



BE EMPOWERED!

LEGAL GUIDEBOOK FOR OLDER
ADULTS IN ALABAMA

FROM LEGAL SERVICES ALABAMA

LSA Elder Helpline: 866-456-3959

TABLE OF CONTENTS

I. Using Your Money Wisely and Protecting Your Money...1

A. Using Your Money Wisely.....1

1. Making Purchases
2. Learning About Contracts

B. Protecting Your Money - Predatory Lending....2

1. Payday Loans
2. Title Pawn
3. Rent-to-Own

C. Handling Bill Collectors and Debts.....4

1. Handling Bill Collectors
2. Getting Sued over a Debt
3. Garnishments
4. Bankruptcy

D. Avoiding Scams & Identity Theft & What to Do if it Happens...5

1. Identity Theft
2. Friends and Family Fraud
3. Scams

II. Getting and Keeping a Roof Over Your Head...8

A. Renting Your Home.....8

1. Finding the Right Place to Rent
2. Signing a Lease
3. Tenant Responsibilities
4. Landlord Responsibilities
5. Repairs
6. Moving Out
7. Evictions
8. Fair Housing

B. Owning a Home.....13

1. Mortgages
 - (a) Mortgage Modifications and Foreclosure
 - (b) How the Foreclosure Process Works
2. Reverse Mortgages
3. Rent-to-Own Deals
4. Housing Advice – HUD Counseling

III. Public Benefits & Health Care.....15

A. Food Benefits.....15

1. SNAP and AESAP Benefits
2. Food Banks and Other Ways to Find Food

B. Social Security and SSI.....16

C. Medicare.....17

1. Medicare Enrollment
2. Medicare Supplement
3. Medicare Cost Savings Programs

D. Long Term Health Care.....18

E. Medicaid.....20

1. Medicaid Home and Community-Based Waivers



IV. Planning for Your Future Health Care & Protecting Your Property...21

- A. Wills.....21
- B. Advance Directive for Health Care/Living Will...22
- C. Power of Attorney.....23

V. Staying Safe and Independent.....24

- A. Elder Abuse Information.....24
- B. Signs of Elder Abuse.....24
- C. How to Report Elder Abuse.....24
- D. How Court Can Protect Someone from Elder Abuse..25
- E. Guardianships and Conservatorships.....25
 - 1. When Guardianships or Conservatorships Are Needed
 - 2. Other Options to Guardianships and Conservatorships
 - 3. Limiting Powers of Guardianships or Conservatorships



*Information Current as of 2022**

This guidebook provides basic information on various areas of daily life for Alabamians ages 60 and older to help you with decisions about your health, money, and other matters. We created this book to inform you of your legal rights so you can be empowered and take charge of your life!

This book can help you figure out when a legal issue is something you can handle yourself or when you should talk to a lawyer or others. Finally, this book will help you connect to services that you can use to stay healthy, independent, and in control of your life.

⚡ YOU have the power! ⚡

1 I. Using Your Money Wisely & Protecting Your Money

Using Your Money Wisely

How can I protect myself when buying goods and services?

- You have the right to ask questions and be clear about what you want.
- Take a day to think before making a large purchase and handing over your hard-earned money.
- Keep all receipts and any warranty information for expensive items.

What should I know about contracts?

- Always read a contract in full before signing it. Once you sign, you may be stuck with it! If you don't understand something in it, try to get help from someone you trust.
- If there is a finance charge, there must be a written contract. A finance charge is the cost of borrowing money.

What am I looking for when I read a contract?

- A contract should talk about everything the buyer and seller agreed to do.
- If you are paying for an item with four or more payments or if there is a finance charge, there must be a written contract that lists: interest rate (APR is the annual percentage rate), total interest amount, principal (the amount borrowed/financed), principal amount plus interest, due date, and number of payments
- Make sure you know the total cost to buy the item over time, don't just look at the monthly payment.

YOU HAVE THE POWER! It is your money, so you have the power to make or break a deal! If you are getting pushed around or it doesn't feel right, it's always OK to walk away!



What if a contract leaves out something important?

- Ask to add it in! A buyer and seller can agree to add things to a contract any time before it is signed. If you write in some changes, have everyone who signs the contract put their initials next to all changes.

Example: When looking at a car, the salesperson promised you they would give you free oil changes. But, when you read the contract, it doesn't mention oil changes. Make sure the car dealership adds this promise to the written contract before you sign it!

HOT TIP: Older adults are often asked to co-sign loans for a younger family member who may not have good credit. **BE AWARE:** You will be on the hook to pay the rest of the loan if the other person does not pay.



Buying a used car

- Most car lots selling used cars must have a Buyer's Guide in the front passenger window. Read both sides of it and see if the vehicle is sold "as is-no warranties." If there is a warranty, the terms must be on the Buyer's Guide. "As is-no warranties" means what it says - the seller doesn't promise to fix anything!
- "Lemon laws" do not apply to used vehicles – just new ones. (Lemon laws are laws that protect buyers of new cars when the car has problems shortly after you buy it.)
Lemon law info: www.alabamalegalhelp.org/resource/my-new-car-is-a-lemon
- Check out the price of the vehicle to see if it is fair. You can get information from online sources or go to your local library to see if one of the librarians will help you look it up.
- Be sure to test drive the vehicle, and if you can, get an independent mechanic to check out the vehicle before you sign any contract.

HOT TIP: Make sure you keep the Buyer's Guide and all papers you get when you buy a car, but...don't put them in your glove compartment! If your car is ever repossessed, the papers an attorney will need will be taken with the car. Keep only the documents you need in the vehicle (registration and proof of insurance).



Predatory Lending/High-Cost Financing

Predatory lending is when someone borrows money for a short time with high-interest rates. These deals always favor the lender a lot more than the borrower. It is easy to get one of these loans if the borrower has regular pay from a job, Social Security, or other income.

What are payday loans and check advances?

- A payday or check loan is when a lender gives a borrower cash in exchange for a post-dated check. (A post-dated check is a check with a date in the future.)
- The lender agrees to hold the check until the borrower's next paycheck or benefits payment date. Sometimes this is called a check advance. The borrower will always have to pay the loan back later at the set date.
- The lender charges a big fee for this service. The interest may even be as high as 600%!

What happens if a payday loan or check advance is not paid when due?

