See **General Resource List** for AAA/SPD offices, legal aid offices, OSB Tel-Law service and more.

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### Equal Employment Opportunity Commission

(Seattle field office)  
Federal Office Building  
909 First Avenue, Suite 400  
Seattle, WA 98104  
**206-220-6883** or **800-669-4000**; TTY: **206-220-6882**  
Open Monday through Friday, 8:00 a.m. – 4:30 p.m.

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### Job Accommodation Network

PO Box 6080  
Morgantown, WV 26506  
**800-526-7234** or **800-ADA-WORK** (V/TTY)  
[www.jan.wvu.edu](http://www.jan.wvu.edu)

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### Oregon Advocacy Center

*“Working for the rights of individuals with disabilities”*  
620 SW Fifth Avenue, 5th Floor  
Portland, OR 97204  
**503-243-2081** or **800-452-1694**  
TTY: **503-323-9161** or **800-556-5351**  
[www.oradvocacy.org](http://www.oradvocacy.org)

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**Oregon Bureau of Labor and Industries —  
Civil Rights Division**

[www.boli.state.or.us/BOLI/CRD](http://www.boli.state.or.us/BOLI/CRD)

**Bend:**

2480 NE Twin Knolls Drive  
Bend, OR 97701  
541-322-2435

**Eugene:**

1400 Executive Parkway, Suite 200  
Eugene, OR 97401  
541-686-7623

**Medford:**

119 N Oakdale Avenue  
Medford, OR 97501  
541-776-6270

**Pendleton:**

1327 SE Third Street, Room 110  
PO Box 459  
Pendleton, OR 97801  
541-276-7884

**Portland:**

800 NE Oregon Street, Suite 1045  
Portland, OR 97232  
971-673-0761, option 3

**Salem:**

3865 Wolverine Street NE  
Building E, Suite 1  
Salem, OR 97305  
503-378-3292

**CHAPTER 10**

**Age Discrimination**

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**Oregon State Bar Tel-Law Topic**

1095 - Discrimination in Employment Opportunities

503-620-3000 or 800-452-4776

[www.osbar.org](http://www.osbar.org)

## Glossary of Terms

**Age Discrimination in Employment Act (ADEA):** *Federal protection for persons aged 40 or older from discriminatory hirings, firings, layoffs, promotions, wages, benefits and training opportunities.*

**Americans with Disabilities Act (ADA):** *Federal law that protects employees from discrimination because of actual or perceived disability, and that also requires many agencies, businesses and places of “public accommodation” to make reasonable changes in structures or operations so people with disabilities can use them.*

**Equal Employment Opportunity Commission (EEOC):** *A federal agency that promotes equal employment opportunity and investigates complaints of discrimination.*

**Oregon Civil Rights Division:** *A state agency that protects civil rights and handles discrimination cases.*

## CHAPTER 11

# Family Relationships

Family relationships are always changing, whether because of marriage, divorce, death or birth. Elders—especially grandparents—are often affected by these changes. This chapter discusses issues grandparents often must deal with, such as the right to visit grandchildren and taking custody or guardianship of grandchildren or other child relatives.

Divorce, change of name and prenuptial agreements are issues affecting people of all ages. This chapter will familiarize you with the requirements for a divorce and guidelines you must follow if you decide to remarry. You will also find out how to decide, before marriage, what rights you want to keep over certain property if divorce or death occurs.

Finally, this chapter discusses family violence and how the Oregon Family Abuse Prevention Act and the Abuse Prevention Act for Elders and Persons with Disabilities can help you with restraining orders.

## CHAPTER 11

### Family Relationships

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## Grandparents' Visitation

If you have a dispute with your adult children or if one of your children gets a divorce, you could be denied contact with your grandchildren. If a parent does not let you visit your grandchildren, a court can order the parent to allow you to spend time with them. You must prove to the court that you already have a strong relationship with the children and that your spending time with them is in their best interest. Some counties may want you to meet with a trained mediator and the children's parents or custodian to try to reach an agreement before the court listens to your case. If you have concerns about being kept from your grandchildren, talk to a lawyer about getting visitation.

If the court gives you visitation rights, your rights continue if the parents divorce or legally separate, or if one or both of the parents die. Your rights may end if your grandchild is adopted or if the parents lose their rights over the child.

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## Custody of Grandchildren

Sometimes grandparents care for grandchildren permanently or temporarily. If you are caring for grandchildren for a short time, you should get written permission from at least one parent to authorize school attendance and emergency medical care for the child. A delegation of guardianship form is good for up to six months. However, the parent can revoke the delegation at any time.

If you expect to care for your grandchild for an extended time, you may want a legal **guardianship** over the child. A legal guardianship gives you stronger authority over the child's care and well-being. Legal guardianship generally will allow you to cover the grandchild under your health insurance. The court also can order the child's parents to pay child support. You must apply to a circuit court to become your grandchild's guardian. If the parents do not agree to the guardianship, you must show the court why the child needs a guardian. With or without a guardianship, you may qualify for Temporary Assistance for Needy Families (TANF) and Medicaid coverage for a grandchild in your care.

In unusual circumstances, grandparents may seek full legal custody of a grandchild. To win such a case without the cooperation of the parents, you must show the court that the parents are unfit to have custody of the child. You also must show that it is in the child's best interest for you to have custody. In 2004, the Oregon Department of Human Services and AARP published "Oregon's Legal Guide for Grandparents and Other Relatives Raising Grandchildren," which describes grandparents' rights in greater detail. The guide is available online at [extension.oregonstate.edu/fcd/oregoncares.php](http://extension.oregonstate.edu/fcd/oregoncares.php) and in hard copy from Oregon AARP.

## Divorce

Divorce has become more common in recent years. In Oregon, you do not have to prove that a failed marriage is anyone's fault. A "no-fault" divorce will be granted based on your inability to get along with each other. (Listen to Tel-Law topic 1132, "Dissolution of Marriage.")

A **divorce judgment** restores your status to that of a single person. It also divides your property and debts and may provide for **spousal support** when appropriate. Either spouse may receive temporary or permanent spousal support. The law considers each person's job skills, income, resources, age and health in deciding whether and how much spousal support to give. For couples with minor children, divorce settles custody, parenting time and child support issues. In Oregon, a child attending school at least half-time may receive support until he or she is 21 years old. (Listen to Tel-Law topic 1134, "How Financial Support for a Child or Spouse Is Established in a Marriage Dissolution.")

You can get a divorce in Oregon if you or your spouse has been living in Oregon for six months prior to filing. You can file for a **legal separation** before six months. A legal separation decides all the issues a divorce decides, except that it does not free you to remarry. Either spouse can change the legal separation to a divorce at a later time.

If you move to Oregon and leave your spouse behind in another state, an Oregon court may not be able to decide property, child custody and support issues. A family law lawyer can help you find out the state where you should file your case.

If you cannot agree on care and support for minor children or the division of property or debts, you should each see your own separate lawyer. One lawyer cannot protect the interests of both sides.

In Oregon, the court usually assumes that each party has contributed equally to the marriage and the property of the parties, even if only one party was employed outside the home during the relationship. The court tries to divide property with this in mind. This is less true for very short marriages, in which the court will consider the property each spouse had at the time of the marriage.

You may have more property than you realize. Property isn't just your home, cars and household items. It also includes the cash value of life insurance, future pensions and retirement benefits. Inheritance and gifts may be included in some instances. Usually, the part of a pension earned during the marriage is property the court can divide. This can happen even if you are not receiving benefits from the pension yet. If your divorce involves a pension, you should get legal advice.

---

## Short Form Divorce

If you and your spouse meet certain requirements, you can get a simple "short form" divorce. This type of divorce is not appropriate if there are minor children, if you have been married more than 10 years, if you own a home, if your debts are higher than a certain amount, or if you can't agree how to handle your property and debts. Remember that any agreements not included in your court papers cannot be enforced later.

