

## A Legal Guide For Recently Widowed Seniors

- How to get the car, bank account, and home in your name
- Rules about paying your deceased spouse's bills



**Elwin Simpson was recently widowed.** His wife had very little when she died—a bank account, their safe deposit box and a car. She had no will. The house was in both their names, but not the car or bank account or safe deposit box. Elwin wants to pay some of his wife's

medical bills from the bank account. He may need to sell the car and their house. He's not sure how to do this. Does he have to go to court to take care of these things? Maybe not.

Call our free Helpline to talk to a lawyer: **1-800-750-5353**

## How do I get title to the car in my name?

Here are the steps to take:

### Step 1:

Call the Maine Bureau of Motor Vehicles in Augusta. at this number: 207-624-9000.

### Step 2:

Explain that you need to change the title of the car to just your name. Ask what you need to send in to them. Here's what they usually ask for:

- The old car title
- A new title application form, filled out. You can get this from the Bureau or from your town office.
- Your spouse's death certificate.  
If your deceased spouse's name is the only one on the car title, you will also have to complete the "Affidavit of Surviving Spouse" form. You can get this from the Bureau of Motor Vehicles or your town office.

### Step 3:

Fill out and send in the forms. You'll get a new title from the Bureau in about 4 weeks. That's it! If you have questions about how to fill out the forms, call us. We'll help you.

## How can I change my deceased spouse's bank account to my name or take money from the account?

### Case 1:

#### There's less than \$20,000 in the deceased spouse's estate

In this case, you can probably use a form called "Affidavit for Collection of Personal Property." Call the probate court in your area to ask for one.

The form will ask:

- If 30 days have passed since your spouse died
- If your spouse had a small estate (less than \$20,000 total in his/her name)
- If the answer is yes to both questions, sign the form in front of a notary public and give it to the bank. Many banks have a notary public right there. If you're not sure how to fill out the form, call us. We'll help you.

### **Case 2:**

#### **There's more than \$20,000 in the deceased spouse's estate**

If the bank account plus other property in your deceased spouse's name is more than \$20,000, you'll need help from a lawyer. And, you may need to go to court.

### **Case 3:**

If you have a check on your spouse's account payable to you and you bring it to the bank right after they die, the bank may be able to pay it.

There are laws about how long a bank can pay out on checks written on the account of a deceased person. Ask the bank about this. You can call us if you need help.

### **What about safe deposit boxes?**

The form mentioned in Case 1 above called the "Affidavit for Collection of Personal Property" may allow you to get into a safe deposit box in your deceased spouse's name. Banks have different rules about this. Sometimes they require a court order. If you're confused, call us for help.

Remember, safe deposit boxes are rented. If no one pays the rent due, the bank can require payment of back rent before handing over the contents.

### **Bill collectors are calling about my deceased spouse's medical bills and other bills. Do I have to pay them?**

Here's what the Maine law says: A husband or wife is NOT responsible for the bills of the other JUST because they're married. If you did not agree in writing to pay your spouse's bills, you don't have to pay them.

**Here's what to do:** Ask to see the written evidence that YOU, not your spouse, agreed to pay the debt. If they can't show it to you, you don't have to pay from your own property. If you're not sure about this, call us for help.

**Warning!** If your deceased spouse had property in his/her own name (called an "estate"), creditors may file a claim against that property. Read Know Your Rights #2 to learn more about MaineCare "Estate Recovery" claims.

**Remember to use common sense.** If your spouse had a debt like a car loan or house mortgage and you inherited the car or house, you must keep up the payments on the debt. Or, the creditor could take away the car or foreclose on the house. So, even if you are not responsible for the debt, you probably want to make those payments!

## How can I sell the house if it's in my name and my deceased spouse's name as joint tenants?

Most of the time, this can be done at low cost and quickly. BUT, you need some legal help with this. Don't try to do it alone.

You'll need a lawyer to:

- 1. Make sure you don't need court permission to sell the house.**
- 2. Get a "Certificate of Discharge of Estate Tax Lien."** Your lawyer must file two forms with Maine Revenue Services to get this discharge:
  - An Estate Tax Return, that says no estate tax is due.
  - The Certificate of Discharge itself that describes your house and says there's no estate tax due. Maine Revenue signs the Certificate and returns it to your lawyer. Your lawyer files it with the Registry of Deeds. Then you can sell the house.
- 3. Write a new deed to the buyers.**



### Who can help me if I have more questions?

If you are 60 or older, call the Legal Services for the Elderly Helpline at

**1-800-750-5353**

to speak with a free lawyer about your legal concerns