

yourLAW

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Buying a Second Home for Retirement

As retirement approaches, many Americans start to think about their finances and where to invest or move their assets. For some, purchasing a second home is an important part of retirement preparation. With careful planning, this can be a very valuable and significant option.

If you are thinking about buying a second home, the first step is to take inventory of your current and future finances. Be sure to determine the sources of your future income (pensions or government benefits) in order to evaluate how much you can afford. If you are planning on using the second home as a rental during part of the year, don't count on that rental income as part of your income. You never know if you are going to have a period without a renter. After undertaking this assessment, you will have a better sense of what you will be able to afford without stretching yourself too thin.

When actually looking at properties, take into consideration the same factors you would

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Protecting Your Assets From Lawsuits—Be Proactive

Imagine you are driving home from the store when suddenly a child darts into the street. You swerve to avoid him, and in the process, run head first into another car. After all is said and done, you are sued by the other driver for the costs of her extensive medical care and car repairs. Could she end up getting your house?

What about your retirement savings?

Across the country, newspaper headlines are packed with news of multimillion dollar court judgments for plaintiffs. These rulings can provide important relief and support for injured parties. However, they can also bankrupt defendants. Protecting yourself from a

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Before you go, leave copies of your travel documents and passport with a family member or friend.

You and Foreign Law Enforcement

Traveling overseas is an exciting adventure: seeing new places, speaking a different language, learning about a culture. However, having a run-in with the law is one kind of excitement you don't need. Even if you have done nothing wrong, the possibility of being arrested or detained in a foreign country is a risk you need to take very seriously. By understanding what you should do before you leave, knowing your rights, and keeping in mind the limits on what



U.S. officials can do for you, you will be more likely to quickly resolve any problems you might encounter and return home safely.

There are a number of important steps to take before you travel abroad. First, check the U.S. Department of State's travel warnings and alerts (travel.state.gov/travel/warnings.html). These notifications alert travelers to possible threats, political unrest, or violence in specific areas of the world. You should also consider registering with the Department of State. Registering can be done online for free (<https://travelregistration.state.gov/ibrs/ui/>) and ensures that if there is an emergency, either back home or at your destination, American officials can easily contact you. Lastly, before you go, leave copies of your travel documents and passport with a family member or friend. That way, if something does happen, someone back home will have your identification information.

Then, when you are traveling, remember that you are subject to the laws of the country you are in, which may be different from those back home. Ignorance of the law is never an excuse. What should you do if you are arrested abroad? Try to remain calm. Once you are taken into custody, you should immediately ask to speak to a consular officer at the nearest U.S. Embassy or Consulate. Many countries have agreements with the United States to ensure that you have this right (and the citizens of those countries have the reciprocal right in the United States). If your request is turned down, you should keep asking, politely, but continually.

American Embassy and Consulate officials are valuable allies for citizens arrested abroad; however, it is important to note that they can't provide a "get out of jail" card. Still, although American officials usually cannot represent you in court, they can provide you with a list of qualified attorneys, contact your family, and help get you money from your family back home. American officials will also monitor your health and safety and will protest any abuse or maltreatment. So remember, your best protection when traveling abroad is to do the necessary research ahead of time, understand the rules of the host country—and keep your wits about you! ✎

Tips for Parents—What to Do When Your Child Is Abroad

With the summer moving into full effect, many teens and college students are getting ready to spend the summer traveling abroad or packing and preparing for an upcoming semester abroad. For kids, these opportunities are exciting times filled with learning and fun. For parents, these can be times of stress and worry. You can help your child prepare for international travel by ensuring that your son or daughter understands how to respond to interactions with foreign law enforcement. The following list outlines some important topics and tips:

- **Get the Information:** Make sure you have all of the information about your child's trip, including flight information, hotel accommodations, any planned side-trips, and the names of all travel companions. Have your child make copies of all necessary travel and identification documents (passports, tickets, credit cards, etc.) and leave a set with you. Your child should also bring extra copies of any travel documents in case something is lost.
- **Help Your Child Get Informed:** Work with your child to research the destination country. Has the Department of State recently issued any travel alerts? It will be helpful for your child to learn at least a couple of key phrases in the destination country's language including: "Help!" "I need a hospital" and "Please call the American Embassy."
- **Talk About Safety:** Without being overly alarmist, have an open and frank discussion with your child about the dangers of traveling abroad. Be sure to mention the old adage "there is safety in numbers" and outline the dangers of alcohol and other intoxicants. Some countries may have relaxed laws on alcohol and drugs as compared to the United States; others have much harsher laws. Even if your child is unlikely to engage in such activities, you should still consider having an honest discussion about the dangers.