- The lender may let you change to a later payment date but will charge another fee to do this. (Borrowers may feel trapped and keep getting deeper in debt by borrowing more and more money, stretching out payment due dates, and getting more fees added!)



What is a title pawn?

- **Title pawn** dealers give a small cash loan in exchange for a borrower signing over the title to their car or truck. They seem like a good idea to get fast cash and keep your car or truck but be careful... you may be signing away rights to your only way to get around!
- Try to avoid getting a title pawn, and if you must get one, pay it off as soon as you can.

What happens if a title pawn is not paid when it's due?

- You may be able to pay a renewal fee to stretch out the due date, but this fee does not lower the amount you borrow; it will make the debt bigger.
- Sometimes, people keep paying more renewal fees because they cannot pay off the original amount borrowed, and they could pay more than the vehicle is worth in the end!
- If the borrower can't pay the original debt or another renewal fee when due, the lender can pick up the vehicle (remember it has the title) and sell it. Even if the vehicle sells for more than the debt owed, the lender gets to keep all of the money from the sale.

**If you are stressed about debt, call the
Legal Services Alabama Elder Helpline: 1-866-456-3959**

HOT TIP: Easy-to-get money almost always comes at a high price so always try to avoid it! These places make a lot of money. If you must do a title pawn, payday loan, or check advance, try to pay it off as soon as possible.



Rent-to-Own

- Rent-to-Own is where a company sells big items (like furniture or electronics), and you pay for them on a weekly or monthly payment plan. You get the item's total price when you add up ALL the total payments on a rent-to-own deal. You could end up paying as much as five times what the item would cost with cash!
- On top of the item's total price, rent-to-own deals may have other charges like insurance and late payment fees. (**Example:** A TV that costs \$300 cash could be \$1,200 with a rent-to-own deal when you add up all the payments and charges.)

Bill Collectors and Debts

Handling bill collectors - Creditors are calling and stressing me out! What can I do?

- A creditor is a company that has loaned money or provided services to you with the understanding that you will make payments on the debt to them. Keep in mind you could be sued by the original debt holder or another company that took over the debt (a debt buyer).
- If your bills get out of control, always ask the creditor for help first. Be careful to promise only what you think you can do, or it can make things worse.
- It is usually NOT a good idea to take on a loan to pay off a loan. If you can't pay now, you may not be able to pay them later either.
- Debt buyers are under federal laws that say they cannot be abusive, unfair, or tricky when collecting debts from you. You can report a debt buyer harassing you to the Consumer Finance Protection Bureau (CFPB) at: **(855) 411-2372** or at: **consumerfinance.gov/consumer-tools/debt-collection**



What happens if I get sued over a debt?

- You will know a lawsuit has been filed if someone (the sheriff's office or another process server) hands you court papers. Remember, you could be sued by the original debt holder or another company that took over the debt (a debt buyer).
- The lawsuit paperwork will tell you how much time you (or your lawyer) have to file a written answer with the clerk.
- Always file an answer in writing with the court clerk. If you don't, the company suing you will automatically win and get what they asked for in their papers!

What happens if a creditor wins a debt collection lawsuit against me?

- You will **not go to jail** for not paying debts. (*Except child support and tax debts*)
- The creditor may **garnish** wages or your bank account. (Garnishment is when a creditor gets a court order to collect a debt from your paycheck or bank account.) If the court issues a **writ of execution**, creditors can use that to get your home, land, or personal property.
- A creditor probably can't get your **Social Security, veteran's benefits, or other federal benefits**. (Unless it's a *federal debt* like a student loan or tax debt)
- A creditor probably can't get your child support or spousal support

5 **If you are stressed about debt or you have been sued over a debt, call the Legal Services Alabama Elder Helpline: 1-866-456-3959**



What is bankruptcy?

- **Bankruptcy** is when debtors file a case in bankruptcy court to get help managing their debts. Sometimes bankruptcy can get rid of debts, but not always.
- It is not free to file bankruptcy! Debtors have to pay court fees and often pay an attorney to help them. A bankruptcy filing stays on your credit history for a long time.

What are the different kinds of bankruptcy?

- Most people file **Chapter 7** or **Chapter 13**. (Family farmers might file **Chapter 12**)
- **Chapter 7** is what most people think of when they think of bankruptcy. Whatever the debtor owns is sold to pay off debts. Some things are exempt from being sold (with limits).
- **Chapter 13** is basically a payment plan to pay off debts with creditors over time.

How do I know if I should file for bankruptcy and what kind do I need to file?

- Try to talk to a lawyer to find out whether you should file for bankruptcy and, if so, what kind. Often, a lawyer can do something else to help you avoid it!

Get Help: If you think you may need to file for bankruptcy, call the Legal Services Alabama Elder Helpline to see if we can help: **1-866-456-3959**

Avoiding Scams and Identity Theft & What to Do if it Happens

Identity theft and scams

Every day, older adults are the target of identity theft and scams. If it happens to you, know that you are NOT alone; scammers use every trick in the book. You have the power to get help!

What is identity theft?

Identity theft is a crime where someone takes another person's information by fraud or trickery to get their money.

- A thief steals your name and address, credit card or bank account numbers, Social Security number, or medical insurance account numbers.
- An identity thief could use your information to: Buy things with your credit card, get new credit cards in your name, steal your tax refund, open a phone, electricity, or gas account in your name, use your health insurance to get medical care, and more!

YOU HAVE THE POWER! You have more power than anyone to protect yourself against identity theft and scams! Don't be afraid to say NO and HANG UP!

What should I do if identity theft happens to me?

- **ACT RIGHT AWAY** - Call the companies where the fraud happened to alert them.
- Call to put a fraud alert on your credit report. You can call any of the three credit reporting agencies to do it. If you call just one of them, they must let the other two know! Experian (one of the three agencies) is **888-EXPERIAN (888-397-3742)**
- Report identity theft to the FTC (Federal Trade Commission) at **1-877-438-4338** or go to: **IdentityTheft.gov**

How can I protect myself from identity theft?

- **Protect papers and cards with your account numbers & don't give out your Social Security number** - very few places need it these days. Just give the last four numbers - not the full number. Never give out numbers over the phone unless you placed the call.
- **Throw away papers carefully** - shred or use a black marker to mark out private info.
- **Watch your mailbox** - bring your mail inside as much as you can so it does not pile up.
- **The IRS, Medicare, and Social Security will NEVER** call, e-mail, or text you to ask for information (unless they are returning YOUR call).

