Transferring property to the kids could backfire

By Linda T. Cammuso, Esquire

Clients frequently ask, "Why can't I just put my house in my children's names?" It seems simple — and cheap — enough: protect assets, avoid probate, all just for the price of a deed and a recording fee. But as the old saying goes, "If something seems too good to be true, it probably is."

Legal Briefs

In today's economy, everyone is looking to cut corners. Legal services are no exception.

The following are just a few reasons why putting your home in your child's name might be a leap from frying pan to fire:

•Creditors — Suppose that your child gets into an accident or becomes the target of a lawsuit. Your home in your child's name (even though you live there) is now an asset of your child's. Does that creditor, who is looking to get paid, really care if you lose your home to your child's debt or judgment?

•Premature death — everyone hopes and expects their children will outlive them. But if your child predeceases you, your home will be an asset of your child's estate, and will now belong to his or her heirs. As much as you might love your child's spouse or children, did you really plan on them being your landlord?

•Divorce — The sad fact is that most parents will see at least one child go through a divorce. If your house is in your child's name, it is considered a "marital asset" of your child's (even if your child's spouse is not on the deed), and would be included in the divorce proceedings.

•Financial Aid — If your grandchild is going to college and applying for financial aid, many schools count real estate equity as an asset of the parent's. Your house could cause your grandchild to receive less financial aid by increasing the amount your child is required to pay.

•Taxes — Giving your home to your child during your life could result in significant capital gains taxes upon the sale of the home (even if it was sold during your life) that could otherwise be avoided with proper planning.

Some might think that a "life estate," which is a retained right to live in the home for the rest of your life, is the solution. But a life estate only lets you stay in the house; it can't prevent those things from happening to the house as an asset of your child's. And, with a life estate, you can't change your mind after the fact, even if the unexpected happens.

The use of a trust for your home can reduce or even eliminate the above risks. Your home is simply too precious to put at risk just to save a few dollars. Proper planning always pays off in the end. You owe it to your family — and most importantly, to yourself.

As elder law attorneys specializing in estate planning for long-term care, we work with clients to protect assets from nursing home stays or other long-term care situations.

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U.S. recession makes retiring at 65 harder, says study

DES MOINES, Iowa —

Workers in more than half of U.S. households will likely be unable to retire at 65 at the same lifestyle they enjoy today, a new study says.

The Center for Retirement Research at Boston College says its latest analysis of household financial status shows 51 percent are at high risk of falling short of having enough money in retirement. That's up from 44 percent in 2007.

The center's National Retirement Risk Index was developed with funding from Nationwide Mutual Insurance Co.

The index was first released in June 2006, when 43 percent of households were at risk of falling short of their pre-retirement standard of living. The measure was formulated using the Federal Reserve's 2004 Survey of Consumer Finances, a triennial survey of U.S. households, which collected detailed information on households' assets, liabilities and demographic characteristics.

In the past year, plummeting home values and investment losses in retirement accounts have combined to make matters worse.

"We are clearly facing a retirement crisis — one that will continue to grow as younger workers age," said Center for Retirement Research Director Alicia H. Munnell, in a statement. "To overcome today's retirement challenges, people need help understanding financial topics so they can make reasonable financial choices throughout their lives."

To come up with the latest index results, the center used the Federal Reserve's 2007 Survey of Consumer Finances and factored in the $7 trillion decline in equity holdings and the $3 trillion drop in housing values over the past year.

Those two asset sources are key to providing workers with adequate retirement income today since most workers do not have an employer-provided pension plan. Instead, they must rely on their own savings and home equity.

The center concludes that even if the stock market bounces back, home values are unlikely to return to pre-recession levels.

As Social Security's full retirement age moves to 67, life expectancy increases and retirement savings continue to remain at inadequate levels, the outlook will get worse over time, Munnell concluded.

Retiring won't become impossible, but it will require some thoughtful planning, said John Carter, president of Nationwide Financial Distributors Inc. Carter said many workers will need to save and invest more, reduce debt and work longer to maintain their standard of living in retirement. — AP