

# yourLAW

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## Military Families: Protect Your Credit History

If you or a member of your family is preparing for a military deployment, the last thing you want to deal with is identity theft. According to a Federal Trade Commission survey, 8.3 million Americans were victims of this crime in 2005. On average, these victims spent four hours working to restore their identity and credit, but, for over 10 percent, it took at least 55 hours to get things straightened out.

Now, an amendment to the Fair Credit Reporting Act is intended to help military families avoid such hassles. Under the Act, "active duty alerts" are available to members of the military who are away from their usual duty stations. Your credit report includes information about your address, your bill payment history, and whether you have ever filed for bankruptcy or been arrested or

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## Are You Hurricane Ready?

If you live near a coastline vulnerable to hurricanes, it is important to ensure that you have the necessary hurricane insurance and preparations in place. Although most standard homeowners' insurance policies cover windstorms, you may need extra protection for hurricanes. As with flood insurance, any licensed agent or broker in states prone to such storms can sell these additional policies.

In order to help you determine whether you are hurricane ready (at least from the legal and insurance perspective), *YourLaw* is providing you with this hurricane checklist below.

### Do you have the right type of insurance?

Generally there are two types of homeowners' insurance: that which covers the cash value of your possessions and that which covers their replacement costs. "Cash value" insurance means that the provider will cover the original cost of your possessions minus any

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The cost of long-term care insurance depends on your age at the time of purchase, the extent of coverage, and your health history.



## Plan for Your Long-Term Care

As you begin to plan for your retirement, you may be shocked at the prices of nursing homes and other supportive housing options. And you may be even more concerned by the fact that government health-care options (such as Medicaid and Medicare) rarely cover the full costs of such care. If so, you may want to look into long-term care insurance *now*. Long-term care insurance helps pay for extended periods (usually two or more years) of nursing home care, assisted living, in-home care, adult day care, and respite care. It is still a relatively new and evolving insurance product, so the typical features continue to change.

### Is it right for you?

Long-term care insurance is best for those with income and assets to protect. One rule of thumb is to consider long-term care insurance if you are at least fifty-five years old and your assets exceed \$200,000. Of course, the decision is never quite that simple, since you also need to take into account your overall debt load, retirement funding, payment for your children's education, and so on.

### What should you look for in a policy?

Examine specific provisions carefully before purchasing a policy, since the conditions and limitations on coverage can be extensive and complex. The best policies cover all levels of nursing home care plus care at assisted-living facilities. Assisted-living facilities provide a level of support that is less than that of a nursing home, and may be a better alternative for many people who can no longer live at home.

Better long-term care policies will also cover home care, which is broadly defined to include not only skilled home health services, but also nonmedical support services such as homemaker services, home health-aide services, and personal-care services. Newer policies even offer coverage options such as adult day care or respite care for your family.

### What are the tax implications of long-term care policies?

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) clarified the tax treatment of both premiums and benefits so as to make it the same as for major medical coverage. Under HIPAA, benefits from a federally qualified long-term care policy—that is, a policy that meets minimum federal standards—are generally

### Tips to Remember When Selecting a Long-Term Care Insurance Plan

- Before you choose a specific policy, check out the company. Be sure that the company you choose is likely to be around and solvent for a long time. Pick a company with a financial rating of B+ or better from financial-ratings services such as A.M. Best, Moody's, Standard & Poor's, and Weiss.
- Make sure your policy will pay benefits for all levels of care in a nursing home (including custodial care), as well as care in assisted-living facilities or other residential-care facilities.
- A good policy will pay benefits for home care and hospice care, including in-home personal care to help with activities of daily living.
- Consider whether the amount of daily benefits provided by your policy will be adequate in the future. You should consider only policies with an inflation adjuster that increases benefits by a set percentage, compounded each year.
- Do not assume that more years of coverage is always better. Very few people need nursing home care for five years or more. Four years is sufficient coverage for most. Three years may be acceptable if the cost of more coverage is simply too much for you.
- Six months is a reasonable exclusion period for preexisting conditions.
- Better policies allow payment of nursing home or home health benefits without requiring a prior period of hospitalization as a condition of coverage.
- Most policies impose waiting periods (commonly 20 to 90 days after you begin receiving nursing home care or home care) before payments under the policy begin. First-day coverage will increase your premium. Consider self-insuring for the maximum waiting period, since utilizing the maximum waiting period will result in significant savings on premium payments. If you have to pay during the waiting period, the loss likely will not be catastrophic.
- Avoid policies that pay only for "medically necessary" care; this standard is often too discretionary. Most good policies will cover care when the individual needs help with two or more activities of daily living (bathing, eating, dressing, toileting, transferring into or out of a bed or chair, or continence) or, alternatively, when the individual suffers a cognitive impairment. Be sure your policy covers Alzheimer's disease and other forms of dementia. More than half the residents of nursing homes suffer some form of dementia.
- Buy a policy only from a company that is licensed in your state and has agents physically present in your state. Out-of-state mail-order policies may leave you powerless to remedy problems if anything goes wrong.

