



Alert!!! Massachusetts has a new Homestead Law

Effective March 16, 2011, Massachusetts has a new homestead law. A homestead declaration is a document that a home owner records at the county Registry of Deeds. The Homestead protects your primary residence against attachment, seizure, execution on judgment (from having to be sold to pay off certain types of liens and judgments) levy or sale for the payment of debts. For example, if you were in a car accident got sued, lost the lawsuit and a judgment imposed against you; if you had a homestead on your home the home would not have to be sold to pay off the judgment. You can only get homestead protection on the home that is your primary residence. You cannot get homestead protection on rental property, summer cottages, second homes, etc.

Prior to the law change in order to get any Homestead protection you needed to record a Homestead declaration at your local county Registry of Deeds. Under the new law there is an automatic homestead protection up to \$125,000 even if you do not record a homestead exemption. However you do want to record a homestead declaration if you haven't done so because a recorded homestead declaration protects property up to \$500,000 per family. The Registry of Deeds charges a \$35 fee to record the homestead declaration.

Married seniors over the age of 62 and disabled individuals can receive up to \$1,000,000 in homestead protection. An important change in the law is now if one owner is under age 62 and the other is over age 62 both owners can file a homestead. Under the old law only one homestead declaration could be filed. The home is protected up to \$500,000. If both spouses file a homestead and the spouse over age 62 dies the spouse under 62 is still protected under his or her own declaration. A drawback of the law is that once both spouses reach age 62 and therefore both qualify of elderly homestead protection a new homestead declaration should be made on their behalf so that the total protection can rise from \$500,000 to \$1,000,000. Only seniors over the age of 62 and a disabled person can stack homestead exemptions.

The law clarifies that primary residences held in trust can receive homestead protection. So if you put your home in a trust in the past and did not record a homestead declaration you should consider doing so now. For a home held in trust only the Trustee should declare the homestead on behalf of the trust beneficiaries.

It has always been a concern that when a person re-finances their home, takes out a second mortgage, or home equity loan that an existing homestead declaration could be voided and the homestead protection would be lost. Under the new law, a homestead declaration will automatically be subordinated to the new financing. This means that the homestead protection stays in place. A new homestead declaration does not have to be executed again after refinancing.

A homestead declaration does not protect your home from a lien imposed to recover the cost of your care in a nursing home that was paid for by

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Medicaid/MassHealth. In addition to Medicaid liens, a homestead exemption does not protect against:

- A sale for federal, state, and local taxes and assessments, claims and liens;
- A mortgage on the home
- An execution from the court enforcing child support or alimony
- A lien on the home recorded prior to the creation of the homestead

This is not a complete list of exceptions, see your attorney if you have concerns or questions. If you declare bankruptcy having a homestead exemption can assist you in being able to keep a much greater portion of your property. You should speak with a bankruptcy attorney for more details.

Mark Your Calendars For These Upcoming Events in April!

Estate Planning 101 presentations! Call 1-800-929-0491 to reserve your seat! You can also register by going on-line to: www.myfamilyestateplanning.com

Is it Time to get your Ducks in a Row?

Tuesday, April 5th (code: Hyannis) 6:30pm-8:00pm

Cape Codder Resort and Spa, 1225 Iyannough Road, Hyannis, MA 02601

Thursday, April 14th (code: Emeritus) 6:30pm-8:00pm

Emeritus at Dartmouth Village, 274 Slocum Road, Dartmouth, MA 02747

Thursday, April 21st (code: Sippican) 6:30pm– 8:00pm

Sippican Healthcare Center, 15 Mill Street, Marion MA 02738



Here's What You'll Learn...

- How living trusts avoid probate, why wills don't and what good trust planning costs.
- How your Healthcare Proxy, Living Will and the new HIPAA release must work together.
- How to avoid death taxes, guarantee IRA stretch outs and plan for disabled kids or grandkids.
- How to "bulletproof" your children's and grandchildren's inheritances from their divorces, debts, lawsuits, medical expenses, irresponsible life styles and transfers out of your bloodline.
- How to protect your home and savings from \$8,300/month nursing home bills and Medicaid without buying long-term care insurance – even if you or a loved one is in a nursing home now.
- How qualified veterans and their spouses can get up to \$1949/month for at-home health care or assisted living costs from a little-known VA benefit for non-service connected disabilities.

Elder Law Today is produced by Robert L. Surprenant, of counsel, Daniel M. Surprenant & Michelle D. Beneski, Attorneys at Law. This newsletter is published as a service of Surprenant & Beneski, P.C., 35 Arnold Street, New Bedford Massachusetts 02740 and 336 South Street, Hyannis, MA 02601

Welcome to a Better Night's Sleep!

Did you know that The National Sleep Foundation estimates 70 million Americans have difficulty getting a good night's sleep? Other sleep experts estimate 76% of the U.S. population is sleeping poorly. Chronic, poor sleep diminishes one's ability to concentrate, focus, accomplish tasks safely and enjoy life.



These **10 Tips for Better Sleep** are recommended by the Better Sleep Council to improve sleep.

- ***Make sleep a priority** by keeping a consistent sleep (bedtime) and wake schedule, including weekends.
- ***Create a bedtime routine that is relaxing.** Experts recommend reading a book (but one that is not too stimulating), listening to soothing music or soaking in a hot tub.
- ***Transform your bedroom into a haven of comfort.** Create a room that is dark, quiet comfortable and cool for the best possible sleep.
- ***Evaluate your mattress and pillow to ensure proper comfort and support.** If your mattress is five to seven years old, it may be time for a new one.
- ***Keep work materials, computers and televisions out of the bedroom;** it should be used for sleep.
- ***Exercise regularly,** but complete workouts at least two hours before bedtime.
- ***If you sleep with a partner, your mattress should allow each of you enough space to move easily.** Couples who've been sleeping on a "double" (full size) may think they have enough room, until they learn that each person has only as much sleeping space as a baby's crib!
- ***Avoid caffeine** (coffee, tea, soft drinks, chocolate) **and alcohol** close to bedtime. It can keep you awake.
- ***Avoid nicotine** (cigarettes, tobacco products) Used close to bedtime, it can lead to poor sleep.
- ***Finish eating at least two to three hours before bedtime.**

Sometimes, these recommendations are all that is needed to improve one's sleep. **Cognitive Behavioral Therapy** which includes sleep hygiene and relaxation training can also be utilized. **Cognitive Behavioral Therapy has shown to be more effective than medication and is free of risk and side effects.**

One must also feel safe if he/she is to have a restful night's sleep. Consider the following safe sleeping ideas from the National Institute on Aging:

- *Make sure you have smoke alarms on each floor of your house or apartment.
- *Lock the outside doors before going to bed.
- *Keep a telephone with emergency numbers by your bed.
- *Have a good lamp within reach that turns on easily.
- *Use nightlights in the bathroom and the hall.
- *Don't smoke, especially in bed.
- *Remove area rugs so you won't trip if you get out of bed in the middle of the night.
- *Don't fall asleep with a heating pad on; it may burn.

This article was submitted by Jennifer Marszalek, LICSW, psychotherapist specializing in loss, grief and clinical sleep counseling. She can be reached at 508 287-1948

Elder Law Today



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for recognizing our efforts by
sending your friends & family!**

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