Married couples who meet **all** of the following requirements can use the short forms available at courthouses to get a divorce without having a lawyer:

1. You or your spouse are Oregon residents and have been living here for the last six months;
2. You have not been married for more than 10 years;
3. Neither you nor your spouse owns any **real property**;
4. Neither you nor your spouse owns **personal property** worth \$30,000 or more;
5. Debts you have incurred from the date of your marriage are not more than \$15,000;
6. You are not asking for spousal support;
7. You do not have minor children, children older than 18 attending school, or children born to you or adopted by you and your spouse either before or during the marriage;
8. The wife is not pregnant. If a child was conceived or born to the wife during the marriage, but the husband is not the father, you should discuss this with a lawyer before filing for divorce;
9. You are not asking for any temporary orders (except a restraining order in a domestic violence situation);
10. You are unaware of any other divorce or annulment proceedings involving this marriage that are filed in a court and are not yet decided; and
11. You and your spouse agree on how to divide your belongings and debts.

If you meet **all** of the above requirements, contact the circuit court clerk in your county to get the forms free of charge. If neither you nor your spouse can afford to pay filing fees, you may request a fee waiver. In some counties, the court will not waive fees but will defer them until you can afford to pay. If fee waiver or deferral forms are not available at the courthouse, you may be able to get them from your local legal aid office or a private lawyer.

If you are in danger of family or household violence, the Oregon Family Abuse Prevention Act can help protect you. See more information on page 115.

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## “Pro Se” (Self-help) Divorce

Even couples who do not meet the requirements for a short-form divorce can file for divorce without using a lawyer, although the process can be frustrating without help. The forms you need for an uncontested divorce (a divorce in which the parties do not argue over property, debts or children) are available at most courthouses and can be downloaded from the Oregon Judicial Department website at [www.ojd.state.or.us](http://www.ojd.state.or.us). (You may want to check with your local court to find out exactly which forms it will accept.)

The forms can be used even if you have children and need child support or spousal support. They even include forms to request reasonable parenting time. In some counties, courthouse facilitators help people fill out and file the forms; in many locations, low-income Oregonians can get help completing the forms from local legal aid offices. Still, it is extremely important to get specific legal advice about dividing real estate, dealing with taxes, and claiming pension rights and spousal support. Remember too that you cannot enforce anything that you and your spouse agreed to in the divorce if that agreement is not part of your divorce judgment.

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## Use of Former Name

When you marry, you can keep your own name or use your spouse’s name. You also can resume using your own name after you have started using your spouse’s name. When you divorce, the court will enter an order allowing you to use any former name. (Listen to Tel-Law topic 1137, “Change of Name.”)

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## Anticipating Marriage

Often, people marrying later in life have property or children from earlier relationships. A **prenuptial agreement** allows the couple to decide, in advance, what rights each of them will keep over certain property if a divorce or death occurs. The prenuptial agreement must be in writing and signed by both parties. The couple can revoke or change the agreement later only by a signed written agreement. People who want such an agreement should ask their own separate lawyers well before the wedding. If there is a divorce, will contest or other action where the property rights are an issue, a prenuptial agreement would help decide the matter.

## Protection from Violence at Home

If a family or household member has threatened you with violence or abused you, the Oregon Family Abuse Prevention Act (FAPA) can help protect you. Under FAPA, you can get an order keeping the abuser from contacting you or coming to your home, school or workplace. In some cases, the court can order the abuser to leave the family home if you live there.

To qualify for a **FAPA restraining order**, you must show that:

1. The violence or threats occurred within 180 days of your petition for the order;
2. The abuser intentionally or recklessly caused or tried to cause bodily harm or placed you in fear of serious harm; and
3. The abuser is a spouse, former spouse, adult relative (by blood, adoption or marriage), person living in the same house, person who has lived in the same house with you within the last two years, or the other parent of your child.

People aged 65 and older or people with disabilities can also get a restraining order against family members, household members and certain caregivers under the **Abuse Prevention Act for Elders and Persons with Disabilities**. You can qualify if there has been violence, threat of violence, neglect, abandonment or verbal abuse that is likely to cause significant physical or emotional harm. You can also qualify if someone has improperly taken from you or refused to return to you your possessions or funds.

Abuse restraining orders are free. You can get the necessary forms and instructions from the circuit court clerk at your county courthouse. If your abuser disobeys the court order and comes to your home or workplace or threatens you, you can get immediate help from the police. The court order is valid for one year. You can renew the order within the year for good reason.

The Victims' Assistance Program in your county's district attorney's office can help you prepare the forms you need. It also can refer you to safe shelters and other services. The State Office for Seniors and People with Disabilities is another resource. It investigates complaints of abuse involving seniors and people with disabilities. (Listen to Tel-Law topics: 1140, "Restraining Orders and Domestic Violence"; 1193, "Protection of Elders and Disabled Adults from Violence and Emotional Abuse"; and 1195, "Financial Abuse of Vulnerable Adults.")

Persons of any age, even if they have not been physically harmed, may be able to obtain a **stalking order** against anyone who repeatedly behaves in a threatening manner toward them and who makes them reasonably fear for their safety.

### CHAPTER 11

### Family Relationships

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## Resources

See **General Resource List** for AAA/SPD offices, legal aid offices, OSB Tel-Law service and more.

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### National Domestic Violence Hotline

800-799-SAFE (7233); TTY: 800-787-3224

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### Oregon Coalition Against Domestic and Sexual Violence

380 Spokane Street, Suite 100  
Portland, OR 97202  
503-230-1951  
www.ocadsv.com

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### Oregon State Bar Tel-Law Topics

- 1131 - Marriage in Oregon
- 1132 - Dissolution of Marriage
- 1133 - Who Will Get Child Custody in Dissolution of Marriage?
- 1134 - How Financial Support for a Child or Spouse is Established in a Marriage Dissolution
- 1135 - What to Do if Child Support or Spousal Support Is Not Being Paid
- 1136 - General Information About Adoptions
- 1137 - Change of Name
- 1139 - Financial and Legal Responsibilities of Parents for Damage Caused by Their Children
- 1140 - Restraining Orders and Domestic Violence
- 1141 - Foster Care and Termination of Parental Rights
- 1193 - Protection of Elders and Disabled Adults from Violence and Emotional Abuse
- 1195 - Financial Abuse of Vulnerable Adults

503-620-3000 or 800-452-4776  
www.osbar.org

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### *Oregon's Legal Guide for Grandparents and Other Relatives Raising Children (AARP 2005)*

866-554-5360  
extension.oregonstate.edu/fcd/oregoncares.php

# Glossary of Terms

**Abuse Prevention Act for Elders and Persons with Disabilities:**

*Protection for people aged 65 and older or people with disabilities. Under this act, people may get restraining orders against family members, household members and certain caregivers.*

**Divorce Judgment:** *A court order that restores one's status to that of a single person. It divides property and debts and provides for spousal and child support when appropriate.*

**Family Abuse Prevention Act (FAPA) Restraining Order:** *An order that keeps an abuser in your family or household from contacting you or coming to your home, school or workplace. A similar order is available under the Elder Abuse Prevention Act.*

**Guardianship:** *See Chapter 4.*

**Legal Separation:** *A court order that divides property and debts and provides for spousal and child support when appropriate. It does not free spouses to remarry.*

**Personal Property:** *See Chapter 5.*

**Preuptial Agreement:** *An agreement, in writing, between two people before marriage on what rights each of them will keep over certain property if a divorce or death occurs.*

**Pro Se Divorce:** *A do-it-yourself divorce for which you do not have to hire an attorney.*

**Real Property:** *See Chapter 5.*

**Spousal Support:** *Financial support ordered by the court and paid by one ex-spouse or spouse to another in a divorce or legal separation case. Also called alimony.*

**Stalking Order:** *A court order that keeps away from you someone who has behaved intentionally in a threatening manner toward you more than once and who puts you in reasonable fear for your safety.*

## CHAPTER 11

### Family Relationships

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## CHAPTER 12

# Insurance

Insurance is a valuable protection for life's many unexpected events. However, researching the different types of insurance and finally deciding which policy best fits your needs can be an overwhelming process. This chapter tries to simplify this process by explaining the different types of insurance, what they cover, what their limitations are and whom to contact for information. This chapter also offers general advice on how to buy insurance and what types of questions to ask the insurance company or agent.