not taxable. For taxpayers who itemize their deductions, premiums for long-term care, as well as consumers' out-of-pocket costs for long-term care, can be applied toward meeting the 7.5 percent floor for medical expense deductions (that is, medical expenses are deductible only to the extent that they exceed 7.5 percent of your income). The IRS sets limits based upon one's age for the total amount of premiums paid for long-term care insurance that can be applied to the 7.5 percent floor, so check with a tax adviser before taking this deduction.

#### How much do policies cost?

The cost of long-term care insurance depends on your age at the time of purchase, the extent of coverage, and your health history. Age is clearly the single greatest factor. The policy premium can easily run to \$1,500 a year for a fifty-five-year-old, \$3,000 for a sixty-five-year-old, and \$6,000 or more if purchased at age seventy-five. Once you buy a policy, your individual premium is generally locked in. However, your premiums

could change if the company is attempting to raise premiums across the board for all policyholders or if the company is purchased by another company that is attempting to do so.

#### What about preexisting conditions?

A medical screening is required for most long-term care insurance policies. Many insurance companies will exclude you for certain preexisting health conditions, require higher premiums, or may have a waiting period before benefits will kick in. Because policies can differ on these issues, review any preexisting clauses carefully and make sure you fully understand them. If you have any questions, make sure they are answered before you sign a contract.

#### How do you evaluate a long-term care policy?

In evaluating long-term care policies, compare several policies side by side. Your state's insurance department should have names of companies offering long-term care insurance. Most states have begun to set minimum standards and consumer protection guidelines for these policies. Guides for evaluating policies may also be available from your state's insurance department or your state or local office on aging.

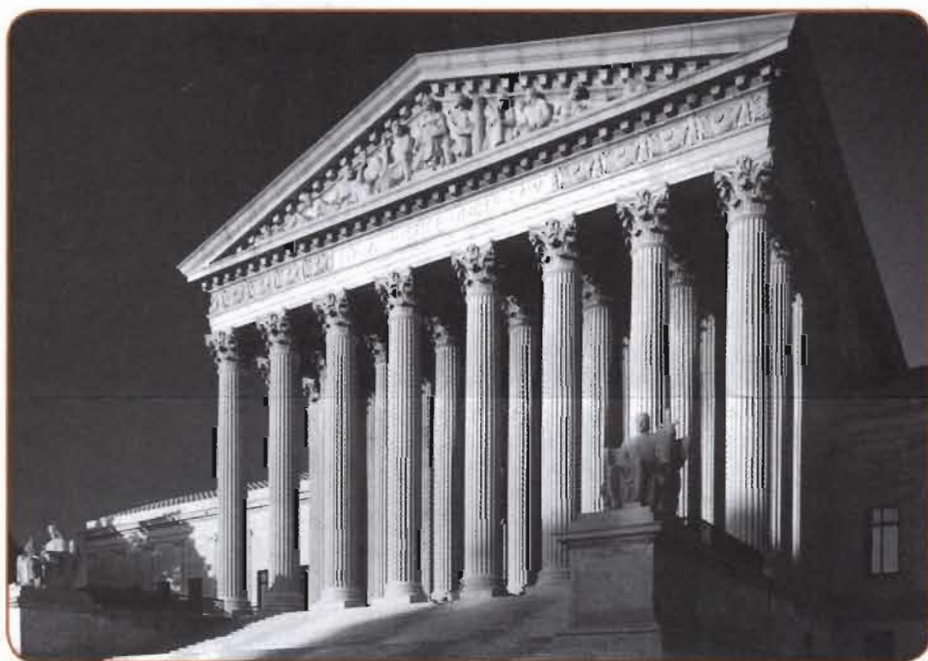
Long-term care insurance policies are still a relatively new insurance product. As such, there are many types and variations. If you have any questions about your policy, make sure you ask a company representative for clarification. If you are still unclear, do not hesitate to talk to your attorney about such concerns, particularly if they relate to your policy contract. ✕

## Supreme Court Update: The Second Amendment

In the much publicized "gun control case," *District of Columbia v. Heller*, the Supreme Court took the first stab at redefining the Second Amendment in over 60 years. *Heller* involved a challenge to gun-control regulations in the District of Columbia that were some of the toughest in the country: essentially banning all private handguns and requiring that firearms be kept locked in an inoperable condition. The question presented to the Supreme Court was whether these regulations violated the Second Amendment.