Friends, family, and fraud - it happens more than you might think

- Sometimes, a family member or friend uses an older adult's information to buy something or open an account without permission.
- If it happens, **RIGHT AWAY**, talk to the business, bank, or place where it happened and let them know about the fraud.
- You may have to **file a report** with your local police to get help with getting your money back or to get off the hook for the debt.
- Many people don't want to report a friend or family member, but that is often the only way to get help.

YOU HAVE THE POWER! You have the most power to protect yourself against Identity Theft and Scams! Ask questions, say NO, and check it out on your own first if someone asks for your private information or to do something with your money.

7 Watch Out For These Popular Scams!



- A caller or texter says your **family member is in jail** (or another emergency), and you need to send them money (they may often know your family member's name)
- A caller or texter says that they are with a **charity** (often right after a disaster) and need donations
- A caller or texter asks you to send money to someone else for them (this is called a **money mule scam**)
- A caller or texter asks you to **buy and send gift cards** (gift cards are always a red flag for scams!)
- A caller or texter says your **bank account has been frozen** and wants information from you (Hang up and call your bank to check)
- A caller or texter says they are from a bank, **the IRS, or Social Security**, and they want you to tell them your private information (the IRS and Social Security **NEVER** call or email you unless you have called them and someone there is returning your call)
- Someone you don't know calls or visits you to make **repairs to your home** (check them out first before hiring them, and don't pay until the job is done!)
- You get a **check you didn't expect**, and you don't know the sender (talk to your bank about it before depositing it)

Report all fraud and scams to the Federal Trade Commission (FTC) at: [1-877-382-4357](tel:1-877-382-4357) or go to: [ReportFraud.ftc.gov](https://www.ftc.gov/report-fraud)

AND

Call the Legal Services Alabama Elder Helpline to see if we can help: [1-866-456-3959](tel:1-866-456-3959)



How can I protect myself from scams?

- Get on the free **Do Not Call Registry**. Call **1-888-382-1222** (TTY: 1-866-290-4236) from the phone you want to register or go to **DoNotCall.gov**.
- **Don't talk to strangers!** If you can see who is calling and you don't know them, **don't answer it**. Let the call go to voice mail if you have it.
- If you can't bear to **hang up** on someone, you can say, "I will check that out," then get off the phone and find out on your own if they are telling the truth.
- Be extra careful when someone comes to you instead of you finding them, and it involves money. **It's your money, so YOU decide who gets your business!**

HOT TIP: If something seems too good to be true, it likely is. There is no "easy money" out there. If a caller you don't know is pushy or trying to scare you, beware. They may be a scammer or trying to sell something you don't need. Take control and hang up!



II. Housing – Getting and Keeping a Roof Over Your Head

Renting Your Home

Finding the Right Place to Rent – How can I avoid scams?

- **Red flags for rental scams:** No written lease, for sale sign in the yard, they don't want to show you the place or let you go inside, they don't ask for your background information but want you to pay a deposit, they ask you to wire money
- Make sure you know who owns the property and that you are talking to a real landlord or agent!

YOU HAVE THE POWER! Listen to your gut to tell you when something is fishy or too good to be true. Protect yourself by checking things out before you sign or pay!



What do you need to know before signing a lease?

- A lease is a legal contract, so make sure you read it carefully and understand what you are agreeing to. Leases should always be in writing. An oral lease is legal in Alabama, but it is always better to get a written lease. (You may need a written lease to show utility companies to get service or to get other benefits.)
- Security Deposits can't be more than 1 month's rent (plus a pet deposit) in Alabama

YOU HAVE THE POWER! Take photos of the property before moving in and keep them. If there is damage, the landlord could try to say later that you caused it and try to make you pay for it.



Rental Payments and Late Charges

- **Always get a receipt for your rent payments!** If the landlord won't give you one, make one! Write your name, address, the date, and the amount of your payment out on paper and ask the landlord to sign it. Keep these receipts in a safe place.
- **Know what your lease says about late fees.** (Alabama law does not limit how high late fees can be, but they must be reasonable.)

HOT TIP: Some people think they are not behind on rent until a month after it is due. Rent is due when the lease says it is due under Alabama law.



YOU HAVE THE POWER! If a landlord has not fixed something for the renter before you, they likely will not fix it for you. Make a list of what you want to be fixed (and when) and ask the landlord to sign it. Staple this repair list to the lease and make sure the lease says that the repair list is part of the lease.



Checklist: What do I need to look for in a lease?

- When rent (and any other charges) may be due
- How long the lease runs, and what happens if you move out early
- Who pays for utilities (do you have your own meter?)
- Who takes care of the yard and provides pest control?
- Are overnight guests allowed and, if so, how long they can stay?

Tenant Responsibilities - How can I be a good tenant?

- ✓ Pay your rent on time
- ✓ Follow all property rules and keep your place clean
- ✓ Make sure you don't create loud noise and keep control over your pets and your guests (you can be held responsible for anything your guests or pets do)
- ✓ Let your landlord know right away if you need repairs to the appliances, plumbing, or electrical systems or if you see a water leak (ask in writing and keep a copy)
- ✓ See what your lease says about keeping utilities turned on (it may say that if your utilities are cut off for not paying the bill, the landlord may evict you)

Landlord Responsibilities Under Alabama Law

No matter what the lease says...

- ✓ Landlords must provide a way to get hot and cold running water
- ✓ Landlords must give you a way to get heat (it can be any heat source), and they must keep that heat source working.
- ✓ Landlords do NOT have to provide air conditioning, but if they do, they must keep it working.
- ✓ Landlords must make sure to meet all building and housing codes that affect health and safety.
- ✓ Landlords do NOT have to provide appliances (stove, refrigerator, dishwasher, washer, or dryer) But, if they do provide them, they must keep them working!