This chapter covers automobile insurance, including liability insurance, uninsured/underinsured motorist coverage, personal injury protection, collision insurance and comprehensive insurance. It also discusses other types of insurance like homeowner's/renter's insurance, life insurance, health insurance, Medicare Supplement (Medigap) and long term care insurance. Medicare and Medicare prescription drug plan information is provided in Chapter 2.

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## Buying Insurance

The following guidelines will help you make sure your insurance will meet your needs:

- Contact the Oregon Insurance Division to see if the insurance seller is a legitimate, licensed broker.
- Read before you sign.
- If something is unclear, get an explanation in writing from your agent or the company before you sign.
- Get the contract in writing. The only guarantee of coverage is in your contract.
- Ask your agent to explain thoroughly your policy, the coverage, and its limits and conditions.
- Check with the Oregon Insurance Division for its reports rating the responsiveness of insurance companies to customer claims.
- Get a copy of every document you sign as you apply for and buy insurance.
- Never pay in cash unless you get a written receipt. Whenever possible, pay the insurance company directly.

- Keep your receipt or canceled check.
- Read your policy as soon as you receive it. Be sure that what you received is what you paid for.

## Automobile Insurance

Oregon law requires some types of **automobile insurance**. Those are:

- **Liability insurance**, which covers personal injury and property damage to others if you are at fault in an accident;
- **Uninsured/underinsured motorist insurance**, which covers you if the other person is at fault and does not have insurance or has less insurance than you have that would cover your injury; and
- **Personal Injury Protection insurance (PIP)**, which provides immediate payment for medical bills and some wage loss, no matter who is at fault.

When you are purchasing automobile insurance, it pays to shop around. Be sure you compare the costs of similar policies.

You can usually save money by paying the full premium rather than monthly or quarterly installments. You also can save by attending an Oregon Driver and Motor Vehicle Services (DMV) approved accident prevention course. Oregon law requires insurance companies to reduce your premiums if you are 55 or older and complete the DMV accident prevention course. The discount applies to only one vehicle. Your local DMV has more information. AARP offers a DMV-approved driver safety course. (See Resources at end of chapter.)

The DMV requires vision tests for drivers aged 50 and older once every eight years. The DMV also may require a medical certification if you have (or DMV has been notified that you may have) a mental or physical disability that could affect your ability to drive safely. If you need medical clearance, talk with your family doctor or call the DMV Driver Safety Unit in Salem. (See Resources at end of chapter.)

What can you do if your driving privileges are taken away? Many community programs help senior citizens who can no longer drive cars. You may be able to use community services for shopping, banking or medical appointments. In addition to regular bus service, door-to-door van services, volunteer driver programs and taxi discounts are available.

To learn what transportation your community offers, call your local Area Agency on Aging office or city or county transportation or transit agency. If you cannot locate the proper number, call the Oregon Public Transit Division in Salem at 503-986-3300.

Another choice is to continue to own a car and pay insurance on it, but rely on someone else to drive for you. It is legal in Oregon to **own** a car without having a driver's license. However, it is illegal to **drive** without a driver's license. (Listen to Tel-Law topic 1156, "Uninsured Driver," for more information.)

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## Liability Insurance

If you drive a vehicle in Oregon, you or the owner must have liability insurance. Liability insurance covers injury to others that results from your negligence. State law requires that you purchase only minimum coverage. However, you may want more coverage, especially if you own many assets. If you are sued, those assets may be taken to pay the judgment made against you if the amount of insurance you have is too small to cover the whole cost of an injury.

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## Uninsured/Underinsured Motorist Coverage

Uninsured/underinsured motorist insurance covers your injuries from negligent drivers who lack insurance. Uninsured motorist insurance covers you if you are injured in an accident by a driver who doesn't have insurance. Underinsured motorist insurance covers you if you are injured in an accident by a driver who has less insurance coverage than your uninsured motorist coverage. It is a good idea to purchase uninsured/underinsured motorist coverage in an amount equal to your liability coverage.

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## Personal Injury Protection Coverage

Personal Injury Protection (PIP) coverage is required by law. It provides medical and wage loss benefits to you, family members who live in your household and passengers injured in an accident. The coverage works whether or not the accident was your fault. At a minimum, your medical bills are covered for up to one year or \$15,000. However, it is a good idea to purchase a policy that provides PIP coverage above \$15,000 and for more than one year.

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## Collision Insurance

**Collision insurance** covers damage to your car from accidental collision with another object or car. You may not want this coverage if you drive an older vehicle. Repairing an old car may cost more than the car is worth. If you are financing the purchase of your car, your lender may require collision insurance.

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## Comprehensive Insurance

**Comprehensive insurance** can cover damage from fire, theft, glass breakage, vandalism and "acts of God." If you own a fairly new car or live in a high crime area, comprehensive insurance is a good idea. This kind of insurance often has a "deductible" that you must pay. Less expensive insurance is likely to have a higher deductible.

If you drive a car in Oregon, you are required by law to carry the following insurance:

- Liability
- Uninsured/underinsured motorist
- Personal Injury Protection (PIP)

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# Other Types of Insurance

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## Homeowner's/Renter's Insurance

People who own homes and have personal property risk losses from fire, theft or other accidents. Insurance protection for your home and belongings is available. Amounts of coverage depend on the value of your property. Insurance agents can help you determine the proper amount of coverage. You must list all items of special value to make sure they are insured for full value. You may even videotape particularly unique items. Such items are furs, coin collections or artwork. Some insurance covers only the **actual cash value**. This is the amount that you would get if you sold the property. Other insurance pays for the **replacement cost**. This is what the property costs if you replace it new. Compare the price of these policies before buying. Homeowner's insurance also may cover your living expenses if you have to move out while your home is being repaired.

Landlords do not insure tenants' belongings, although tenants may have a claim against landlords who allow damage to occur to tenant property. If you rent, tenant insurance is available to protect your furniture, jewelry and other personal property. Most homeowner's and renter's policies also cover personal liability. This insurance protects you from certain liability to third parties when, for example, your dog bites someone or a guest is injured on your property. If you rent a storage unit, the storage company does not insure the items you have stored. Check your homeowner's or renter's insurance to find out if you are covered if your personal property is damaged or stolen from the unit.

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## Life Insurance

Life insurance pays benefits upon the death of the insured person. Some policies offer annuities (periodic payments) when a person reaches a certain age. Many insurance companies require a physical examination to purchase life insurance. However, some policies advertise life insurance with no physical exam required. These particular policies have very limited coverage.

Think twice before you buy! If you do not already have a **whole life policy**, you will find out that the costs of buying life insurance as an older adult are high and qualifications are strict. Look over policies carefully, and ask a reputable agent or company for all the facts. Make sure the company has a local representative available to answer your questions. Check how long the life insurance policy lasts. A **term insurance policy** means that it ends at a specified time, such as at age 65. Before you buy, make sure you **need** life insurance. (See Chapter 5 for other information on life insurance.)

### CHAPTER 12

#### Insurance

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If you rent, tenant insurance is available to protect your personal property. Landlords do not insure tenants' belongings.

Before you buy life insurance, be sure you really need it.

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## Health and Medicare Supplement (Medigap) Insurance

If you are 65 or older and receive Social Security, you are entitled to **Medicare** insurance. (See Chapter 2 for more information on coverage and eligibility.) However, Medicare does not cover all health care costs. Depending on which kinds of Medicare coverage you have, it can pay part of the costs of a hospital stay, doctor visits, home health care, skilled nursing care and some prescription costs.

If you are retired, you have the right to purchase continued health care coverage under the same group plan that covered you at work. The maximum period of coverage is 18 months. Coverage could end earlier if premiums are not paid, the employer ends coverage for everybody, or you become entitled to Medicare. Retiring employees must be given notice of these rights.

If you want more complete health coverage, then you must add other insurance to your Medicare coverage. People with limited income and assets may qualify for the Oregon Health Plan (the state's **Medicaid** program) whether they have Medicare coverage or not. Medicaid can pay for prescription drugs, limited dental care and other services in addition to doctor and hospital services. (See Chapter 2 for more information on Medicaid.) People who **do not** qualify for Medicaid and want to add insurance to their Medicare coverage can purchase insurance called Medicare Supplement or **Medigap Insurance**. Most people who can get Medicaid do not need Medigap. (See Resources at end of chapter for some useful pamphlets.)

