What Is a Life Estate Deed and How Can It Be Used to Help Protect my House?

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A Life Estate Deed enables you to transfer the future ownership interest in your primary residence to person(s) of your choosing. Those persons are called “remaindermen” and can be family, friends, or any other person that you choose. With a Life Estate Deed, the transfer of the future ownership interest in your house, will not prevent you from having the exclusive right to use the house for the rest of your life. This is because there is special language in a Life Estate Deed that enables you to keep the exclusive right to “use and occupy” the property for the rest of your life.

A Life Estate Deed can be a very effective tool in protecting your house for purposes of Medicaid or MassHealth planning. To qualify for MassHealth long term care benefits your total assets must be below $2,000.00. By transferring your ownership interest in the property with a life estate you can help reduce your “countable assets” to below the required $2,000.00 amount. There are other factors that must be considered. MassHealth has a five (5) year “look back” period. This means that MassHealth will examine your finances for the five (5) year timeframe before you apply for benefits. As part of that process MassHealth looks at whether you have transferred or given away your assets during that timeframe, which MassHealth views as “disqualifying transfers.” This includes using a life estate to transfer your ownership interest in your house for less than fair market value. Fortunately, if you do use a Life Estate Deed to transfer your ownership interest in your house within the five (5) year look back period, you will only be penalized for a portion of the value of the property based on the age of the life estate holder and a calculation of the value of the life estate.

If you transfer your interest in your house through a Life Estate Deed and apply for MassHealth benefits before five (5) years have passed, the transfer of the house will disqualify you from receiving the MassHealth benefits that you need. If you transfer your interest in your house through a Life Estate Deed and apply for benefits after five (5) years have passed, the transfer will not disqualify you from receiving MassHealth benefits.

To avoid any disqualification or transfer penalty that would prevent you from receiving benefits, it is important to start the process of MassHealth planning more than five (5) years before you need to apply for benefits. Since it is often hard to tell when you may need benefits it is beneficial to start the process sooner rather than later.

Please feel free to contact our office at (508) 880-6677 to speak with one of our experienced attorneys today about how we can assist you in using a Life Estate Deed and to create a customized Estate Plan to meet your needs and budget.

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