YOU HAVE THE POWER! Landlords must give at least 2 days written notice to inspect or show the property to potential renters. (If they need to get in to fix repairs you asked for, the landlord does not have to give any notice)

Repairs

If the lease says the property is rented "as is," you may not have a legal right to get things fixed later unless they are things the landlord must fix under Alabama law. (See the list above: Landlord Responsibilities Under Alabama Law for what landlords must fix)

- Ask your landlord **in writing** to make repairs and keep a copy of your note. Make sure to put the date on the letter you wrote asking for the repair.
- If you or your guest cause damage or a problem, the landlord can make the repair and charge you to fix it. (Example: grandchild flushes a toy down the toilet and clogs it)
- **Renters do not have a right to stop paying rent to force a landlord to make a repair. There is no right to "repair and deduct" in Alabama.** (Except when the landlord agrees in writing to allow this)
- **Report serious safety hazards and damage to your landlord.** Ask your landlord in writing to make the repair. If the landlord doesn't fix a serious hazard quickly or doesn't fix it right, call Legal Services Alabama for help: **1-866-456-3959**

Moving Out: General Information

- Read your lease to see **what notice you must give when moving out**
- The landlord cannot charge you for **normal wear-and-tear**
- Be sure that you give the landlord your new address if you have one or at least a safe place where you will get your mail so you can get your security deposit back
- Once you turn in the keys and give the landlord your new address, the landlord has **60 days to refund your security deposit**

HOT TIP: Try to get the landlord to do a walk-through with you when you move out. Take pictures and keep them in case you need them later to help get your security deposit back.



- There is no such thing as a **non-refundable security deposit** in Alabama! If a lease says that a security deposit will never be refunded, that is not legal in Alabama.
- If you don't get your security deposit back in 60 days (or something in writing saying why you are not getting it back), you may be able to get double your deposit back if you go to court.
- Under Alabama law, you have not moved out until you and all your things are gone. If you leave the property like it was when you moved in, and you don't leave trash or items behind, you should get your deposit back.
- If you choose to move out early, you will likely still owe rent through the end of your lease term – check your lease. A landlord must try to rent the property again and can't charge you and the new renter for rent during the same months.
- If the landlord won't fix a big safety or health hazard and you report this to a health department or building inspector, **it is illegal for the landlord to retaliate** or act against you. (*Example: landlord can't threaten to evict you or raise your rent*).



HOT TIP: Keep all your leases, payment records, photos, notes, etc., for a few years after you move out just in case a landlord sues you later.

**For Housing Help, Call the Legal Services Alabama
Elder Helpline: 1-866-456-3959**

Eviction Papers and Lease Termination

- A landlord must give you a paper saying why they want to evict you. You have **only seven business days to fix the problem** (*Example: Pay all rent owed and fix any problems listed*). "Business days" means that you don't count Saturdays, Sundays, and state holidays. **Try to get a lawyer to help you as soon as you get any papers!**
- **If you fix what the landlord asked for** in the papers, ask the landlord to say so in writing. (*Examples: If you paid all rent owed- get a receipt. If you caused damage to the home - repair it and then get the landlord to sign a paper saying you fixed it.*)
- Some problems can't be fixed by the renter (giving false information in the application or lease, drug or gun violations, and assaulting someone on the property.)
- If the problem has not been fixed in 7 business days, the landlord may file the eviction case with the court. If they do, they must serve you with **eviction papers**.
- You only have **seven calendar days to file a written answer** with the court after you get the written eviction notice. "Calendar days" are all days, including weekends and holidays. If you don't answer in writing, it will help the landlord put you out faster!

YOU HAVE THE POWER! If you can't get a lawyer to send in an answer for you before your seven days to answer is up, go to the clerk's office (of the court listed on your papers) and file a written answer. This is MUCH better than doing nothing at all!



Can my landlord do things to make me leave?

- A landlord must go through the court system and win, then the landlord must get a **writ of possession** (papers signed by the judge that say you must leave). If they get that, a **sheriff's deputy must be there** when your things are removed.
- **Landlords can't evict you by locking you out**, taking your door, threatening you, turning off utilities, or holding or throwing out your things.

For housing help, call the Legal Services Alabama Elder Law Helpline: 1-866-456-3959

You can also visit AlHelpsTenants.org for more information.

Fair Housing – Federal Law Protections

- **Landlords can't treat you differently from other tenants** based on race, skin color, birth country, gender identity, sexual orientation, religion, disability, or having children under 18 in the home.
- If you are **living with a disability**, landlords must let you make necessary changes to your place or bend the rules if you need **reasonable accommodations** so you can live there (*Example: wheelchair ramp*) Landlords do not have to pay for any reasonable accommodation changes, but many charities have volunteers who can make these changes for low-income older adults.

Home Ownership & Mortgages

Mortgage Modifications and Foreclosure

For older adults, being able to stay in the home you have lived in for years is very important. Sometimes it becomes hard to pay your mortgage on time or at all.

- If you have enough income, they may agree to a **mortgage modification**. This is where the mortgage company agrees to lower the monthly payment.
- If you had a big income loss, you might not get the payment low enough so you can pay it. If you can't catch up with the payments or work something out with the mortgage company, they may start **foreclosure**. Foreclosure is a process where a mortgage company takes back the home.



YOU HAVE THE POWER! Think of all the ways you could make those payments. Some people stay in their homes by taking in a renter to help with the monthly payment. Let the mortgage company know if you can do something like this.

How does the foreclosure process work?

- Foreclosures do not happen fast. The time a foreclosure takes may not be the same from one case to another. Generally, a mortgage company begins a foreclosure when someone is several months behind on payments.
- Once foreclosure begins, use that time wisely to try to work things out with the mortgage company (**mortgage modification**) or **make plans for other housing** if it looks like things can't be worked out.
- **A mortgage company does not have to go to court to foreclose in Alabama.** Foreclosure starts when the homeowner gets papers from the mortgage company saying they are foreclosing. These papers will explain how much catch-up time you have. Use this time to try to work things out with the mortgage company!
- If it can't be worked out, and the foreclosure goes ahead, the home will be sold at a **foreclosure sale**. After the sale, the new owner will ask the homeowner to leave the house, but they must have a **court order to force the homeowner out**. The homeowner may stay in the home until a court order says they have to leave.

Reverse Mortgages

If you are age 62+ and need money, you may want to consider a reverse mortgage. A reverse mortgage is a loan that lets you borrow money against the equity in your home. The loan is repaid after you no longer live in the home. Make sure to carefully check out a reverse mortgage lender and, learn more here:

consumer.ftc.gov/articles/reverse-mortgages

Contact HUD (Housing and Urban Development) to find a reverse mortgage housing counselor: **800-569-4287**



HOT TIP: There is much more to foreclosure than what we have here, so try to get an attorney to help as soon as you can if you cannot pay your mortgage.

