

Legal Basics: Elder Financial Exploitation

CHAPTER SUMMARY • January 2018

Charles P. Sabatino, ABA Commission on Law and Aging¹

American Bar Association Commission on Law and Aging

The mission of the American Bar Association Commission on Law and Aging (ABA Commission) is to serve as the collaborative, interdisciplinary leader of the Association’s work to strengthen and secure the legal rights, dignity, autonomy, quality of life, and quality of care of aging persons, particularly low-income and vulnerable elders. Since 1979, the ABA Commission has carried out this mission through research, policy development, technical assistance, advocacy, education, and training.

Key Lessons

1. There are many different types of financial exploitation. Financial exploitation is costly, devastating, and usually unreported.
2. It is important to observe and screen for common characteristics of victims and perpetrators of exploitation.
3. Several legal action strategies are available to attorneys to prevent, intervene, and redress financial exploitation.
4. Take advantage of systems change opportunities. No one entity is fully capable of preventing the problem or meeting the needs of victims. Each has a crucial role to play, and interaction and collaboration among resources and stakeholders is necessary.

Section 1: Definition & Types of Financial Exploitation

Financial exploitation is one form of elder abuse.² Federal and state laws use a myriad of definitions, and different categories within those definitions, for elder abuse and financial exploitation. Financial exploitation is defined in the Older Americans Act as:

“The fraudulent or otherwise illegal, unauthorized, or improper act or process of an individual, including a caregiver or fiduciary, that uses the resources of an older individual for monetary or personal benefit, profit, or gain, or that results in depriving an older individual of rightful access to, or use of, benefits, resources, belongings, or assets.”³

Similarly, the National Research Council and the Government Accountability Office⁴ define “unjust, improper, and/or illegal use of another’s resources, property, and/or assets” as financial exploitation.

At the state level, legislative definitions vary. State law civil and criminal definitions of financial abuse or exploitation can be found through the Department of Justice Elder Rights Initiative website.⁵

¹ The author thanks his colleague Lori Stiegel for the use of portions of her materials.

² For more Legal Basics information on Elder Abuse, see: <https://ncler.acl.gov/pdf/Legal-Basics-Elder-Abuse.pdf>.

³ 42 U.S.C.A. § 3002.

⁴ Bonnie, Wallace R. *Elder Mistreatment: Abuse, Neglect, and Exploitation in an Aging America*. National Research Council (U.S.). Washington: National Academies Press (2003).

⁵ U.S. Department of Justice, Elder Rights Initiative. See <https://www.justice.gov/elderjustice/prosecutors/statutes> (last visited December 22, 2017).

Research and professional anecdotes indicate that elder abuse victims usually experience multiple types of abuse; this may be referred to as “polyvictimization.”⁶

Types of financial exploitation

There are differing ways of categorizing types of financial abuse and exploitation, and the boundaries between them can be blurry, but one simple distinction divides financial exploitation into two types: those by a “known” person and those by a “stranger”:

- **Known person:** Financial abuse/exploitation by a known person (a family member, close friend, caregiver, or person/organization in a position of trust) who breaches the trust of a vulnerable person and misuses the individual’s funds to serve their own needs at the elder’s expense. Remedies for these kinds of abuse are generally civil and possibly criminal.
- **Stranger or “new friend”:** Fraud, misrepresentation, or scams by a stranger or “new friend” who deceives the vulnerable person via an ever-changing variety of con games, such as bogus lotteries, sweetheart swindles, grandparent scams, fake charities, home repair fraud, IRS back taxes schemes, identity theft, etc. These are generally all criminal forms of abuse.

A 2015 study by True Link Financial breaks out a subset of the fraud and misrepresentation category above of exploitation that is done openly with the claimed consent of the victim and involved matters such as hidden shipping and handling or subscriptions; work-from-home schemes; and quack weight loss or dietary products or other dubious sales.⁷ This might be thought of as snake oil salesman abuse and may or may not rise to the level of criminal fraud.

Institutional abuse in long-term care settings pose uniquely different challenges and is often categorized separately. Nursing home and institutional abuse is outside the focus of this Chapter Summary.