In the end, remember, this is a once in a lifetime experience for your child: Let him or her go and experience the world and have faith that you have prepared your child as well as you can.

Philippe Jeck to serve on Board of Trustees



Philippe Jeck has been elected to serve on the Board of Trustees of Palm Healthcare Foundation, Inc. The Foundation is an independent public health foundation primarily addressing the needs of Palm Beach County. Since 2001, the Foundation granted over \$20 million to programs at more than 80 nonprofit organizations. The Foundation's endowment is currently approximately \$70 million. The Foundation's Board is charged with setting the policy for the Foundation and acting as the stewards of its mission.

One exciting and ambitious project is the Palm Healthcare Pavilion which houses programs, such as the Mollie Wilmot Children's Center, serving chronically ill children, including those with childhood diabetes, one of the greatest local unmet health care needs. To build, equip, and program the new state-of-the-art facility, the Foundation is conducting a \$12.5 million capital campaign. The Pavilion is the first renovated building in Florida that is a LEED's certified "Green Building" designed to be hypoallergenic, hyper energy efficient and ecologically friendly. The Pavilion is located at the St. Mary's Hospital campus. Philippe's commitment to children, particularly the very young, has inspired him to contribute his energies to this outstanding organization.

FEDERAL ESTATE TAX

By Audrey Harris

Only a couple of years ago there was much talk about eliminating the federal estate tax. President Bush pushed hard for doing away with the "death tax". With the change in our country's economic situation, there is no expectation that the federal estate tax will disappear anytime soon. What is expected is that the federal estate tax will change in 2009.

We anticipate a change to the federal estate tax law in 2009 because the current federal estate tax will be eliminated in 2010 for one year. Under current law, the federal estate tax is reinstated in 2011, however, the federal estate tax exemption will then be only one million dollars. Following the 2008 presidential and congressional elections, it appears highly likely that Congress will change the current estate tax law to avoid eliminating the federal estate tax in 2010.

As a reminder, the current federal estate tax exemption is \$2,000,000 for decedents dying in 2008. Under the current law, in 2009 the federal estate tax exemption increases to \$3,500,000.

There is much speculation concerning revisions to the federal estate tax law in 2009. Much will depend on the outcome of the November 2008 election as well as the state of our economy in 2009.

We will keep you updated concerning any changes to the federal estate tax law in this newsletter. Many clients will need to review their estate plans once the law changes to determine whether their documents need to be revised because of changes to the federal estate tax law. In Florida, we need only be concerned with the federal estate tax as Florida has no state estate or inheritance tax.

Save the Date!

Please mark your calendar to save the date of October 30th. We're planning an open house on October 30th at our new offices in Juno Beach from 4:00 to 7:00 p.m. Invitations will be sent in early October. We look forward to welcoming you to our new offices.

PRACTICE

Our law firm is divided into five practice groups: Litigation, Commercial & Corporate, Banking, Real Estate and Estate Planning & Probate. Each group consists of those attorneys who practice in that particular area of the law. These practice groups help ensure that there is always an attorney available to service our clients. The following are summaries of the Banking, Real Estate, and Estate Planning & Probate groups.

REAL ESTATE

This group's practice includes representing developers, sellers, buyers, investors, borrowers and lenders of single-family and multi-family residential developments, shopping centers, office buildings, and multi-use developments including condominiums, marinas, mobile home parks, ranch lands and industrial properties. The firm is skilled in virtually every aspect of such developments including permitting, environmental assessment, zoning, acquisitions, sales, borrowing, lending, developing entity selection, preparation of deed restrictions and condominium documents, easements, foreign ownership, and leasing, among others. Examples of the firm's experience include representing developers of luxury, oceanfront

condominiums, multi-phase residential projects and single family projects in all aspects of zoning, development, construction and sale; foreign nationals in the acquisition and disposition of residential and commercial investment properties; owner/users in the acquisition and disposition of industrial property; owners of mobile home parks in the acquisition, sale, and termination of those parks; builder/developers in all aspects of zoning, development, construction, leasing and sale of commercial office buildings; homeowners and condominium associations; and lenders in mortgage based commercial and residential lending transactions including foreclosure litigation on multimillion dollar properties.