Rent-to-Own Home Deals

- With a **rent-to-own deal**, the buyer usually makes a deal with a person (not with a real estate company, bank, or mortgage company) to pay a down payment and monthly payments. Usually, the buyer must do all the repairs for the home. Buyers make these deals if they don't qualify to buy a home through a bank or mortgage company.
- Rent-to-own deals usually **protect the seller** much more than the buyer. It often says that the rent-to-own deal ends if the buyer misses a payment. It becomes a rental contract, and the seller can file an eviction. In this case, the buyer usually loses their entire down payment!
- **Buyer does not build up any equity** in the property (unlike a mortgage), even if they pay a big down payment.
- **Instead of doing rent-to-own, most buyers should rent a home.** (Example: Rent-to-own buyer pays a \$4,000 down payment and lives in the home for two months. A few months later, the buyer loses her job and misses just one payment. The contract says she is a "renter" now, and she loses her \$4,000 down payment)



For housing help, call the Legal Services Alabama Elder Law Helpline: **1-866-456-3959**

Housing Advice – Free HUD Counseling

A HUD (Housing and Urban Development) counselor can give you **FREE** advice on buying a home, renting, default, avoiding foreclosure, credit issues, or reverse mortgages.

Contact HUD (Housing and Urban Development) to find a housing counselor: 800-569-4287

III. Public Benefits and Health Care – Improving and Keeping Your Quality of Life

Food Benefits



Supplemental Nutrition Assistance Program (SNAP)

- **SNAP** (called **Food Stamps** in the past) provides food and nutrition education to low-income people. It is managed by the Department of Human Resources (DHR).
- The **program for older adults** is called the **Alabama Elderly Simplified Application Project (AESAP)**. AESAP makes it easier to apply for help!
- People who get SNAP/AESAP benefits get a plastic card to buy food. This card is called an **Electronic Benefits Card (EBT card)**. (Not every store will take EBT cards – a sign will often say when EBT cards are welcome.)



Who can get SNAP/AESAP benefits?

- If you are age 60+ and have a low income, you may be able to get AESAP. It will generally depend on how much money you earn, how much money you have in the bank, and who lives with you.



How do I apply for SNAP/AESAP benefits?

- If you are age 60+ (and DO NOT have anyone under age 60 in your home), use the easier, faster AESAP form to apply. All AESAP claims are handled through the state DHR office in Montgomery.
- If you are age 60+ (and DO have people under age 60 in your home), you need to apply with the SNAP form. Your claim will be handled through your county DHR office.
- Call the Benefits Enrollment Center (an Alabama non-profit) at **1-877-833-2550** to talk to a person who can help you apply or go to **www.benefitsenrollmentcenter.org** to find the forms.

Food Banks and Other Ways to Find Free Food

- You can call the Benefits Enrollment Center at **1-877-833-2550** and talk to someone who can give you this information. They will tell you if there are food pantries, food banks, or other programs in your area.
Or go to: **www.benefitsenrollmentcenter.org/findfood**

YOU HAVE THE POWER! Take advantage of all food programs you can find in your area. Having good, regular meals will help keep you strong and healthy!



Social Security & SSI Information

- **Social Security Retirement:** Benefits paid monthly to anyone who has reached retirement age and paid into the system while working.
- **Social Security Disability (SSDI):** Monthly income for people living with a disability, based on past work and what the person paid into the system over the years.
- **Supplemental Security Income (SSI):** Monthly income that is a set amount for people living with a disability with little to no income or assets. This program is *not* based on past work. In Alabama, anyone approved for SSI is *automatically eligible for Medicaid*.

Programs available to dependent family members of SSDI or Retirement recipients

- **Spousal benefits:** If one spouse is receiving SSDI or Retirement, the other spouse may be entitled to an additional spousal benefit, if over the age of 62, caring for the spouse's disabled child, or caring for the spouse's child under age 16. This benefit might be available for a divorced spouse if the marriage lasted at least ten years.
- **Survivor benefits for spouses:** Widowers may be eligible for benefits between age 50 and 60, based on the deceased spouse's work record.

Medicare

Medicare Enrollment



HOT TIP: Make sure to read your free copy of the Medicare and You Handbook every year!

You are eligible for Medicare when you turn age 65. **Part A Medicare** is for hospital services and **Part B Medicare** is medical insurance for doctors, outpatient or home health care, preventive screenings, and durable medical equipment. There is a monthly premium charged for Part B. There is a seven-month enrollment period, starting from 3 months before you turn 65 and ending 3 months after the month in which you turn 65. If you miss this 3-month enrollment period, you may have to wait to sign up and pay a monthly late enrollment penalty.

If you are still working at age 65 and have healthcare coverage from your job, you are not penalized for applying for Medicare later. You have 8 months to file after you either stop working or lose your employer group health plan.

After your initial enrollment period ends, you can only sign up for Part A and Part B during one of the other enrollment periods. You can sign up between January 1st and March 31st each year. There may be certain circumstances that allow for a special enrollment period. For more information, contact www.medicare.gov, the official site of the US government.

For questions about your claims or other personal Medicare information, log into (or create) your secure Medicare account here: www.medicare.gov/account/login, or call 1-800-MEDICARE (1-800-633-4227). TTY users can call 1-877-486-2048.

Medicare Supplemental Coverage

You can also choose to add supplemental coverage (**Part C Medicare**). This is extra coverage that you buy from a private insurance company to cover costs that Medicare doesn't cover.

If you need advice about supplemental coverage, you can contact your local State Health Insurance Program (SHIP) to get free health insurance help. SHIPs are not connected to any insurance company or health plan.

**HOW TO GET HELP: Call the Alabama State Health Insurance Program (SHIP)
1-800-243-5463 or contact www.alabamaageline.gov**

You can join, switch, or drop a Medicare Health Plan - Part A, B (with or without drug coverage), or Part C during these times:

Initial Enrollment Period: When you first become eligible for Medicare, you can join a plan.

Open Enrollment Period: From October 15–to December 7 each year, you can join, switch, or drop a plan. Your coverage will begin January 1 (if the plan gets your request by December 7).

Medicare Advantage Open Enrollment Period: From January 1–to March 31 each year, if you're enrolled in a Medicare Advantage Plan, you can switch to a different Medicare Advantage Plan or switch to Original Medicare (and join a separate Medicare drug plan) once during this time.

