

Estate Planning Essentials Program



State Employees' Credit Union (SECU) is pleased to announce the Estate Planning Essentials Program, which allows members to meet with participating attorneys and have estate planning documents prepared at a predetermined price. SECU is committed to providing financial planning services and an estate plan is an important piece of a comprehensive financial plan. Recognizing the skill level that an experienced estate planning attorney has, and since the Credit Union may not provide the legal documents necessary, a slate of experienced estate planning attorneys has been identified who have agreed to prepare these documents at a set price for Credit Union members.

Services included in the Estate Planning Essentials Program are priced at \$275 for an individual and \$375 for married couples with substantially similar estate plans whose documents are prepared at the same time. A spouse who will not have substantially similar documents or will not have documents completed at the same time will be subject to the individual price of \$275. Participation in this Estate Planning Essentials Program is optional for members. The documents that may be included in the program include the following for each member:

- Will that may include trust provisions
- Durable Power of Attorney (POA)
- Health Care Power of Attorney (HCPOA) and Living Will
- HIPAA Authorization

Will that may include trust provisions

If you were to die tomorrow, how would your assets be distributed? If you are a resident of North Carolina and die without a will, your property will pass by the laws of Intestate Succession (N.C.G.S. 29). Current North Carolina statutes indicate that real and personal property will pass as follows:

- If you are married with children, the estate is divided between spouse and children.
- If you are married with no children but have a living parent, the estate is divided between the spouse and the parent.
 - This may affect distribution of real property that was purchased before you were married, or is not owned with right of survivorship.
- If you are not married but have children, the property goes to your children.
- If you are not married and have no children, all property goes to your parents or siblings.

With a will, you decide who will receive your property and in what proportion. You nominate an executor to manage and distribute the property of your estate. Your executor can be a family member or close friend, or you can name a corporate executor.

Corporate Executor Services

Members have the opportunity to utilize SECU Trust Services through Members Trust Company as corporate executor. SECU Trust Services has the expertise to effectively settle estates, adhering to final instructions and fiduciary responsibilities. The cost associated with serving as corporate executor ranges from 3-5% of probate assets (depending on the complexity of the estate) with a minimum account size of \$100,000, making SECU Trust Services very affordable.

Testamentary Trust

You can also establish a trust under a will, known as a testamentary trust. A will that contains a testamentary trust provision will control the distribution of assets beyond the member's death for beneficiaries such as minor children. You may need a trust if you want to have control over how funds are distributed at your death. Some circumstances that may benefit from a trust include:

- You do not want your minor children to receive money unrestricted at age 18
- You have a beneficiary who has special needs
- You have a beneficiary who may not be responsible with inherited money
- You have children from a previous relationship

A testamentary trust can be drafted with special provisions to allow the trust to be named as the primary or contingent beneficiary of an IRA, 401(k) or life insurance rather than naming the beneficiary directly. For example, a trust for minor children will appoint a trustee to control the assets until a more mature age such as 25 or 30, whereas if the minor child is named directly, those assets are transferred to the child at age 18, without restriction. Another concern if you have minor children (under age 18) and die without a will is the issue of guardianship of your minor children. If you die, and there is no surviving parent to care for your minor children, then the Department of Health and Human Services will have temporary guardianship of your children until a permanent guardian can be appointed by the Clerk of Superior Court. A will is a useful tool to provide for both the disposition of your property at your death and for the guardianship of your minor children. With a will, you can nominate a guardian for your children. You may need to consider both who you would want to take care of your children on a daily basis, and who you want to handle the finances on behalf of your children.

- A guardian of the person handles the daily physical care of your children such as food, clothing, shelter and school.
- A guardian of the estate handles the finances for your children.
- A general guardian serves as both guardian of the person and guardian of the estate.

Some attorneys and estate planners recommend that you keep the two roles separate by naming one person to care for your children in the event of your death and a different person to handle the money.

Corporate Trustee Services

Whether you need a will with trust provisions for minor children or for some other special circumstance, members have the opportunity to utilize **SECU Trust Services** through Members Trust Company to manage trust assets and oversee the distributions on behalf of beneficiaries. At a low-cost, annual tiered fee of 1.00%¹ with a minimum fee of \$900.00, and minimum account opening balance of \$100,000, these services are available to most SECU members.