The extent of financial exploitation

Financial exploitation of older adults is a prevalent and underreported problem. The National Elder Mistreatment Study by Ron Acierno and colleagues surveyed a national sample of community-residing, cognitively intact, adults aged 60 years and older in 2008. The study found that over 11% of respondents reported experiencing some type of abuse or potential neglect in the past year, with the most frequent form of mistreatment noted being financial exploitation by family members (5.2%).⁸ This is likely a low estimate since those with cognitive impairments, no phone, or who are living in facilities were excluded. Other studies have shown slightly lower levels, but limited samples and methodologies have made precise data elusive.

A 2011 Federal Trade Commission survey of the prevalence of scams and fraud in the U.S. found that 7.3% of adults 65-74 and 6.5% of adults 75 and older were victims. Another factor making good data hard to come by is underreporting of elder abuse of all forms: only 1 in 5 cases⁹ to 1 in 23 cases is reported.¹⁰

6 Pamela B. Teaster, “A Framework for Polyvictimization in Later Life,” 29(5) *J. Elder Abuse & Neglect* 289 (2017).

7 True Link Financial, *The True Link Report on Elder Financial Abuse 2015*, <https://truelink-wordpress-assets.s3.amazonaws.com/wp-content/uploads/True-Link-Report-On-Elder-Financial-Abuse-012815.pdf>. (last visited December 22, 2017).

8 Acierno R, Hernandez MA, Amstadter AB, Resnick HS, Steve K, Muzzy W, Kilpatrick DG. “Prevalence and Correlates of Emotional, Physical, Sexual, and Financial Abuse and Potential Neglect In the United States: The National Elder Mistreatment Study. *100 AM J Public Health* 292-7 (2010).

9 National Center on Elder Abuse. *The National Elder Abuse Incidence Study*, Final report to the Administration on Children and Families and Administration on Aging, U.S. Department of Health and Human Services, Grant No. 90-AM-0660 (1998).

10 Lifespan of Greater Rochester, Inc., Weill Cornell Medical Center of Cornell University & New York City Department for the Aging, *Under the Radar: New York State Elder Abuse Prevalence Study* (2011).

The cost of elder financial exploitation

Financial exploitation is enormously costly to a victim's health and economic security. Studies estimate the financial loss due to exploitation in the billions of dollars. A 2010 MetLife study examined news and media articles about elder financial exploitation and estimated annual financial losses to seniors at approximately \$2.9 billion.¹¹ Yet, a 2014 survey of Americans aged 50–70 by True Link Financial estimated annual losses at a much higher \$36.5 billion.¹²

For elder abuse in general, multiple studies have shown that elder abuse increases a victim's risk of hospitalization by three times, nursing home admission by four times, and mortality by three times.¹³ Advocates for older adults know that elder abuse also may cause impoverishment and the need to rely on government benefit programs (although financial exploitation also may lead to Medicaid penalties),¹⁴ as well as homelessness or involuntary co-housing.

Section 2: Victim and Perpetrator Characteristics and Screening

Attorneys working with older adult clients should become familiar with the characteristics of victims who may be at risk for financial exploitation. Factors that have been shown to increase the risk of being a victim of abuse in general include: age, female gender, cognitive impairment, physical impairments, depression, loneliness, substance abuse, and social isolation.¹⁵

Perpetrators of abuse are predominantly family members or another person in a relationship of trust and more likely to be younger than the victim. "Relationship of trust" is a term commonly used to describe the relationship an older adult has with intimate partners, relatives, paid or unpaid caregivers, friends, neighbors, and fiduciaries such as agents under a power of attorney, trustees, guardians, or conservators. Factors that increase the likelihood of being a perpetrator include caregiver burden, depression, substance abuse, and other mental health issues, and a lack of social supports.¹⁶

The victim-perpetrator relationship tends to make it very difficult for victims to rectify their circumstance or seek help. Victims may not recognize the exploitation. They may fear retaliation, disbelief by others, or the stigma of victimization. They may depend on the perpetrator for all or most of their needs. They may be reluctant to get perpetrator in trouble, or worse, fear that the result will be their own placement under guardianship or in a nursing home.

In addition to characteristics, attorneys should also be aware of different situations that may indicate the risk or occurrence of financial exploitation. These common indicators include:

Financial changes:

- Banking inconsistent with elder's ability and past history
- Unusual ATM use or wiring of money

11 The MetLife Mature Market Institute, et al., *The MetLife Study of Elder Financial Abuse: Crimes of Occasion, Desperation, and Predation Against America's Elders* (June 2011). <https://www.metlife.com/assets/cao/mmi/publications/studies/2011/mmi-elder-financial-abuse.pdf>. (last visited December 22, 2017).