Medicare Cost Savings Programs

Alabama has different programs for low-income people who also have Medicare. These programs help pay Medicare monthly premiums and, in some cases, cover the Medicare deductible and co-pays.

To qualify for any of these programs, you must:

- Be eligible for Medicare Part A, the hospital insurance Medicare program.
- Live in Alabama and be a U.S. citizen or in satisfactory immigration status. Proof of immigration status will be required for non-citizens.
- Have a monthly income below a certain limit – the amount of help you can get depends on income.



Long Term Health Care

- When daily activities like bathing, dressing, eating, cooking, and using the bathroom become too hard for older adults, some extra help may be needed.
- Nursing home care is not always the only option! There are a lot of health care and service choices now. Find out all the options so you can find the best fit for what you need and want.

YOU HAVE THE POWER! You should have the final say in decisions about where you live and your health care plan. If no one is listening to you, or you feel like things are out of control, contact Legal Services Alabama's Elder Helpline to see if we can help! 1-866-456-3959



Alabama's 3 Medicare Cost Savings Programs

**Listed in order from the lowest income level to qualify to the highest*

1. Qualified Medicare Beneficiary (QMB) Program

- Medicaid pays the Medicare Part B premium. Payment for this premium takes a big bite out of your monthly income, so getting Medicaid to cover it puts that money back in your pocket.
- Medicaid covers the Medicare deductible
- If you go to a doctor or other provider who takes Medicaid, this program will pay the additional 20% coinsurance expense.
- Participants get a Medicaid card

2. Specified Low-Income Medicare Beneficiary (SLMB) Program

- Medicaid pays the Part B premium only
- Coverage may begin up to three months before the month you apply if you were income-eligible during that time
- Participants do not get a Medicaid card



3. Qualifying Individual (1) (QI-1) Program

- Medicaid pays the Medicare Part B premium only
- Coverage can go back three months from when you apply if you were income-eligible during that time
- Note – funding for this program is limited, so when the funds are used up for the year, no more applications will be approved
- Participants do not get a Medicaid card

How to apply for one of these QMB, SLMB, or QI-1 Medicare Savings programs:

- Call the Alabama Medicaid Agency at **1-800-362-1504** and follow the prompts to get an application mailed to you. (Form 211)
- Or go to: **www.medicaid.alabama.gov** (Click: “Learn More” under Medicaid Applicants, then click on: “Medicaid for the Elderly and Disabled,” click on “Applications and Forms” on the list, then look for Form 211)

Medicaid



Nursing Home Care

- Medicare will pay for only some time in a nursing home facility or home health care. If long-term care is needed, you will probably have to look at getting Medicaid coverage. There are several Medicaid long-term care options.
- To get Medicaid coverage for nursing home care, there must be a need for skilled or intermediate level nursing care and maybe even more services to maintain a quality of life. For Medicaid coverage, you will need to meet income and asset requirements.

If I want to stay in my home, but I need some help, what are my options?

Home and Community-Based Services (HCBS)

These services are designed to protect your health, safety, and dignity while keeping you as independent as possible. These options allow you to remain in your community and receive Medicaid coverage of services.

Elderly and Disabled (E&D) Waiver Program

A case manager works with an older adult to develop a person-centered plan of care based on the older adult's medical needs. The program can provide personal care, homemaker services, respite care, adult day health, companion services, or home-delivered frozen meals.

Alabama Community Transition (ACT) Waiver

This helps people living with disabilities or long-term illnesses who live in a nursing home and want to move back to their home or a community setting. The plan of care and case management services are based on the individual's needs. Someone who applies must have been in a nursing home for at least 90 days and be able to move to a community setting within 180 days of their application.



HOW TO APPLY: For HCBS, E&D or ACT Medicaid programs, call the Alabama Department of Senior Services: **1-800-AGE-LINE (1-800-243-5463)** or go to: **www.AlabamaAgeline.gov**

Home and Community-Based Services (HCBS)-Alabama Department of Mental Health

- Some HCBS programs are handled through the Alabama Department of Mental Health for people with an intellectual disability diagnosis or other learning disability diagnoses.
- These programs are the Home and Community-Based Waiver for Persons with Intellectual Disabilities (ID) and the Living at Home (LAH) Waiver for Persons with Intellectual Disabilities.

HOW TO APPLY: Call the Alabama Department of Mental Health, Division of Developmental Disabilities: **1-800-361-4491**



HOT TIP: Go to: www.myalabama.gov/services, the Alabama government website with a lot of information about public benefits.

IV. Planning for Your Future Health Care & Protecting Your Property

These forms are great tools to help you make decisions now about your future!

Wills

- A **will** is a legal document you can use to put in writing what you want to happen with your property and belongings after you die. You do not have to have a will, but it is a good idea, especially if you have a house and land.
- If you **do not have a will**, your property will *pass to your closest relatives* and be divided as set by Alabama law. Your property does not go to the state if you don't have a will unless no family members are left.
- When someone dies, many families have big fights over their property. You can help your family keep the peace by making your wishes known in a will!



YOU HAVE THE POWER! Take charge and prepare your will and other forms that will make your wishes clear to others in the future.



Who Can Make a Will in Alabama?

- **Any adult in Alabama of sound mind can make a will.** They must know who they want to give their things to under a will, what they have, and how things will be given out. You do not have to own a home or a certain amount of property to be able to make a will.
- If someone makes a will *after* they get dementia or Alzheimer's disease, a family member may challenge the will later. Fights over wills can take a lot of time and money to settle. (*Dementia is a general term for loss of memory, language, problem-solving, and other thinking abilities that are bad enough to interfere with daily life. Alzheimer's disease is the most common cause of dementia. Some people call it "old timer's disease"*)

How Do you Make a Legal Will in Alabama?

- You do not have to have a lawyer write the will, but if there is any way to get a lawyer to help you do it, that is always much better.
- In Alabama, a will must be signed by the person making the will and by two witnesses. (It is best to have the signatures signed before a notary.)
- You need to name an executor in your will. An executor is the person who will gather all the property, pay all bills, and give out what is left to those listed in the will (dividing it up as the will directs). It would be best to name a backup executor if the first choice is not able or willing to serve.
- If you change your mind later, you can revoke or tear up your will and make a new one. (It is best to say in the new will that it replaces any old wills.)
- Often, older adults can get a will prepared for free or for a very low fee.