Will Substitutes

It is important to note that not all property can be disposed of by your will or by intestate succession. Certain types of assets, known as “will substitutes” pass regardless of the terms of your will and intestate succession laws. The following are examples of “will substitutes”:

- Life insurance proceeds will be paid to the named beneficiary.
- Pensions funds, retirement accounts, IRA’s, will be payable to the designated beneficiary. If no beneficiary is designated, then the proceeds will be payable to your estate.
- Payable on Death (POD) designations will be payable to the designated beneficiary upon the death of all account owners. For an individual account with a POD designation, if the beneficiary predeceases the account owner, then the proceeds will be payable to the account owner’s estate.
- Property owned jointly with Right of Survivorship will pass to the surviving owner.
- Real property will transfer according to the deed. However, this transfer could be affected by your will, depending on how the deed is titled. For example:
 - Real property held tenancy by the entirety is restricted to being held only by spouses, and will automatically pass to the surviving spouse and will not be subject to the terms of the will.
 - Real property held tenants in common can be owned by any 2 or more individuals, and each individual’s share will be subject to the terms of his or her will.

While assets titled as “will substitutes” transfer outside of probate (and therefore, are not subject to the terms of your will), the dispositive provisions of these assets do not always address potential contingencies.

For example, you may have created a joint account with all of your children (or a POD/TOD account that names all of your children as beneficiaries), in order to allow those funds to transfer to the children at death. However, if you were involved in a common accident with one child, that deceased child’s children would not receive their share of the joint accounts. Instead, the joint accounts would be distributed among the surviving children, and you will have unintentionally disinherited your grandchildren.

An additional concern with joint accounts is the availability of the funds to the creditors of all owners. Therefore, if you add one of your children as joint on your account in order to allow that child to help with paying bills, those funds are immediately subject to that child’s creditors.

When to Review Your Estate Plan

As circumstances in your life change, you may need to update your will to reflect these changes. You may need to change your will to provide for the following life events:

- Marriage, Separation, or Divorce
- Birth or adoption of a child
- Death of a spouse, child, or other beneficiary
- Move to a different state
- Change in financial circumstance

Durable Power of Attorney (POA)

With a power of attorney, you can appoint someone to act on your behalf known as an agent or attorney-in-fact. Your agent should be someone you completely trust in making personal decisions for you. Listed below are several important terms to remember when looking at appointing someone to act on your behalf using a power of attorney document:

- **General Power of Attorney** – With this power of attorney, your agent can perform many legally binding transactions on your behalf without prior notice to you.
- **Special or Limited Power of Attorney** – A power of attorney granting your agent only certain powers or powers within a specified time period.
- **Durable Power of Attorney** – Typically, a power of attorney will cease to be in effect if you become incapacitated. Upon your incapacity, the court will have to appoint someone to act for you. However, if your power of attorney document specifies that it should remain in effect even if you become incapacitated, it is considered a durable power of attorney. A general or special power of attorney can also contain the appropriate language to make the document durable. In order to be effective after your incapacity, North Carolina requires that a durable power of attorney document be recorded with your local Register of Deeds office.
- **Springing Power of Attorney** – A durable power of attorney that is effective only in the event of your incapacity or incompetence.

Always remember that you can revoke your power of attorney at any time, as long as you are not incapacitated. Also, your power of attorney will cease to be in effect upon your death. Since a power of attorney is an important legal document, it should always be kept in a safe place, and your family should be informed of its location.

• Do I need a Power of Attorney?

If you know that you have a condition where you may not be able to act for yourself in the future, you may want to create a Power of Attorney. If you were to suddenly become incapacitated and you did not have a Power of Attorney, the courts would have to appoint a guardian to act on your behalf. It may not be the person you would have chosen. Accountings would have to be filed with the courts as well, which would allow your assets to become a matter of public record. There would also be a delay in the management of your financial affairs until the guardian could be appointed.

• Do I need an attorney to create a Power of Attorney?

SECU recommends that you consult an attorney in creating a Power of Attorney document. There are self-service templates that will allow you to make your own Power of Attorney document; however, we recommend consulting an attorney to obtain legal advice about your individual situation to avoid making an unforeseen mistake. A Power of Attorney is a very important legal document that grants someone else control of your financial and legal affairs. An attorney can assist in creating a document that is specific to your needs.

Advance Health Care Directives

Advance Health Care Directives include a Health Care Power of Attorney (HCPOA) and Living Will document, in addition to a HIPAA Authorization.

Have you thought about what kind of health care you would want at the end of life? Would you want your family to use life-sustaining procedures such as mechanical ventilation or artificial nutrition and hydration if you are terminally ill or if you are in a persistent vegetative state? Would you want your loved ones agonizing over making life and death decisions for you during a time of emotional turmoil?

By preparing an Advance Health Care Directive, you can make your own legally binding decisions or you can appoint an agent to make medical decisions if you cannot make them for yourself using a Health Care Power of Attorney (HCPOA) and Living Will.

A **Living Will** allows you to decide what type of life sustaining medical treatment you receive when there is no hope of your recovery. If you were in an accident that left you unable to make your own health care decisions or to speak for yourself, who would you want to speak for you and make your medical decisions? Many times the person who has the authority may not be the person you would have chosen.