12 True Link, *The True Link Report on Elder Financial Abuse 2015 1*, <https://truelink-wordpress-assets.s3.amazonaws.com/wp-content/uploads/True-Link-Report-On-Elder-Financial-Abuse-012815.pdf> (last visited December 22, 2017).

13 Marie-Therese Connolly, et al., *The Elder Justice Roadmap, A Stakeholder Initiative to Respond to an Emerging Health, Justice, Financial and Social Crisis 3* (2014), https://www.justice.gov/elderjustice/research/resources/EJRP_Roadmap.pdf. (last visited December 22, 2017).

14 See Elder Financial Abuse and Medicaid Denials, (2017), available at: <https://ncler.acl.gov/pdf/Elder-Financial-Abuse-and-Medicaid-Denials.pdf>.

15 Ruijia Chen and XinQi Dong, "Risk Factors of Elder Abuse," in XinQi Dong (ed.), *Elder Abuse: Research, Practice and Policy* (2017).

16 *Id.*

- Changed or missing financial documents
- Failing to pay bills normally paid

Document and property changes:

- Forged or suspicious signature on documents
- Missing property
- Failure to remember or understand recent transactions

Personal and relationship changes:

- Lack of previously enjoyed necessities or amenities
- Recent, new “best friends” or “sweethearts”
- Isolation due to actions by others
- Changes in elder’s appearance, mood, habits
- Being accompanied by a coercive other person

Screening tools for abuse and neglect have a scattered and limited history.¹⁷ There is no proven standard for elder abuse screening. Of tools that exist, a majority are designed for use by health care providers. In all cases, a positive screening for elder abuse means that further information should be gathered. It’s not conclusive that elder abuse is occurring.

Beyond screening, there are some practical tools that enable advocates to collect relevant information in a practical way and identify red flags that help determine whether further investigation is necessary:

- Since diminished capacity is an important risk factor for exploitation, it is important to have a system in place to screen all clients for capacity issues. A Handbook by the American Bar Association and American Psychological Association titled, *Assessment of Older Adults with Diminished Capacity: A Handbook for Lawyers* (2005) includes in-depth guidance and a 4-page worksheet to screen for incapacity.¹⁸
- The Investor Protection Trust (IPT) and its collaborators developed a handy *Pocket Guide on Elder Investment Fraud and Financial Exploitation (EIFFE)* for clinicians that is instructive for a wider audience of professionals.¹⁹
- The ABA Commission on Law and Aging collaborated with IPT to develop an *EIFFE* training for lawyers to identify and respond ethically and effectively to exploitation. The project’s 2-page Checklist for Lawyers is included as an **Appendix** to this Chapter Summary.
- The Consumer Financial Protection Bureau series of booklets *Managing Someone Else’s Money*, all include lists of common signs for financial exploitation and consumer scams.²⁰
- Undue Influence often fuels financial exploitation. It can occur even when the elder’s decision-making capacity appears quite intact. While state law definitions and standards for undue influence vary

17 Margot J. Schofield, “Screening for Elder Abuse: Tools and Effectiveness,” in XinQi Dong (ed.), *Elder Abuse: Research, Practice and Policy* (2017).

18 *Assessment of Older Adults with Diminished Capacity: A Handbook for Lawyers* (2005), available at https://www.americanbar.org/groups/law_aging/resources/capacity_assessment.html

19 *Pocket Guide on Elder Investment Fraud and Financial Exploitation*, available at: <http://www.investorprotection.org/ipt-activities/?fa=eiffe-pp>

20 *Managing Someone Else’s Money*, Consumer Financial Protection Bureau, available at: <https://www.consumerfinance.gov/consumer-tools/managing-someone-elses-money>.

widely, their themes are similar. The *California Undue Influence Screening Tool*, developed by the California Elder Justice Coalition, can be useful for any advocate as a starting point for undue influence assessment in any state.²¹

PRACTICE TIP: Client Interviews

It is beneficial to ask **all** clients about whether they have any financial management concerns. Attorneys should determine who the client is, if it is not obvious, and interview the client alone. During the client interview, first explain that you (the attorney) ask clients these questions because you need to know about all issues affecting their case to provide competent representation. Next, if you practice in a state that mandates lawyers to report suspected financial exploitation to Adult Protective Services (APS), explain your ethical and legal responsibilities and their potential implications. It is useful to develop a thoughtful script for introducing the topic and initial questions, as it is easier for clients to answer questions than volunteer information. Even if the client chooses not to discuss certain issues, they have an opening to return for future help.