People turning age 65 and enrolling in Medicare can purchase supplemental insurance policies regardless of their health. The law says that insurance companies cannot refuse an applicant for Medigap policies provided the person applies for coverage within six months of enrolling in Medicare Part B.

Oregon law does have certain minimum requirements for Medigap insurance. For example, Medigap policies cannot exclude coverage by type of illness, accident, treatment or medical condition, with minor exceptions. These policies cannot limit or reduce coverage for pre-existing diseases or physical conditions. If you have a claim for losses caused by a medical condition that existed before you purchased the policy, Medigap cannot deny a covered claim that you make six or more months after you purchased the policy. The insurance company cannot end your coverage because of deteriorating health. Medigap policies cannot duplicate Medicare coverage.

You might consider other options to Medigap insurance. For example, you can continue group coverage at work. You can join a Health Maintenance Organization (HMO) or another pre-payment plan that offers services beyond those covered by Medicare. However, if you join an HMO, you will have to get all of your health care through the HMO except for certain emergency services. Please note: neither Medicare nor the government sells or endorses Medigap insurance.

***Purchasing Medigap Insurance or Joining an HMO:***

- Shop carefully before you buy. Policies and plans differ in coverage and cost, and companies differ in service. Be sure to compare policies and plans.
- Learn what Medicare does and does not cover. (See Chapter 2.) Contact your local Social Security office for information.
- Decide whether you want to buy an insurance policy or join an HMO.
- One good Medigap insurance policy or HMO plan is enough.
- Know your insurance needs before you talk to an agent.
- Doubt an agent who says you must “buy today or risk penalty.”
- Talk to your friends and peers about their policies and plans before you buy. They can give you excellent information.
- Be careful of insurance advertised by celebrities.
- Be careful when you replace existing policies or switch plans, as the new plan may have a waiting period before you can use it for existing health problems.
- Take someone with you when you meet your agent.
- Review written materials about the policy or plan. Make sure you understand any limits or restrictions.
- You may not save much by buying insurance from unknown or distant companies and agents. You will usually have to deal with more inconvenience when correcting problems and misunderstandings.
- A 30-day “free look” allows you to cancel the policy for a full refund.

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**Long Term Care Insurance**

Medicare and Medigap insurance do not cover the cost of long term care. Medicaid does cover all types of long term care. (See Chapter 2 for information about the financial protections available to a person who is married to someone who needs long term care.) **Long term care insurance** is available from a number of companies. Oregon’s Long Term Care Insurance Act controls this insurance. You now have certain rights when buying a policy; for example:

- The company **cannot** end your policy just because you grow older or your health worsens;
- Your policy **cannot** limit its benefits to skilled nursing care only, but must offer home care and other levels of service;
- Your policy **cannot** provide significantly better benefits for skilled care than other levels of care;

- Your policy **must** pay for Alzheimer’s disease and related illnesses;
- Your policy **cannot** require you to go to a hospital before you receive benefits for long term care; and
- Your policy **cannot** require you to receive a higher level of care before it pays benefits for a lower level of long term care.

Most policies provide a benefit of up to a certain dollar amount per day, for a certain time period. Generally, the larger the benefit and the longer that benefit is payable, the higher the cost of the policy. The cost increases with your age. After you have reached a certain age or have been diagnosed with a particular medical condition, you may not be able to buy long term care insurance.

*Before You Buy Long Term Care Insurance:*

- Read the “Oregon Consumer Guide to Long Term Care Insurance,” available from the Oregon Insurance Division. (See Resources at end of chapter.)
- Purchase a good Medigap insurance policy or join an HMO.
- Find out if you or your spouse will qualify for Medicaid assistance.
- Know your insurance needs and your budget before you talk to an insurance agent.
- Get an explanation of the benefits if anything in the policy is unclear. Get the explanation in writing and signed.
- Compare before you buy.

*Questions to Ask:*

- Does the policy pay for all levels of care? For example, does it pay for home health care?
- How long will benefits be paid? (The law requires a minimum of 24 months.)
- How does the premium compare with the maximum coverage I would get? (How much coverage am I getting for the premiums?)
- Is the policy guaranteed to be renewable?
- Will premiums be waived while I am receiving care?
- Will my premium ever increase?
- What are the limitations and waiting periods for pre-existing conditions?

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## Resources

See **General Resource List** for AAA/SPD offices, legal aid offices, OSB Tel-Law service and more.

### CHAPTER 12

### Insurance

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#### AARP Driver Safety Program

[www.aarp.org/families/driver\\_safety](http://www.aarp.org/families/driver_safety) or 888-227-7669 to find a course near you.

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#### America's Health Insurance Plans

601 Pennsylvania Avenue NW  
South Building, Suite 500  
Washington, DC 20004  
202-778-3200  
[www.ahip.org](http://www.ahip.org)

The following booklets are available online:

*"Guide to Disability Income Insurance"*

*"An Employer's Guide to Disability Income Insurance"*

*"Guide to Health Insurance"*

*"Guide to Long Term Care Insurance"*

*"An Employer's Guide to Long Term Care Insurance"*

*"Guide to Managed Care"*

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#### Oregon Department of Consumer & Business Services (for consumer complaints)

Insurance Division  
PO Box 14480  
Salem, OR 97309  
503-947-7984 or 888-877-4894  
[www.oregoninsurance.org](http://www.oregoninsurance.org)

**Please Note:** The Oregon Insurance Division prepares a report summarizing complaints against major insurance companies doing business in Oregon, allowing consumers to compare their complaint records. This report is available online at [www.oregoninsurance.org](http://www.oregoninsurance.org).

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#### Oregon Driver and Motor Vehicle Services Driver Safety Unit

503-945-5083  
[www.oregon.gov/ODOT/DMV](http://www.oregon.gov/ODOT/DMV)

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## Oregon Insurance Division Consumer Protection Section

3350 Winter Street NE, Room 440  
PO Box 14480  
Salem, OR 97309  
503-947-7984 or 888-877-4894

*(For questions about insurance, insurance companies, agents or the Oregon Insurance Commission)*

**Please Note:** The Insurance Commission enforces the legal standards for all insurance in Oregon, including Medicare supplemental policies. It can provide a listing of approved supplemental insurance policies and consumer educational materials.

There are many pamphlets available from the Oregon Insurance Division Consumer Protection Section and Senior Health Insurance Benefits Assistance program (SHIBA). You can call the number above or order online at [www.oregoninsurance.org](http://www.oregoninsurance.org). Pamphlets are in both English and Spanish.

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## Oregon Public Transit Division

503-986-3300 (Salem)  
[www.oregon.gov/ODOT/PT](http://www.oregon.gov/ODOT/PT)

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## Oregon State Bar Tel-Law Topic

1156 - Uninsured Driver  
503-620-3000 or 800-452-4776  
[www.osbar.org](http://www.osbar.org)

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## Glossary of Terms

**Actual Cash Value:** *The value of property allowing for the fact that it has been used.*

**Automobile Insurance:** *Insurance coverage for your vehicle; some coverage is required by Oregon law.*

**Collision Insurance:** *Insurance that pays for damage to your automobile from accidental collision with another car or object.*

**Comprehensive Insurance:** *Insurance that covers damage to property from fire, theft, glass breakage, vandalism and acts of God.*

**Homeowner's/Renter's Insurance:** *Insurance protection for your home, apartment and belongings.*

**Liability Insurance:** *Insurance that covers injury to others resulting from the operation of your automobile. This insurance is required by Oregon law.*

**Long Term Care Insurance:** *Insurance that covers the cost of nursing home care, home care and other levels of service.*

**Medicaid:** *See Chapter 2.*

**Medicare:** *See Chapter 2.*

**Medigap Insurance:** *Also called Medicare Supplement. Additional health insurance coverage for those who have Medicare coverage.*

**Personal Injury Protection (PIP):** *Insurance coverage that provides medical and a percentage of wage loss benefits to you, family members who live in your household, and passengers if they suffer injuries in an accident involving a vehicle.*

## CHAPTER 12

### Insurance

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**Replacement Cost:** *The cost to replace property that has been damaged or stolen.*

**Term Insurance:** *Life insurance coverage for a fixed term. A term policy has no cash value or investment element.*

**Underinsured Motorist Coverage:** *Insurance that covers you if you are injured in an accident by a driver who has less insurance than your uninsured motorist coverage.*

**Uninsured Motorist Coverage:** *Insurance that covers you if you are injured in an accident by a driver who doesn't have insurance.*

**Whole Life Policy:** *A life insurance policy and investment that generally has fixed premiums. Insurance protection is provided for the entire life of the insured.*

## CHAPTER 13

# Consumer Information

This chapter will prepare you for the many types of transactions you make as a consumer. It discusses credit purchases, collection agencies and debts. This chapter will also alert you to the legal consequences of signing contracts and how to cancel them in various situations, such as door-to-door sales and home repairs.