HOT TIP: Laws about wills are different for each state, so be careful where you get information about wills - make sure it applies to Alabama.

If you would like to make a will, please call **1-800-AGE-LINE (1-800-243-5463)** to get connected with your local Area Agency on Aging (AAA) office.

Advance Directive for Health Care/ Living Will

- An **Advance Directive for Health Care (ADHC)** is a legal form that lets you say what medical treatment or care you want or do not want if you become so sick that you can't speak for yourself.
- The ADHC form has a place where you can name a family member or other person you trust to make health care decisions for you if you became so sick you could not speak for yourself. The person you name is called a **proxy**. It is best to name a **backup proxy** if the person you name cannot serve for some reason.

- An ADHC form lets you choose exactly what kind of care you want and do not want if you are terminally ill or injured, or in a coma. This part is often called a **Living Will**. (A terminal illness is a disease or condition which can't be cured and is likely to lead to someone's death)
- **Your doctor will consult** with all the doctors caring for you to decide how sick you are and whether you can speak for yourself. Those decisions are not made lightly.
- When you sign it, you need **two witnesses**. The witnesses cannot be any of your proxy choices, and they cannot be related to you.
- **Give a copy of the ADHC form to all doctors** you see regularly.
- You **can cancel an ADHC** at any time by tearing it up and making a new one.

Power of Attorney

A power of attorney is a form that can be a useful tool to help protect your money, property, things you own, and even your health care.

There are three kinds of power of attorney forms in Alabama:

1. **Financial Power of Attorney** – This form gives legal power to another person you name to manage your finances and property for you. The person you name is called your agent. Your agent must act in your best interest.
2. **Limited Power of Attorney** – This form gives legal power to the person you name (your agent) to do only the tasks that you list. This lets you decide how much power you want to give to the agent. (Example: you can give the agent the power to deposit your checks)
3. **Healthcare Power of Attorney** – This form allows you to name a person to make decisions about your health if you can't make those decisions.

- The person you name (your agent) should be someone you really trust. This person *does not* have to be a spouse, one of your children, or a family member. If you can, name a backup person if the first person cannot or will not serve.
- You **can cancel a power of attorney** if you change your mind or want to make a new one. You can also set it up so that another person is involved or can oversee your agent's decisions.
- Look closely at the part of the form that says **when a power of attorney takes effect**. You can choose for it to start right when you sign it or only later if you become incapacitated (not able to make your own decisions).
- If someone is *pushing you* to do a power of attorney, be careful. Are they trying to help you, or are they just out for your money?

YOU HAVE THE POWER! Power of attorney forms can often be used instead of guardianship or conservatorship. Guardianships and conservatorships take the most power and control away from someone, so they should always be the last choice.



**Call the Legal Services
Alabama Elder Helpline to
see if we can help you with
power of attorney forms:**

1-866-456-3959

V. Staying Safe and Independent – You have the right to be free from abuse, neglect, and exploitation

Elder Abuse Information

Older adults may be more likely to be abused due to physical or mental challenges. Elder abuse may occur in the home, nursing home, or other places. Abuse most often occurs at the hands of family members or someone the person trusts. The older adults most at risk are women and persons with dementia. In Alabama, **elder abuse is a crime**, and people who abuse older adults can be charged with misdemeanor or felony.

Types of Elder Abuse:

- **Emotional abuse** – Threats, humiliation, intimidation, or verbal abuse
- **Neglect** – A failure to obtain or provide care, either on purpose or by accident
- **Physical abuse** – Causing bodily injury, pain, or harm
- **Sexual abuse** – Sexual contact with an older adult who does not agree to the contact
- **Financial abuse** – Illegally or improperly using an older adult's money or belongings

What are some of the signs of elder abuse?

- Becomes isolated (family members or other caregivers may be shut out)
- Stops taking part in things they usually enjoy
- Needs bathing, has dirty clothes, loses weight for no reason, has bed sores
- Becomes withdrawn or acts agitated or violent
- Displays signs of trauma (like rocking back and forth)
- Has unexplained bruises, burns, cuts, or scars
- Lacks medical aids (glasses, walker, dentures, hearing aid, medications)
- Has a dangerous, unsafe, or dirty living space
- Has money, but the money is not being used for the older adult's care or bills

How can I report elder abuse?

- Call the **ELDER ABUSE HOTLINE: 1-800-458-7214**
If there is immediate danger to someone's mental or physical safety, call 911.
- If you are the victim and are afraid to make the call, try to reach out to someone you trust (friend, neighbor, relative, doctor, nurse) and ask them to report the abuse.
- Abuse can also be reported to your local Department of Human Resources (DHR) office. Every DHR office has Adult Protective Services workers.

YOU HAVE THE POWER! You can help protect yourself or someone else by reporting elder abuse! You can report elder abuse without giving your name. If you are calling for yourself, you must give your name to get help.



Can the court help protect someone from elder abuse?

- Yes! Someone can file papers with the court asking that the person be moved to a safe place right away. A safe place could be with a relative (not the abuser), a nursing home, foster care, or another place. The court may order that the abusive person stay away from the victim, among other things.
- The paperwork filed with the court asking it to protect someone from elder abuse is called a **Petition for Elder Abuse Protection**.
- It is best if DHR or a lawyer files the papers to start an elder abuse case; however, the person who is being abused or any **interested person** can file. (An interested person could be an adult relative, friend, or someone with a company or agency concerned about the person's welfare and safety.)
- Court clerks have a **Petition for Elder Abuse Protection form** or go to: www.eforms.alacourt.gov/civil-forms/protection-from-abuse/ (Form C-2)
- If the abuser took or misused the victim's money or property, the court can order the abuser to repay the victim. This is called **financial exploitation**.
- For a married couple, the victim can also file for divorce and ask the court to issue a temporary protection order while waiting for a final ruling on the divorce. The victim should talk to an attorney who does domestic relations (divorce or family law) work.

**Call the Legal Services Alabama Elder Helpline:
1-866-456-3959**

Guardianships & Conservatorships

Being independent and in control of our life is as important to older adults as it is for everyone. Just because we may have more physical challenges or less energy than in the past does not mean that we can't decide where we live, our health care, and our money! Sometimes family members or others think that older adults cannot make good decisions, take care of themselves, or handle their money. They may file papers asking the court for **guardianship** or **conservatorship**.