Section 3: Action Steps

There are steps lawyers can take to help prevent financial exploitation and protect clients.

Prevention

Lawyers can help prevent elder abuse in multiple ways, before and after problems are detected. Prevention activities include: educating older adults and other professionals through presentations and materials; counseling clients about vulnerability; connecting clients to needed health or social services; and recommending that clients take steps to minimize the risk of abuse and facilitate its detection, such as by limiting the use of joint bank accounts or including oversight provisions in powers of attorney, supported decision-making agreements, or trusts.

PRACTICE TIP: Prevention and Powers of Attorney

Powers of Attorney (POA) are especially susceptible to being abused since they can confer broad powers with no supervision. Abuse can occur in their creation because of the principal's incapacity, or by forgery or misrepresentation, or undue influence. Even when voluntarily and competently executed, abuse can occur later where the agent's authority is exceeded, or the agent engages in self-dealing or in transactions that contravene the principal's expectations.

While power of attorney drafting is a topic beyond the scope of this summary, a few drafting tips that can decrease the likelihood of financial exploitation are highlighted here for consideration in drafting any POA: **require annual accountings to a third person or persons; require a second signature for large transactions; and grant a power to revoke to a 3rd person.**

It is also important to limit "hot powers," those that can substantially change or undermine a person's financial goals and plans. The Uniform Power of Attorney Act²² identifies these as powers to: **make a gift (including limitations on amounts and beneficiaries); create or change rights of survivorship; create or change a beneficiary designation; create, amend, revoke, or terminate a trust; delegate agent's authority; waive principal's rights under a joint and survivor annuity, including survivor benefits under a retirement plan; and disclaim property, including a power of appointment.**

21 *California Undue Influences Screening Tool*, available at: [available at http://www.elderjusticecal.org/blueprint.html](http://www.elderjusticecal.org/blueprint.html).

22 Uniform Law Commission, Uniform Power of Attorney Act (2006). Available at <http://www.uniformlaws.org/Act.aspx?title=Power%20of%20Attorney>. (last visited December 22, 2017).

Reporting

APS laws in every state, except New York, require mandatory reporting about suspected elder abuse to APS by some professionals and providers in some circumstances. A growing number of APS laws also require reporting to law enforcement or some other agency under more limited circumstances. Lawyers are mandatory reporters in some states, either because they are specifically listed as reporters or because the APS law requires everyone to report. In addition, other federal and state laws may mandate reporting to other agencies.²³

Professionals need to assess their reporting obligations and ethical duties, and then counsel clients about confidentiality during initial interviews and subsequently if necessary.

Protection

After abuse occurs, or after abuse is suspected, lawyers can use legal tools to protect an elder abuse victim from further harm. These legal actions may include:

- Revoking legal documents
- Obtaining a separation or divorce for the client
- Petitioning for protection orders or injunctions
- Bringing eviction or other removal proceedings against an abuser
- Petitioning for, opposing, limiting, or terminating appointment of a guardian or conservator who is a perpetrator

Redress

Many civil actions are possible against an abuser and require state-specific research to determine their appropriateness, feasibility, standards, and procedures. They all open up certain challenges as remedies for financial exploitation. Judicial procedures may be cumbersome and subject to delays. Evidence and witnesses may be unavailable, and your client may lack capacity to testify. Proving a lack of capacity at earlier points in time may be difficult, and proving undue influence takes considerable indirect evidentiary development. The victim may lack the resources for a judicial battle, and most serious of all, the perpetrator may lack money for restitution. Nevertheless, thorough investigation and good lawyering can overcome many of the obstacles.

Civil actions to rectify elder abuse may include:

- Seeking an accounting
- Rescinding transfers or voiding documents due to fraud, incapacity, or undue influence
- Breach of contract
- Breach of fiduciary duty
- Constructive trusts
- Conversion
- Fraud
- Rescission
- Restitution
- In a few jurisdictions, a private right of action for elder abuse

²³ See National Adult Protective Services Association, <http://www.napsa-now.org/wp-content/uploads/2014/11/Mandatory-Reporting-Chart-Updated-FINAL.pdf>.