Attorneys in practice -

Philippe C. Jeck, Jeffrey S. Raynor, Richard D. Percic, Andrew Speranzini, Michele Lewis

ESTATE PLANNING & PROBATE

The estate planning and probate practice involves sophisticated tax and estate planning for individuals of substantial net worth; trust and will preparation for individuals of average means and families with young children; and trust, probate and guardian administration. A personal approach which is sensitive to clients' family concerns helps us work with clients to achieve peace of mind, asset protection, and successful wealth transference while minimizing expenses and taxes. This practice group

works closely with individual and corporate fiduciaries on multimillion dollar estates and trusts as well as modest estates and trusts. At any time, between forty and fifty estates and decedents' trusts are under administration by the firm. In addition to taking pride in the quality and sophistication of the estate planning documents they produce, the attorneys in the estate planning practice group can also address the need for exit strategies from businesses and asset protection.

Attorneys in practice -

Audrey Harris, Jeffrey S. Raynor

BANKING

This practice consists of representing local, national, and foreign banks in mortgage and asset-based lending, and equipment leasing companies in multimillion dollar construction loans, equipment leasing transactions, purchase money mortgage lending and refinancings. The firm has also represented lenders in loan workout situations and foreclosure actions, both against real

and personal property. Examples of the firm's work include representing an equipment leasing company in a multimillion dollar construction loan and leasing sophisticated medical equipment, a foreign bank in a multimillion dollar development loan for a barrier island residential development project, and national and local banks in commercial and residential mortgage lending.

Attorneys in practice -

Philippe C. Jeck, Jeffrey S. Raynor, D. Bruce Kratz, Richard D. Percic, Andrew Speranzini, Michele Lewis

Payday Loans: Quick Approval to Long-Term Debt?

In these tough financial times, having an extra bit of cash can add some important breathing room. Payday loans (sometimes called check loans, cash advances, or quick cash) can be attractive to individuals facing financial troubles. Although these quick loans may help some consumers, for others, they only create even more headaches. And it is the experience of those frustrated customers that has caused the federal government and a handful of states to take a critical look at this growing area of lending.

A relatively new loan type, payday loans offer consumers a quick influx of cash. In the last decade, payday loans have flourished because people facing a financial bind find them to be a convenient alternative to bouncing checks, paying late fees on credit cards, and even having their utilities shut off. To apply for such loans, consumers usually have to show only a pay stub or some other proof of regular income (such as Social Security). No credit checks are involved. Then the consumer gives the lender a predated personal check for the amount of the loan plus a fee (usually around \$100) and receives the loan money.

At the end of the loan term, which is usually two weeks, there are three possibilities: 1) the lender cashes the check and receives the full loan amount plus the fee, 2) the lender tries to cash the



check but the consumer doesn't have enough money to cover it, resulting in a bounced check that will cause the borrower to be hit with fees from both the bank and the lender, or 3) the consumer refinances the loan and pays additional fees. It is this third option that gets most consumers in trouble. Referred to in the industry as "rolling over" the loan, this process allows consumers to extend the loan into future months until they will have the ability to pay off the entire loan amount all at once. However, each time a loan is rolled over, the consumer must repay all fees associated with the loan, which can sometimes end up being double the original loan amount.

What to do if you or someone you know has an unfair payday loan?

- If you have multiple high-interest loans, consider working with a trusted lender to assess whether consolidating them makes sense for you.
- File a complaint with your state attorney general's office, state consumer protection agency, or banking department.
- Contact your state and federal legislators—urge them to take action to ensure fair lending in your state.
- Talk to your lawyer about possible recourses.

It is these skyrocketing cumulative fees, along with the fact that many of these loans involve annual percentage rates of more than 400 percent, that has been the source of much of the worry over payday loans. In some cases, these harsh loan terms have triggered legislation aimed at creating consumer safeguards. A few states, including New York, have enacted laws effectively banning payday lending altogether. Arkansas has recently moved to shut down payday lending within the state, relying on a unique clause in its state constitution that bans lenders from charging an annual interest rate higher than 17 percent. Congress passed a federal law in 2006 that imposed limits on the ability of such lenders to reach out to military

personnel. However, this trend is by no means national, and, in many states, payday loan stores outnumber fast food chains.

If you or a loved one are considering a short-term loan of any type, it is important to put as much thought and research into this as you would a large mortgage or other long-term loan. In order to avoid falling victim to any type of lending practice, payday or not, try to work with a lender you trust (or find one your family or friends trust). And remember, if it seems too good to be true, it probably is. ❖

Protecting Your Assets From Lawsuits— Be Proactive

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large legal judgment may be the last thing on your mind; however, if something goes wrong, you will be thankful for any and all planning.

