

ASK THE EXPERT

THE BENEFITS OF A LIFE ESTATE

THE PROBLEM: I am 65, and my wife is 60. We worry that if one of us gets sick, our home and savings could be lost to medical bills. We considered long-term care insurance, but I lost my business and can't afford it. Would a life estate protect us?

THE EXPERT: Vincent W. Ansanelli, III, Elder Care Attorney and Managing Partner of Ansanelli Law Group, LLP, Amityville.

THE RULES: Assuming you are healthy and will not need nursing home care in the next five years, you could transfer the bulk of your assets to your children now and still qualify for Medicaid-funded long-term care in the future. You can protect your home and your right to live there for your lifetime by transferring the house subject to a "retained life estate."

THE STRATEGY: Transfer your assets to your children outright or into an irrevocable trust. Transferring assets into a trust would provide you with greater flexibility and allow you to retain the income from trust assets during your lifetime. Transfer your home subject to your retention of a life estate, either outright to your children or into the

irrevocable trust as well. Your retention of a life estate in the home is not considered an available resource for Medicaid purposes. However, if the home is sold during your lifetimes, the net proceeds attributable to the life estate interest could result in a period of ineligibility from Medicaid.

HOW IT WORKS: Under current law, you can qualify for Medicaid if your total assets, with a few limited exceptions, do not exceed the Medicaid "Resource Level" Threshold. Transferring your assets now will commence the five-year "look-back period" attendant to these transfers in order to qualify for Medicaid. Your children, as holders of the remainder interest in the house or as beneficiaries under the trust, would inherit your property upon your deaths.

THE RESULTS: Early planning will protect your assets and ensure your eligibility for nursing home benefits in the future without the need to bankrupt yourselves to pay for health care. This complex strategy should be discussed with a qualified and experienced Elder Law attorney.