Historically, criminal remedies have been underutilized. But recent years have brought an increasing recognition of financial exploitation as a crime, with increased involvement of law enforcement and prosecutors. Legislatures are strengthening laws and penalties for abuse against elders, and public court systems are re-examining their own procedures and community connections. While this is all good news, the field is still in a germinal stage.

Section 4: System Change Opportunities

Numerous systems address elder abuse. These include but are not limited to:

- Adult Protective Services;
- Aging and Disability Services: long-term services and supports, long-term care ombudsman program, protection and advocacy programs;
- Civil Justice System: legal aid programs, private practitioners, *pro bono* programs, alternative dispute resolution services, guardians, state Attorneys General;
- Criminal Justice System: law enforcement; crime victim services; prosecutors—local, state (Medicaid Fraud Control Units, Attorneys General), federal (U.S. Attorneys, U.S. Department of Justice); community corrections (pre-trial, probation, parole); coroner/medical examiner;
- Federal Agency Benefit Programs (e.g., Social Security Administration, Veterans Administration);
- Financial Services Industry and Regulators;
- Health Care and Mental Health Care Systems and Regulators;
- Housing services;
- Judicial Systems: traditional courts; problem-solving courts such as elder protection courts or family violence courts; court programs such as elder justice centers or self-help centers; and
- Victim Services, Elder Abuse Multidisciplinary Teams, and advocacy coalitions.

No one system can meet all of a victim's needs. Therefore, in addition to providing direct services to victims, advocates need to learn more about other systems and engage them in finding solutions to systemic elder abuse issues.

Conclusion

Elder financial exploitation takes many forms, is widespread, and is often intertwined with other forms of abuse and neglect. Financial exploitation has devastating consequences for victims, and is very costly to victims' families, businesses, and taxpayers. As victims rarely report elder abuse, law and aging network programs need to interview clients effectively and take steps to provide services competently and safely. Civil lawyers can play an especially effective role in preventing, identifying, and responding to financial exploitation on both an individual and systems level.

Additional Resources

- Lori Stiegel, lori.stiegel@americanbar.org
- Key Statutes Governing Elder Abuse
 - » Elder Justice Act, 42 U.S.C. § 1397j *et seq.* and 42 U.S.C. § 1320b-25
 - » Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 *et seq.*
 - » Elder Abuse Prevention and Prosecution Act, PL 115–70 [S 178], approved October 18, 2017.
 - » State Adult Protective Services Laws

- Key Federal Regulations Related to Elder Abuse
 - » Long-Term Care Ombudsman Program Regulations 45 CFR Parts 1321 and 1327
- Key Federal Agencies Addressing Elder Abuse
 - » U.S. Administration for Community Living, Department of Health and Human Services, www.aoa.acl.gov
 - » Consumer Financial Protection Bureau, www.consumerfinance.gov/older-americans
 - » The Federal Trade Commission, www.ftc.gov
 - » U.S. Department of Justice
 - Elder Justice Initiative, www.justice.gov/elderjustice
 - National Institute of Justice, www.nij.gov/topics/crime/elder-abuse/pages/welcome.aspx
 - Office for Victims of Crime, www.ojp.usdoj.gov/ovc
 - Office on Violence Against Women, www.justice.gov/ovw
- Select National Entities Providing Additional Resources
 - » American Bar Association Commission on Law and Aging, www.americanbar.org/aging
 - » National Center on Elder Abuse, www.ncea.acl.gov

Case consultation assistance is available for attorneys and professionals seeking more information to help older adults. Contact NCLER at ConsultNCLER@acl.hhs.gov.

This Chapter Summary was supported by a contract with the National Center on Law and Elder Rights, contract number HHSP233201650076A, from the U.S. Administration for Community Living, Department of Health and Human Services, Washington, D.C. 20201.

Elder Investment Fraud and Financial Exploitation: Checklist for Lawyers



Screen all older clients about whether they are experiencing investment fraud and financial exploitation because:

- Victims often will not disclose their situation voluntarily but they will do so if asked;
- Establishing the practice of asking all clients reduces the stigma felt by the victim and helps you feel more comfortable about asking sensitive questions; and
- Questions that demonstrate an awareness of the issue indicate to clients that they can seek help from you in the future if they are not ready or able to do so now.