Warranties and your rights to use them and to complain about defective products are important issues in consumer law. This chapter discusses the different types of warranties a product may have. It also explains how to complain effectively to a business that sold you a defective product.

People of all ages should be aware of the many different types of schemes, frauds and rip-offs. Schemes involving hearing aid purchases, misleading advertising, pre-paid burial plans, insurance and door-to-door sales are often aimed at older adults. Older adults are also prime targets for “identity theft”—having their names and good credit used by thieves. This chapter will give you useful tips on how to recognize and avoid such fraud.

Finally, this chapter discusses how to report your lost or stolen credit and automatic teller cards.

The following information briefly discusses some of your rights as a consumer. **It is not a complete listing of all laws that help consumers.**

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## General Advice

1. Carefully choose the people or companies with whom you do business.
2. When choosing a business, consider how long it has been in business, what its reputation is in the community, how stable and secure the business is, and whether or not you can get repairs or your money back if the products you buy are defective.
3. Do not buy anything under pressure. **YOU CAN SAY NO.**
4. Be careful if the seller is offering you a “one time only – take it or leave it” deal. The more urgent the sales pitch, the less likely it is a legitimate transaction.

5. Generally, you have three business days to change your mind about “door-to-door” purchases, even if you signed an agreement. However, there is no grace period for most other purchases.
6. You do not have to pay for anything that comes in the mail if you did not order it.
7. Be careful about giving your credit card number, Medicare number or Social Security number to anyone, especially if the person contacts you by telephone. (Listen to Tel-Law topic 1046, “Consumer Law,” for more information.)

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## Credit Purchases

Buying on time or buying on credit means that you borrow the amount needed to purchase the item or service. You agree to pay back the money plus a finance charge (interest). This extra charge is the cost of paying for the item or service over time instead of in one payment.

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### Important Terms

**Amount Financed:** The cost of a purchase not including interest. Also called the principal amount.

**Annual Percentage Rate:** The rate of interest you pay per year for using credit.

**Cash Price:** The cost of a product or service paid in full with cash at the time of the purchase.

**Creditor:** The person or company you owe money to.

**Finance Charge:** The total dollar amount of the interest you must pay for buying a product or service on credit.

**Payment Total:** The total amount you pay for a product or service. This includes the cost plus the finance charge.

When using retail credit cards, you must pay a monthly finance charge on your unpaid balance. If you pay for purchases within 25 to 30 days you can often avoid paying the finance charge. This depends on your credit card agreement. Some credit cards have a finance charge from the date of purchase.

Consumer contracts must show the finance terms as required by the **Truth in Lending Act** and **Federal Reserve Board Regulation Z**. The Truth in Lending Act requires businesses that use credit to show, in writing, your credit costs. When you buy on credit, you must receive a written statement showing the amount financed, annual percentage rate, finance charge and payment total. The statement must include all of this information before you sign. If the terms are not shown, you may be able to recover damages from the seller. (For more information, listen to Tel-Law topics 1016, “Your Rights and Responsibilities When Applying for Credit or Loans,” and 1020, “Equal Credit Opportunity.”)

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## Collection Agencies

If you cannot make your credit payments or pay other bills, the seller, loan company or bank may turn over your debt to a **collection agency**. A collection agency is a business that tries to collect debts. A collection agency can use any legal means to collect money you owe.

A collection agency has the same rights and responsibilities as the creditor or seller who originally had your debt. The Fair Debt Collection Practices Act and the Oregon Unlawful Debt Collection Practices Act control the collection agency's activities. These statutes prohibit a collection agency from making threats or harassing you. The collection agency cannot do the following:

1. Threaten criminal prosecution;
2. Continue calling or writing after you told the agency, in writing, that you do not want to be contacted;
3. Call your friends or neighbors;
4. Contact you or your boss at work if the collection agency knows your boss prohibits these types of calls;
5. Call you before 8:00 a.m. or after 9:00 p.m. your time, or use harassment or scare tactics;
6. Threaten to take your property or garnish your wages without first filing a lawsuit and giving you a chance to defend yourself; or
7. Threaten to foreclose on your house, unless there is a court judgment entered against you for more than \$3,000.

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## Debts

If you owe a creditor money, he or she usually has the right to demand that you pay it all. You are not legally excused from your debts because you have lost your job or other income, are sick, or cannot afford to pay. A creditor can still sue you for the whole amount even if you offer to pay part of the total or actually do pay \$5 or \$10 per month. (This may be different if the creditor has agreed to let you make partial payments and you haven't missed any.)

If you miss a payment, pay less than the agreed amount, are late on a payment, or do something else that violates a written contract regarding the payments, the seller or creditor may have the right to demand payment of the full balance you owe on the debt. In this case, the creditor also may have the right to repossess the item you are making payments on.

If a loan company, bank, collection agency or creditor sues you, it can get a **judgment** against you in court. A judgment is a court decision that you owe the money. The judgment does not order you to pay the debt, but it does give the judgment holder some ways to collect the judgment. It is lawful for the judgment holder to put a lien on your real property, garnish your wages or bank account, or take personal property. However, the judgment holder cannot take certain property protected by

law. This property is known as **exempt property**. Examples of exempt property include:

- Social Security, other government benefits and pensions, which are exempt even when placed in a bank account;
- Household goods with a market value of less than \$3,000. **Market value** is the cost a willing buyer would pay for a product “as is;”
- An automobile with a market value of less than \$2,150;
- Clothing and jewelry with a market value of less than \$1,800;
- All prescribed health aids;
- The first \$30,000 of equity in your house, or \$39,600 if you are married; and
- All net wages if you earn less than a certain amount each week. If you earn more than a certain amount, a creditor cannot garnish more than 25 percent of your total net wages.

A creditor who has a judgment against you may try to take your property even though it is exempt. If this happens, you must file a **claim of exemption** with the court. The creditor or the court should mail you the proper forms. This form will list your exempt property and stop the creditor from taking it. It is free to file the claim of exemption, but you must act very quickly to protect your property.

The legislature may change the amounts of these exemptions. If anyone sues you, contact an attorney immediately. If you take no action, you may automatically lose the case. (Listen to Tel-Law topic 1021, “Debtors’ Rights.”)

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## Contracts

Before signing any contract, **read all of it**. If you do not understand certain parts, **ask questions**. Insist that the sales clerk let you take home a copy of the contract before you sign it. Do not do business with a sales clerk who refuses to give you a copy of the contract before you sign it.

If you and the seller make an oral agreement, be sure the written contract includes it. If the oral agreements are not in the contract, use a pen and write them on the contract. You **and** the seller should initial or sign next to the added terms. This addition to the written contract will prevent misunderstandings about the oral agreements.

Do not sign a contract if you feel pressured or rushed to sign: someone in a hurry to make you sign should always make you suspicious. Remember to get—in writing—any right to cancel the contract that the seller promises you. You usually can cancel contracts **only** from door-to-door sales. Most other contracts are binding on you as soon as you sign. Never sign a contract with blank spaces that can be filled in later.

Do not sign a contract that takes away your legal rights unless you know what you are giving up and agree to give it up. Insist that all guarantees and warranties be in writing. Keep copies of all contracts, receipts, payment records and letters you send about the product or service.