In its 5-4 decision, the Court held that the D.C. regulations were unconstitutional under an "individual" reading of the Second Amendment. This means that the Second Amendment right to bear arms now protects the right of individuals—"the people"—to keep firearms for their own

The Court left open the possibility that certain gun regulations still will not be barred by the Second Amendment.



self-defense or other private use. The Court majority rejected the argument that the Second Amendment was only meant to protect the right of the states to form and arm an official state-run militia.

So what does this mean for the everyday American? Immediately—not a great deal. Because of the way Justice Scalia wrote the decision, the Court left open the possibility that certain gun regulations still will not be barred by the Second Amendment: for example, laws governing the disarming of convicted felons, creating "gun-free zones," and banning short-barreled shotguns. It will take some time for cases about these specifics to make their way through the various court systems before we really understand the impact of *Heller*. ✕

This extra step makes it much more difficult to steal the identity of an active duty military member.



sued. This information is then sold by a nationwide consumer reporting company to businesses that are considering extending you credit. If you have such an active duty alert on your report and a business is attempting to extend credit to someone in your name, the business will see the alert and then must verify the identity of the person seeking credit. This extra step makes it much more difficult to steal the identity of an active duty military member.

Be aware that such precautions are not perfect—if you are interested in getting credit while an alert is in place, it can be time consuming as the business will have to confirm your identity, which may be difficult once you are deployed. However, chances are good that this inconvenience will be much less than that associated with trying to repair your credit.

If you or a family member is interested in obtaining an active duty alert, simply call the toll-free number of one of the three nationwide consumer reporting companies:

- Equifax (1-800-525-6285 or [www.equifax.com](http://www.equifax.com))
- Experian (1-888-397-3742 or [www.experian.com](http://www.experian.com))
- TransUnion (1-800-680-7289 or [www.transunion.com](http://www.transunion.com))

You will have to provide identifying information, which can include your name, address, Social Security number, and other personal information. Unless you request that it be removed earlier, such alerts are effective for one year. To learn more about your credit rights, visit [ftc.gov/credit](http://ftc.gov/credit).

This amendment to the Fair Credit Reporting Act is just one of a number of legislative efforts aimed at helping servicemembers and their families. For example, the federal government passed a law in 2006 that imposed limits on the ability of payday lenders to target military personnel. Servicemembers and their families should take full advantage of any and all benefits such as these that are offered, both before and during deployment. The Web site of the National Military Family Association ([www.nmfa.org](http://www.nmfa.org)) provides detailed information on such programs. Like many financial and identity theft protections, these tools only work if you use them. **x**

#### Alerts Also Apply to Reservists!

Don't worry if you or a family member is a reservist—active duty alerts still work. So long as you are on active duty and are away from your usual station, you are eligible for active duty alerts, regardless of your status as a reservist.

Flood damage is not covered by normal homeowners' insurance.

depreciation, whereas "replacement" coverage means that you will get the money needed to replace your possessions at today's costs. Although replacement coverage may cost a little bit extra, its additional coverage is often worth it.

In addition, you may also need flood insurance coverage. Flood damage is not covered by normal homeowners' insurance. Such coverage can be purchased from the National Flood Insurance Program. For more information, visit the Federal Emergency Management Agency's Web site at [www.floodsmart.gov](http://www.floodsmart.gov).

#### Do you have enough insurance?

You want to make sure you have enough coverage to rebuild and replace your home and possessions. Remember to take into consideration any alterations or improvements you have made to your home since you purchased your original policy.

Consider the expenses associated with being out of your home for some period of time. If possible, try to have your insurance policy cover "Additional Living Expenses" (ALE), which will include hotels, food, and other travel costs if a storm forces you out of your home.

#### Have you completed your home inventory?

You should keep an up-to-date and detailed inventory of the possessions in your home.

You also may want to take dated digital photos or a video tour of your possessions and home.

Keep copies of your inventory away from your home: in a safe deposit box, with a relative, or online.

If possible, list things room-by-room, in case only a portion of your home is damaged. You may also want to consider taking photos of each room.

#### What do you do if your home is damaged?

As soon as possible, notify your insurance representative. Make sure your representative knows how to reach you. If it is safe to do so, take photos of the damage.

If needed, make the temporary repairs to ensure that your home is safe from more weather or looters. Don't make any major repairs until you have spoken with your insurance representative.

Once you are ready to make repairs, use only reputable contractors, and make sure you get written estimates. Many times, if a deal seems too good to be true, it probably is. **x**