Before asking older clients about investment fraud and financial exploitation as part of their initial interview:

- Determine who your client is, if it is not obvious;
- Interview your client alone;
- Explain that you ask clients these questions because you need to know about all issues affecting their case to provide competent representation; and
- Explain your ethical and legal responsibilities and their potential implications if you practice in a state that mandates lawyers to report suspected financial exploitation to adult protective services.

Be aware of red flags in client history:

- Social isolation
- Bereavement
- Client's dependence on possible exploiter (for care, financial support, housing, companionship)
- Possible exploiter's dependence on client (for care, financial support, housing, companionship)
- Alcohol or drug abuse
- Depression or mental illness

National resources for additional information:

- Investor Protection Trust, www.investorprotection.org
- American Bar Association Commission on Law and Aging, www.americanbar.org/aging
- North American Securities Administrators Association, www.nasaa.org
- National Adult Protective Services Association (to find APS agencies), www.napsa-now.org
- Eldercare Locator (to find state and local aging and disability services), www.eldercare.gov

Client Background:

Client Name:

Attorney(s)/Interviewer(s)
Name(s):

Date, Time, and
Place of Interview:

If Another Person is Present During Interview, Describe
Who, Relationship to Client, and Why:

See Possible Indicators on Next Page and Make Notes Here:

Possible Indicators

	Reported by Client	Reported by Other	Observed by Lawyer
Accompaniment by a stranger, family member or other person especially if they seem to prevent self-expression or decision-making, or to coerce decisions or transactions			
Accusations that caregivers, family members, or others are taking or mismanaging assets			
Banking activity that is erratic, uncharacteristic, or inconsistent with ability			
Carrying financial documents around in bags all the time			
Changes in appearance, grooming, hygiene, mood, patterns of eye contact			
Changes in property titles, will, or other documents, particularly if the person is confused and/or the documents favor new acquaintances			
Concern or confusion about missing funds or property			
Confusion about executing or having executed a power of attorney			
Expressions of fear, such as cringing or withdrawing			
Fearful of eviction, institutionalization, or abandonment if money or other assets are not given to caregiver or others			
Frequently forgetting or claiming to have forgotten ATM card, checkbook, deposit slips, or other items needed for financial transactions			
Hesitance to enter into or engage in conversation			
Implausible explanations about what is being done with money or property			
Lack of awareness or understanding of recently completed financial transactions			
Excessive contacts by telemarketers			
Facing eviction or discontinuation of utility services			
Failure to receive services for which payment has been made			
Forged or suspicious signature on documents			
Isolation by others			
Lack of care for the individual or residence when arrangements have been made for providing personal care or home maintenance services			
Lack of seemingly affordable necessities or amenities			
Missing documents related to accounts, pensions, stock, government payments, etc.			
New acquaintances, particularly those who have moved in to residence			
Signs of excessive or unauthorized trading of investment funds			
Suddenly stopped receiving mail, particularly bills			
Suspicious activity on credit card or other financial accounts			
Unsuitable investments due to level of risk or age of client			

Screening Questions should be direct, but not conclusive. Asking clients if they have been exploited or defrauded is not useful if clients do not understand or relate their experiences to those terms. Start with general questions and then turn some of the possible indicators into questions. Delve deeper if appropriate.

- Who makes decisions about your money and property? How is that going?
- How do you get cash when you need it? Any problems with that?
- Does anyone have access to your bank account? How is that going?
- Have you noticed any suspicious or unusual items on your bills?
- Have you noticed money missing from your bank accounts or checks missing from your checkbook?
- Are any of your belongings missing from your home?
- Have you signed documents that you did not understand or want to sign because someone encouraged, forced, or deceived you?
- If you have a power of attorney, does your agent do things that you do not want your agent to do?
- Does your paid caregiver make you pay extra for things that the caregiver is supposed to do or get for you anyway?
- Did you want that person to come with you to this appointment? Did that person insist that you come see me? Did that person take you to see other lawyers before me?
- Do you live with anyone? When did that person move in? Why? Whose name is on the title (lease)? Does that person pay a share of your mortgage (rent) and household expenses?