A **Health Care Power of Attorney** allows you to appoint someone as your agent to make medical decisions for you any time you are unable to make your own treatment decisions, not just at the end of life. You can include special provisions or specific limitations about any medical treatment. Your agent should be at least 18 and should be a family member or close friend whom you trust to act in your best interests and make serious and very important medical decisions for you.

The **HIPAA Authorization** allows use and disclosure of protected health information to certain parties, providing them with access to otherwise protected health information to determine if they should begin acting on the principal's behalf.

You may change or revoke Advance Health Care Directives at any time by a written and notarized revocation form. Once your documents are prepared, it is important to make them easily accessible by providing copies and sharing your decisions with your loved ones and your physician. In addition, you may want to consider filing your documents with the NC Secretary of State's Advance Health Care Directives Registry. Although registration is not required, for a small fee, the registry service makes your documents readily available online to health care providers such as hospital and emergency physicians.

Who is eligible to participate in this program?

The Estate Planning Essentials Program is available to members who are at least 18 years of age and of sound mind. Although no one likes to think about incapacity or death, everyone should consider having documents in place and be aware of the consequences of not being prepared.

Summary

The Estate Planning Essentials program is intended to cover the estate planning needs of most members whose situation can be addressed in a single appointment with the attorney. However, if a situation requires more complex planning, this program may not be sufficient. In such a situation, a Trust Representative will work with the member and a local attorney chosen by the member to address complex estate planning needs. Some factors that might require more complex planning include the following:

- children from a previous relationship
- a beneficiary who has special needs
- a beneficiary who may not be responsible with inherited money
- a need for professional assistance with paying bills or managing assets upon incapacity
- one spouse does not have the desire or ability to manage the family financial matters if the other spouse becomes incapacitated or dies first
- net value of the potential estate, including life insurance and retirement accounts, exceeds \$5 million (This amount may change if changes are made to tax laws.)
- real estate owned outside of North Carolina

If any of the above factors apply, the member's estate planning needs may be complex. A Trust Representative will be able to identify these and other complex estate planning issues that may not be sufficiently addressed through this program. A Trust Representative can discuss these complex situations and address any additional planning that may be needed.

The Estate Planning Essentials Program is available at branch locations across the State. In order to participate, a member will need to meet with an SECU Trust Representative to discuss general estate planning concerns and to educate and prepare themselves for the appointment with the attorney. Although the Trust Representative does not act on behalf of the attorney, an initial conversation will help members understand what types of things need to be considered before meeting with the attorney and allow the Trust Representative to answer any questions that may arise. The Trust Representative will coordinate and identify available appointments in the area, gather the member's contact information and schedule the appointment at the most convenient location and time for the member.

Once the appointment has been scheduled and the attorney has received the member's contact information, the attorney will send a questionnaire to be completed and sent back by the member no later than one week before the scheduled appointment. The questionnaire will allow the attorney to create a draft document in preparation for the appointment. During the meeting, the attorney will review the information provided in the questionnaire with the member(s). During this process, the attorney will make changes to the documents as needed and answer any questions. Once all changes have been made, the attorney will print the document, explain the provisions of each document, and have the member(s) sign the documents. The attorney will supervise the execution of the documents by the member(s).

The credit union continues its goal to be a trusted provider of financial services for its members. With the addition of this program, another great benefit has been added to our suite of financial services.

If you are interested in participating in the Estate Planning Essentials Program and would like to discuss your specific situation, please contact your local branch and ask to speak to a Trust Representative.

Attorneys participating in the Estate Planning Essentials Program are not employees or agents of the Credit Union (SECU, LGFCU or NCPAFCU), Members Trust Company or any affiliated entity. SECU Trust Representatives are not employees or agents of the participating attorneys. The Credit Union and Members Trust Company are not providing legal services and are not responsible for the services provided by these independent professionals. The Estate Planning Essentials Program is an optional program for members. Credit Union members have the option to use an attorney participating in the program or select their own attorney.

Trust Services offered through Members Trust Company, a federal thrift regulated by the Office of the Comptroller of the Currency. Trust products are not credit union deposits, are not insured by the NCUA or any other federal government agency, are not obligations of or guaranteed by the credit union, Members Trust Company or any affiliated entity, and involve investment risks, including the possible loss of principal. The material above is for educational purposes only and is not intended to provide legal or tax advice regarding your situation. For legal or tax advice, please consult your attorney and/or tax professional.

¹The tiered fee schedule offered by SECU Trust Services is 1.00% on the first \$1,000,000 of assets; .85% on the next \$2,000,000 of assets; and .60% on assets above \$3,000,000. Members Trust Company may charge fees for extraordinary services including estate settlement services with a trust