Before you sign a sales contract, ask yourself these questions:

1. Do I really want what I am buying?
2. Do I understand the contract I am about to sign?
3. Do I know the total price, including interest and other charges, I will have to pay?
4. Do I know how many payments I will have to make?
5. Can I get the same thing at another store for a cheaper price?
6. Am I getting any guarantees from the store on the product I am buying? (**Note: Get all guarantees in writing!**)
7. Can I afford to make the payments the contract requires, even if other, unexpected needs come up?

---

## Warranties

Products come with instructions and information about your consumer rights. This information explains your rights if the product is defective, damages property or injures people.

**Warranties** explain the obligations of the manufacturer or the seller if the product is defective. Products will come with either an **express** or **implied** warranty. Express warranties are written or oral. An implied warranty is not written, but is one that the customer may assume is present in most products. Unless the product specifically excludes use of it, the implied warranty assures that the product will be of good quality and can be used for the purpose it was made. Warranties usually last from 30 days to one or more years. During this time, you can have the seller repair or replace a defective product. However, some warranties cover the failure of only certain parts. Other warranties cover products only for a short time.

Keep your sales receipt to prove you bought the product within the warranty period. Often, warranty registration cards come with the product. If the warranty is a full warranty, you do not have to return the registration card to be protected. The seller giving the full warranty must repair any defects without charge.

Ask an attorney if you have problems getting your products repaired or replaced. (Listen to Tel-Law topic 1047, "Liability for Defective Products.")

---

## Complaints About Merchandise

If you buy defective goods, send a written complaint to the business that sold them. Be specific about the problem. Include copies, **not the originals**, of your receipt, check, bills, warranties or other documents. Note the following important tips:

1. Tell the seller what you want.
2. Provide your name, address and telephone number.

3. Send the letter as soon as possible after the problem arises.
4. Send the letter to the complaint department, the company president or the customer service department. You may send the letter to all three.
5. Keep a copy of letters you send. Note the date you send the letter so you know how long the business takes to respond.
6. Allow a reasonable time for response.
7. If you do not receive a response, write another letter. Tell the business that you will seek help from one or more consumer agencies. Contact the Better Business Bureau; local newspaper, radio or TV station; consumer action programs; or the Attorney General's consumer protection division.
8. If you owe money for defective merchandise that has not been repaired or replaced by the seller, you may not have to continue payments.
9. If the amount of the dispute is small, you may sue in small claims court, which does not require an attorney.
10. If the amounts involved are large, the case is complex, or you are being sued, contact a lawyer immediately. If you are sued in small claims court, you must respond to the complaint within 14 days of the date you were served. If you are sued in circuit court, you must respond within 30 days of the date you were served. If you are sued and do not file a response before the deadline, you may automatically lose the case.

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## **Protection from Schemes, Frauds and Rip-offs**

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### **Hearing Aid Purchases**

Have your doctor test your hearing before you decide to buy a hearing aid or replace an old one.

Do not believe ads offering an effective hearing aid at a bargain price. You may not get the value expected.

Shop around and compare prices.

---

### **Bait and Switch**

An ad lures you into the store to buy something available only in limited quantities. Once you get to the store, a salesperson tries to sell you a more expensive item than the one advertised.

If the advertised item is the bargain you expected, do not let the salesperson convince you to spend more on something else.

Stores must have enough stock of an advertised product to satisfy reasonable public demand. If the product is out of stock, insist on a "raincheck" so that you can still take advantage of the sale price later on.

---

## **Pre-Paid Burial Plans**

Read the policy carefully and understand it before you invest in the plan.

Make sure you understand any conditions before you receive your purchase.

Under some plans, you will receive the benefits no matter how long you have made payments. Other plans require you to pay a set amount before you receive any benefits.

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## **Insurance**

Do not purchase coverage you do not need or coverage that duplicates what you already have.

Before buying or changing coverage, discuss your plans with someone you trust. (See Chapter 12 for more information about insurance.)

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## **Pigeon-Drop**

This scheme takes advantage of older adults by getting them to trust the person running the scam. A person may promise to give you money or valuable property only if you give your own money to him or her to hold as collateral. The person takes your money and then disappears. A variant of this scheme appears often on the Internet, where a “deposed prince” or other dignitary from a foreign country must find a safe place to keep money, “knows” you are trustworthy, and gets you to turn over your bank account number so as to “deposit” the money there. Instead of having extra money in your account, you then learn that you have no money in your account: the “prince” has absconded with it.

---

## **Online Purchasing**

If you must purchase an item or a service by using your credit card on the Internet, avoid giving your card information to a seller who has solicited you with an online ad. Do Internet business only with known entities that you seek out, and then provide the information only if the business provides a “secure access” connection. Always print out a copy of your order and the company’s acknowledgment of the order.

---

## **Door-to-Door Sales**

You do not have to talk to door-to-door salespeople or let them into your house. If you do not want to buy anything, simply ask the salesperson to leave.

If you decide to sign a sales contract, the salesperson must give you a notice explaining your rights to cancel the contract. It must also show where to send the cancellation notice.

Ask for a copy of any document you sign and the notice of your rights to cancel the contract. Keep a copy of your written notice.

You can cancel the sale even if you paid cash, but you must act fast. Send a letter (stating the date) to the company before three business days have passed to inform it you are canceling the sale. Be sure to keep a copy of the letter. You cannot cancel the sale if the purchase was under \$25.

Call a lawyer if you need help canceling a sale.

---

## Telephone Sales

The telephone is one of the most effective weapons crooks use to take advantage of seniors. To avoid being hounded by telephone solicitors, you can join the national “do not call” registry. (See Resources at end of chapter.) The registry makes it illegal for commercial callers to contact you against your wishes. The national registry is free.

If you don’t mind listening to telephone sales pitches, be careful not to give out any identifying information about yourself that can be used to get your money or misuse your credit through identity theft. (See Chapter 14 for more information about protecting yourself from this serious crime.)

## CHAPTER 13

### Consumer Information

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## Home Repairs

- Choose very carefully the person you hire to repair your home.
- Ask for examples of his or her past work and references from previous customers.
- Check with several different people to see if you can find a cheaper price for the same type of work.
- Get the repair person’s full name, address, phone number and automobile license number. If the person is a licensed contractor, plumber, electrician, etc., get the number of the license. Ask if the repair person is bonded and registered with the State of Oregon Construction Contractors Board (also called the Builders Board). If he or she is registered, you can complain to the board if the job is not done well.
- If you have a choice between a worker who is licensed or bonded and one who is not, you are usually safer with the licensed or bonded worker.
- Before you decide to hire someone to do your home repairs, get a written estimate from the repair person. The estimate will show how much the work will cost. This is very important to prevent problems later.
- If you have work done on your home, and the workers or suppliers are not paid, they can file liens against your home. They can do this even if you have paid the person you made the contract with. Get receipts showing that the suppliers and subcontractors have been paid before you pay the contractor.
- If you are dissatisfied with the work of a licensed contractor, you can ask for help resolving the dispute over the work from the Oregon Real Estate Agency.

---

## Home Repairs on Credit

If you are going to pay for repairs on credit, find out if the repair person wants a mortgage on your home to guarantee payment. Consider this very carefully before you agree to a mortgage.

The Truth in Lending Act lets a consumer cancel some contracts. The consumer must cancel within three business days from the day he or she signed the contract. The contract may be canceled within three days if it has the following:

1. Either a finance charge or payment in more than four installments; and
2. A mortgage, lien or other security interest in the consumer's home.

The contractor must give you a written notice explaining your right to cancel the contract. You can use this notice to let the contractor know you want to cancel. You must mail the notice, or your own letter, before midnight of the third business day after you signed the contract.

If you cannot make payments to a repair person (or contractor) who has a mortgage on your home, he or she can force the sale of your home. The repair person can do this to get the bill paid.

If someone threatens to take your home from you, call an attorney immediately.

---

## Lost Credit Cards and Automatic Teller Cards

You must tell the credit card issuer as soon as you are aware that your credit card is missing. After you call the company, write a letter. The letter should include your credit card number and the date and time you telephoned the company to report the loss or theft. Be sure to keep a copy of the letter.

The Truth in Lending Act protects consumers in this situation. If you tell the company before someone else uses your card, you will not have to pay for the charges that person makes. If you tell the card issuer after someone else uses your card, you will not have to pay more than \$50. Generally, you are not held responsible for charges resulting from illegal use of your credit card.