What is a guardianship?

- A **guardianship** is created when a probate court appoints someone (called a **guardian**) to make decisions for an incapacitated individual who needs someone else to care for them and supervise their life.
- A guardian should be appointed only when **necessary** to provide care for the incapacitated person. (The court usually gives a guardian a lot of power, and the person under the guardianship loses a lot of power -the right to make decisions over their care!)

- A guardian should only be appointed where the person who needs care is truly **incapacitated**. (This means the person cannot make decisions on their own.) A person could be incapacitated due to mental illness, mental deficiency (like dementia/Alzheimer's), physical illness or disability, physical or mental infirmities accompanying advanced age, chronic use of drugs, or chronic intoxication.
- Guardianships can last *for the rest of someone's life*, and *only the court can end them*. A court can order a guardianship to end when the person under the care of a guardian dies or is no longer incapacitated or the guardian dies or quits. *(If the guardian dies or quits, the court will appoint another guardian)*

YOU HAVE THE POWER! Know the facts so you can speak up for yourself and others! Someone is not incapacitated because they make some odd decisions, have normal forgetfulness that may come with older age, or sometimes make mistakes.



What is a conservatorship?

- A **conservatorship** is created when a probate court appoints someone (**a conservator**) to manage and protect the money and property of an adult who is incapacitated and unable to manage it themselves.
- A conservator should be appointed only when **necessary** to provide money management for the incapacitated person. (The court usually gives a conservator a lot of power over the money and property. The protected person loses a lot of power. They lose the right to make decisions over their money!)
- A conservator should only be appointed where the person who needs help is **incapacitated**. This means there is some reason they cannot make decisions on their own. A person could be incapacitated due to mental illness, mental deficiency (like dementia), physical illness or disability, physical or mental infirmities accompanying advanced age, chronic use of drugs, or chronic intoxication.

Is a guardianship or conservatorship needed?

Just because someone asks the court to order a guardianship or conservatorship doesn't mean it is the best thing to do.

Always ask:

- Is the person **truly incapacitated**? If they are not, a guardianship or conservatorship is *not the answer*.
- Is guardianship (or conservatorship) **necessary** to protect the person or their money? If not, a guardianship or conservatorship is *not the answer*.

Example: Pat is 80 and lives alone in her home. Pat is on a tight budget, but she always pays her bills on time. She loves to quilt and buys fabric when she can. A year ago, Pat lost her balance and fell and broke her hip. The hip healed but has slowed her down. She takes blood pressure medicine and a few other pills, but overall, she is pretty healthy. Pat's daughter thinks her mom should not spend any money on extra things (like quilt fabric) and worries about another fall. She wants Pat to move to a nursing home so she would not worry about her so much. Pat's daughter also thinks she needs to become a guardian and conservator over her mom to manage her money and keep her safe. Pat loves and trusts her daughter, but she thinks she can handle things herself right now and wants to stay in her home. **What do you think?**

Answer: *We don't know all the facts, but it looks like Pat can still make decisions on her own, so she is not incapacitated. The fact that Pat pays her bills on time is a good sign that she can take care of her money. Even though she had a fall, she doesn't seem to need help with personal or medical care, and she seems to be safe in her home. Pat does NOT need a guardian or conservator as she is not incapacitated, and she does not need help or protection from the court.*

What options are there other than having a guardianship or conservatorship?

- If the person is not incapacitated and doesn't need help with their decisions now but wants someone to make health care decisions for them later, a **durable power of attorney for health care** and an **advance directive for healthcare (a living will)** is a better option.
- If the person is not incapacitated and doesn't need help managing money now but thinks they may need help later, getting a **financial power of attorney** document is a better option.
- Could getting a **Social Security representative payee or VA fiduciary** for the person be a better option? This is where the government agency gives a trusted person the power to manage a person's benefits.
- Could setting up direct deposits and/or automatic payments help?
- Could someone be hired to do house cleaning, shopping, personal care, or other services to help the older adult? Would a fall monitor necklace help?

How can the powers of a guardianship or conservatorship be limited?

If a guardianship or conservatorship must be created, we should limit their powers as much as we can. The protected person should keep as many freedoms and rights as possible. Even though a person may need *some* help or protection, it doesn't always mean that they need someone to make decisions over *every part of their life!*

- **Ask, would a temporary guardianship or conservatorship be better?**
(Example: When help is needed only for a limited amount of time)
- **If there is only one issue, or just a few, at hand, would a limited guardianship work?**
This is a guardianship with only certain named powers, not over everything for the person. (Examples: It might only give the guardian power to consent to or refuse a particular medical treatment or authorize the guardian to move the person to another place.)

If someone is trying to get (or has) a guardianship or conservatorship on you, and you don't want it, contact Legal Services Alabama to see if we can help: 1-866-456-3959



A special thank you to the **Administration for Community Living (ACL)** for providing funding for this guidebook, to **Mary Jane Oakley**, a Legal Services Alabama attorney for writing this guidebook, volunteer **Rosalyn Larkin**, and to **Professor John Craft** of Faulkner University's Jones School of Law for his editing work.



JUSTICE FAIRNESS HOPE
**Legal Services
Alabama**

This material may be reproduced with acknowledgment to Legal Services Alabama.

This guidebook was made by Legal Services Alabama in partnership with Administration for Community Living / Legal Assistance Enhancement Program



This guidebook was supported, in part, by Grant No. 90LAEP0005-02-00 from the Administration for Community Living, U.S. Dept. of Health and Human Services (DHHS). Grantees carrying out projects under government sponsorship are encouraged to express freely their findings and conclusions. Therefore, points of view or opinions do not necessarily represent official Administration for Community Living or DHHS policy.



JUSTICE FAIRNESS HOPE
Legal Services
Alabama

LSA DOES NOT DISCRIMINATE ON THE BASIS OF SEX (INCLUDING PREGNANCY, CHILDBIRTH, AND RELATED MEDICAL CONDITIONS) OR SEXUAL ORIENTATION, RACE, COLOR, RELIGION OR CREED, NATIONAL ORIGIN OR ANCESTRY, AGE, DISABILITY, POLITICAL AFFILIATION, GENETIC INFORMATION, GENDER IDENTITY, VETERAN STATUS OR ANY OTHER CONSIDERATION PROHIBITED BY LAW.

Information Current as of 2022*