State laws offer varying levels of protection against legal judgments. Therefore, it is important to research your state's laws. Nevertheless, a few general principles do apply. In all cases, you

must be proactive. You cannot move or otherwise act to protect your assets from a legal judgment *after* you have been sued or had an accident for which you might be liable. Courts look negatively upon such moves. Consequently, whatever actions you do decide to take to protect yourself must be done ahead of time.

So what exactly could a large legal judgment put at risk? Again, this depends on your specific state laws, but there are some general rules. Any

401(k) plans and company pension benefits are likely protected. IRAs are another matter—their vulnerability will depend on where you live and whether the judgment forces you to declare bankruptcy. Life insurance policies are usually safe, as are any proceeds being paid to you from another person's policy. However, if you take such proceeds in a lump sum, a court judgment may be able to reach them.

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If you are a retiree, a second home could be used for investment purposes, or it may just be a way for you to live out your dream retirement.



when buying your primary residence such as costs, taxes, and location. Ask yourself whether you want a part-time vacation home or a year-round home that you can eventually move into after you retire. If you are looking for the latter, you will want to ensure that the neighborhoods you are looking at don't shut down during the off-season. The last thing you want is to move into your second home and run out to buy a gallon of milk, only to find out that every store in the area is closed for the season!

Other important considerations when it

comes to deciding whether to purchase a second home relate to money and taxes. If the second home is considered a residence by the IRS—meaning you don't rent it out or use it for other business uses—interest on your mortgage is deductible just as it is on your first home. In other words, you can deduct up to \$1 million in interest on both homes (\$1 million total, not \$1 million per home). However, if you rent out your second home, the rules change and vary depending on how long you rent it out. Generally, if you have renters for more than 14 days a year, you will have to report any rental payments as income, but you will also be able to claim any mortgage interest and other costs during the rental time as business expenses. Lastly, depending on local and state laws, you likely can deduct the property taxes on any number of properties you own (regardless of whether you rent them out). Overall, these rules can be very complicated and can change depending simply upon how much time you spend in the second home. Therefore, it is probably worth it to talk to an experienced attorney before you take on a rental property in order to ensure that you don't run afoul of local or federal tax authorities.

For retirees, other types of properties may also be worth considering. Options include condominiums or retirement communities, and these also include some significant benefits. Some of these communities offer services that take care of certain household chores such as mowing the lawn, snow removal, and painting. Others provide gyms, pools, and golf courses. And in some retirement communities, there may even be meal service or some form of medical care. If you pursue this option, you will likely purchase the real estate and then pay an additional ongoing fee to the community association for its services. However, it is important to note that with these benefits come some pitfalls. In many communities, there are restrictions on what you can do with the exterior of your home, with your landscaping, on whether you can rent your home, and, in some extremes, on the guests you can have spend the night.

Second homes can create important sources of income and provide flexibility and excitement to your retirement. If you are a retiree, a second home could be used for investment purposes, or it may just be a way for you to live out your dream retirement. Whatever your reason, remember, you are still making a real estate purchase and need to exercise the appropriate level of care. ✎

A major worry for many people facing a large legal judgment is their home. Your house is often your largest investment and, at the end of the day, it is the place your loved ones call home. Therefore, it may make sense to start liability planning here. In most states, a primary residence (meaning the place you intend to live

Because no two policies are the same, it is important to carefully study yours and know what your policy will and will not cover.

most of the time) is protected to some degree from legal judgments. Some states place limits on the amount of value that will be protected, but these caps can vary.

Likely, your best bet to protect your home and other assets is to make sure you have adequate insurance coverage. Liability insurance is the most common insurance used to protect homeowners. The liability portion of your homeowners' insurance is designed to cover unintentional injuries on your property and unintentional damage to other people's property—in other words, injuries caused by your negligence are covered, but not injuries inflicted on purpose.

If you have significant assets, you may also want to consider taking out an umbrella policy. For an additional fee, an umbrella policy protects you from a big judgment that might quickly eat up your regular coverage. These policies are relatively inexpensive because the insurers are betting you'll never need them. The coverage picks up where your home and auto policies leave off, so in order to obtain one, you have to have certain levels of basic home and auto liability insurance. You also have to meet certain eligibility requirements, such as owning no more than a certain number of cars and not having been convicted of driving under the influence in the recent past.

Because no two policies are the same, it is important to carefully study yours and know what it will and will not cover. Read the fine print. You may need additional coverage if you have a home-based business or natural or man-made attractions on your property, such as a pond or pool.

Regardless of what form of protection you pick, at the bottom line, all that matters is that you and your family are protected! ✎