Many banks and savings and loan associations give customers plastic cards that let customers withdraw money from their checking or savings accounts by using automatic teller machines, or ATMs. If your ATM or debit card is lost or stolen, call your bank immediately. If you do this, you can prevent someone from illegally using your card and stealing your money. If you delay, you may lose all of the money taken from your account. Also, never put any personal identification number where a thief can find it. Tell the police and the bank immediately if your card is taken in a theft or robbery. (See Chapter 14 for more information on protection from crime.)

Older adults can now get a free copy annually of their credit reports. They can do this to verify that no unauthorized person is using their identity information. To order a report, see the resources section at the end of this chapter.

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## Resources

See **General Resource List** for AAA/SPD offices, legal aid offices, OSB Tel-Law service and more.

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### Annual Credit Report Request Service

PO Box 105281  
Atlanta, GA 30348-5281  
**877-322-8228**  
[www.annualcreditreport.com](http://www.annualcreditreport.com)

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### Better Business Bureau

333 SW Fifth, Suite 503  
Portland, OR 97204  
**503-226-3981**  
[www.thebbb.org](http://www.thebbb.org)

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### Consumer Protection Section

To file a consumer complaint, contact:

State of Oregon Department of Justice  
Financial Fraud/Consumer Protection Section  
1162 Court Street NE  
Salem, OR 97301  
**503-378-4320** (from Salem)  
**503-229-5576** (from Portland)  
**877-877-9392** (from elsewhere)  
E-mail: [consumer.hotline@doj.state.or.us](mailto:consumer.hotline@doj.state.or.us)  
[www.doj.state.or.us](http://www.doj.state.or.us) (for complaint forms online)

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### Division of Finance and Corporate Securities

For information about investment fraud, write or call:

Oregon Department of Consumer & Business Services  
Division of Finance & Corporate Securities  
350 Winter Street NE, Room 410  
PO Box 14480  
Salem, OR 97309  
**503-378-4140, 503-378-4387 or 866-814-9710**  
[www.dfcs.oregon.gov](http://www.dfcs.oregon.gov)

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### National Do Not Call Registry Information

**888-382-1222; TTY: 866-290-4236**

The following websites have information on the national registry:  
[www.donotcall.gov](http://www.donotcall.gov), [www.ftc.gov](http://www.ftc.gov) and [www.fcc.gov/cgb/donotcall](http://www.fcc.gov/cgb/donotcall).

## CHAPTER 13

### Consumer Information

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## Oregon Senior Financial Abuse Coalition

*Preventing and Responding to Senior Financial Abuse in Oregon* (AARP 2005) is a free resource guide available from the Oregon Governor's Commission on Senior Services.

500 Summer Street NE  
Salem, OR 97301  
800-282-8096

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## Oregon State Bar Tel-Law Topics

1046 - Consumer Law

1047 - Liability for Defective Products

1016 - Your Rights and Responsibilities When Applying for Credit or Loans

1020 - Equal Credit Opportunity

1021 - Debtors' Rights

503-620-3000 or 800-452-4776  
www.osbar.org

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## Glossary of Terms

**Amount Financed:** *Also called principal amount. The amount of a purchase on credit without adding interest.*

**Annual Percentage Rate:** *The yearly interest rate.*

**Cash Price:** *The cost of a purchase paid in full with cash.*

**Claim of Exemption:** *A form you complete and send to court if a creditor tries to take your exempt property.*

**Collection Agency:** *A business that tries to collect debts.*

**Creditor:** *The person or company you owe money to.*

**Exempt Property:** *Property the law protects from being taken away if a loan company, bank, collection agency or creditor sues.*

**Express Warranty:** *A written or oral warranty.*

**Federal Reserve Board Regulation Z:** *A rule that works with the Truth in Lending Act to ensure all credit card terms are shown in writing.*

**Finance Charge:** *The cost of interest you pay for using credit.*

**Implied Warranty:** *An unwritten warranty. It is one that a customer may assume is present in most products, and it implies the product will be of good quality and can be used for the purpose it was made.*

**Judgment:** *A court decision that you owe money to a party who sues you. It is not a court order to pay the money.*

**Market Value:** *The cost a willing buyer would pay for a product or service.*

**Payment Total:** *The amount you pay for a purchase over time. It includes the principal cost plus the finance charge.*

**Truth in Lending Act:** *This requires businesses offering credit to show, in writing, what the credit use will cost.*

**Warranty:** *A guarantee—written, oral or implied—that explains the obligations of the manufacturer or the seller if a product is defective.*

## CHAPTER 13

### Consumer Information

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## CHAPTER 14

# Protecting Yourself from Crime and Abuse

This chapter offers crime prevention strategies to help you protect yourself, your home and your finances. Today, people of all ages in any part of the country are susceptible to crime. However, you can take precautionary measures to help keep crime away. This chapter will show you how simple, everyday habits can help you be more alert to potential problems and can prevent you from being an open target to crime.

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## Protection from Street Crime

- Do not walk alone on dark, deserted streets.
- Keep your wallet or purse where pickpockets can't reach it.
- Never carry a large sum of money.
- Hold your purse firmly, and do not leave it unattended on a counter or in a grocery cart. Or consider putting money in your pocket so it won't be as easy to grab as purse straps. If someone grabs your purse, do not put yourself at risk by resisting.
- If you are going out alone at night, let a friend or family member know your plans. When out alone, keep a whistle handy and hold your keys in your hand while walking.
- Lock your car door, whether you are inside the car or not.
- Avoid waiting at deserted bus stops. Walk to the next bus stop where others may be waiting. Also, consider taking a taxi and asking the driver to wait until you are inside your destination.
- If you are riding the bus, be aware of anyone who might be staring at you. You can prevent trouble by anticipating it and asking the driver for help.
- When planning to be away from home, never hide a door key under the doormat, behind the shutter or in a mailbox. These are familiar places to a burglar. A neighbor or family member can keep an extra key for you.
- When at home, keep your shades pulled at night and while you are undressing. Be cautious as to who knows you are alone.
- To avoid unwanted telephone calls, do not list your first name or address in the phone book or on your mailbox.

- Don't pay your bills by leaving your payments in a flagged mailbox.
- If you try to resist while being victimized, you may be injured. Other options are: sit down so you are not knocked down, make noise, whistle or call for help. In any case, tell the police as soon as possible.

## Protecting Yourself at Home

### CHAPTER 14

#### Protecting Yourself from Crime and Abuse

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- Turn on some lights when you are away because a dark home is an invitation to burglars. Consider timing your radio to come on to suggest human voices at home.
- Vary the lights you leave on, and use timers. Keep outside lights near doors and large windows turned on.
- When you plan to be away from home for a long time, tell the police and ask a friend or family member to check your home each day. Ask them to turn on different lights, pick up mail and newspapers, and mow the grass.
- Lock your doors and windows whether you are at home or away.
- Use deadbolt locks that require a key inside and outside. Consider replacing the glass in your door with Plexiglass or Lexan or covering it with a decorative iron grill.
- Keep all doors and windows in good repair.
- Inside locks should secure all windows, except emergency exits. Place a broomstick or pole in the track of sliding doors or windows so they can't be forced open.
- Trim shrubs and bushes that hide doors and windows because they make excellent cover for burglars. Strong outside lighting also discourages burglars.
- Be suspicious of strangers who come to your door. Do not let strangers into your home. Ask for identification. If the person shows you a business card, call the company for proof. Remember to keep your screen or storm door locked.
- Don't keep large amounts of money in your house. Burglars look in your bedroom first for valuables, so put valuables somewhere else in the house or in a safe deposit box.
- Mark your valuables with an identification number or name. It is a good idea to use the initials of the state you live in (i.e., "OR") as part of the identification. Marked valuables are harder for thieves to sell and easier for the police to return. Your local police department can refer you to an engraving service. Some libraries have engraving tools to lend.

## Protecting Your Finances

Changes in the way we conduct our affairs has made protecting our finances more of a challenge in recent years. Maintaining independence sometimes means relying on strangers who come into the home to provide a service. We use—and lose—credit cards, debit cards, ATM cards and phone cards. We not only communicate, but also shop as we sit at computers. At the same time, the veritable explosion of Internet usage has made it relatively easy to steal people’s names and credit—even from a foreign country.

“Traditional” crimes, such as the theft of cash and cars, have not slowed down. They have been joined by a relatively new and more troublesome crime, known as “identity theft.” Identity theft occurs when someone uses your name or other personal information to obtain credit cards, bank accounts, loans (including mortgages on your home), and consumer items and services. How do identity thieves find out about you? They can get information you share over the Internet or the phone, or information you leave in the trash at home, at work, at the post office or at a store. They can steal your mail or have your mail forwarded to a new address. They can pretend to be an employer or a landlord in order to get information about you from others.

Here are some ways to protect your finances directly, and some ways to keep others from getting their hands on your money and good name indirectly.

- Have your Social Security check and pension check deposited directly into your bank account.
- Pay your bills by check, not with cash.
- Do not discuss your personal finances with a stranger.
- Do not discuss your financial affairs in public. Someone could set you up for a robbery by overhearing where you bank and when you cash checks.
- Do not carry large sums of money.
- Keep a list of your credit cards somewhere other than your wallet to make it easier to report a loss. Report any loss right away. You can replace credit cards and checks. (See Chapter 13 for information on stolen credit cards.)
- If you carry a purse, consider carrying cash, checks and credit cards in separate holders in it to reduce a loss if a pickpocket reaches into it.
- Do not make a large down payment for work being performed for you. Also, do not make the final payment until you are satisfied with the work.
- Be aware of the various scams pulled on older people. These could involve offers for roofing or siding work, health insurance, investment opportunities, or other ways to separate you from your money, car and home. Do not give your money to a stranger if you want to get it back. Do not give anyone the title to your home or car. (See Chapter 13

Simple, everyday habits can help you be more alert to potential problems and can prevent you from being an open target to crime.

for information on protection from schemes, frauds and rip-offs.)

## CHAPTER 14

### Protecting Yourself from Crime and Abuse

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- If you agree to co-sign or guarantee a loan for a relative or a friend, you are agreeing to make all the payments if the friend or relative does not make the payments. Think twice about this before deciding.
- Keep identifying information about yourself and information about your finances in a place where housekeepers and visitors are unlikely to find it.
- Guard your Social Security number, Medicare number and driver's license number. Do not have them printed on your checks.
- Before you give out any personal identifying information, ask why it is needed, how it will be used and whether it will be shared with others. Ask what law requires you to give out your Social Security number and what will happen if you do not give it.
- Look at every credit card statement you receive to make sure no one is using your card information without your authorization. Contact the card company immediately if anything looks wrong.
- If your bills don't arrive on time, they may have been forwarded by an identity thief. Ask the post office about your mail first; if it has been diverted, contact the authorities and your credit card companies, bank and creditors.
- If you have any accounts you don't need or use, close them.
- Shred old bank statements, bills, receipts, cancelled checks, credit card offers and applications, insurance forms, etc., before throwing them out.
- Carry your Social Security card, extra credit cards or other identity documents only when they are specifically needed. At all other times, leave them in a safe place.
- Get your Social Security earnings and benefits statement every year to verify no one has been claiming your wages or benefits.
- Keep copies of all your credit cards, driver's license and account numbers in case your wallet or purse is stolen.
- Get a copy of your credit report from each of the major credit reporting agencies annually. Make sure it is accurate. Remove your name and personal information from the marketing lists of these agencies.
- Never give out identifying information over the phone unless you are the one who made the phone call and you trust the business. Legitimate companies that you do business with have all the information they need, so they won't ask you for it.
- Resist "kind offers" of caregivers and others to add their names onto your property or accounts or to assume your power of attorney, unless you are doing so as part of a well-thought-out plan and can monitor and limit their actions.

### *What if you discover your identity has been stolen?*

The Federal Trade Commission says:

- Contact the fraud departments of each of the major credit bureaus to ask that a “fraud alert” be placed in your file. Better yet (although perhaps inconvenient if you want to use your credit right away), ask them to “freeze” your credit until you tell them to allow your credit to be used again.
- Contact all creditors who have accounts that have been misused or opened fraudulently, and talk with someone in their security or fraud units; follow up the phone call with a letter. Be sure to keep copies of the letters.
- Contact your local police or the police where the identity theft took place.
- Contact the FTC Identity Theft Hotline about other steps you must take, including obtaining an ID Theft Affidavit to help you clear your name. (See Resources at end of chapter.)

## **Protecting Your Right to Make Decisions**

You do not have to accept threats from anyone, including your family. (See Chapter 11 for information on protection from family violence.) You may be able to get a cruel or abusive person—even a caregiver—out of your home and away from you by getting a restraining order under Oregon’s Abuse Prevention Act for Elders and Persons with Disabilities. A person who violates such a restraining order is guilty of a crime.

Say “no” if you are uncomfortable being asked to lend money. If you can’t say “no,” ask a friend to help you.

Some older people permit a friend or family member to handle their finances. In a few cases, the person may misuse the money or try to intimidate or control the senior, causing financial or personal harm to the senior. Oregon law allows you to file a lawsuit for money damages against someone who controls your money or belongings and who abuses you or your finances. Talk to a lawyer if you have questions about financial papers that a friend or family member wants you to sign, or if you think your funds are being misused.

A friend or family member may try to force you to make out a will or a power of attorney in that person’s favor. If someone takes you to see a lawyer for that purpose, you have the right to meet alone with the lawyer and say that you are not acting of your own free will. The lawyer cannot ethically force you to sign anything that you do not agree to. The lawyer cannot disclose to others what you talked about in the consultation. (You also can revoke a will by destroying it later on or replacing it with a different will that revokes it.)

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**CHAPTER 14****Protecting Yourself  
from Crime and  
Abuse**

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## If You Are a Crime Victim

If you are a victim of a crime, call the police and report the offense, no matter how embarrassing it is to you. Try to remember everything about the crime and describe it to the police officer on the scene.

Oregon sponsors the Crime Victims' Compensation Program. This program eases the financial losses of the victim and the victim's family if the victim was injured or killed by a crime. If no one was injured, this program does not apply to your case. You must complete an application form available from the program. (See Resources at end of chapter.)

Your local district attorney's office can help you contact your local victim/witness program to provide you with support in the case of burglaries and any other crimes.

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## Resources

See **General Resource List** for AAA/SPD offices, legal aid offices, OSB Tel-Law service and more.

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### Crime Victims' Compensation Program

Department of Justice  
1162 Court Street NE  
Salem, OR 97301-4096  
**503-378-5348**  
Victim toll-free number: **800-503-7983**  
[www.doj.state.or.us/CrimeV/comp.htm](http://www.doj.state.or.us/CrimeV/comp.htm)

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### Federal Trade Commission

FTC Identity Theft Hotline  
**877-438-4338**; TTY **866-653-4261**  
[www.consumer.gov/idtheft](http://www.consumer.gov/idtheft)

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### Identity Theft Clearinghouse

Federal Trade Commission  
600 Pennsylvania Avenue NW  
Washington, DC 20580

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### Oregon State Bar Tel-Law Topics

1080 - Help for Crime Victims  
1193 - Protection of Elders and Disabled Adults from Violence  
and Emotional Abuse  
1195 - Financial Abuse of Vulnerable Adults  
**503-620-3000** or **800-452-4776**  
[www.osbar.org](http://www.osbar.org)

## The three major credit bureaus:

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### **Equifax Credit Reports**

PO Box 740241  
Atlanta, GA 30374  
**800-685-1111**  
www.equifax.com

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### **Equifax Fraud Reports**

(same address as above)  
**888-766-0008**

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### **Experian Credit Reports**

PO Box 2002  
Allen, TX 75013  
**888-397-3742**  
www.experian.com

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### **Experian Fraud Reports**

PO Box 9530  
Allen, TX 75013  
**888-397-3742**

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### **Trans Union Credit Reports**

PO Box 1000  
Chester, PA 19022  
**800-888-4213**  
www.transunion.com

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### **Trans Union Fraud Reports**

Fraud Victim Assistance Division  
PO Box 6790  
Fullerton, CA 92834  
**800-680-7289**



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