

HOUSE No. 1533

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act to clarify the language of the General Laws relative to homesteads..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 188 of the General Laws is hereby amended by striking out
2 sections 1 and 1A and inserting in their place the following section:-

3 The real property or manufactured home of an owner, as herein defined shall be protected
4 against attachment, seizure or execution of judgment to the extent of \$300,000, provided,
5 however, that such owner has filed a declaration of homestead as provided in section 2; and,
6 provided further, that such owner occupies or intends to occupy such real property or
7 manufactured home as his principal residence.

8 For the purposes of this chapter, an owner shall include a sole owner, joint tenant, tenant
9 by the entirety, tenant in common, or one who rightfully possesses the premises by lease or
10 otherwise. A trustee may file a declaration of homestead for real property or a manufactured
11 home that is held in trust provided the trustee occupies the property or home as his principal
12 residence.

13 Where a husband and wife both sign a single declaration of homestead, it shall have the
14 same effect as if they each filed a separate declaration of homestead. The registry of deeds filing
15 fee for a declaration of homestead signed by both husband and wife shall be the same as the
16 filing fee charge for an individual declaration of homestead.

17 The protections of this chapter shall extend to debts incurred by a family member of said
18 owner so long as said family member occupies or intends to occupy such real property or
19 manufactured home as his principal residence. For purposes of this chapter, the term “family
20 member” shall mean the spouse, child, or children, or parent of said owner.

21 An owner who has filed a declaration of homestead but who, as the family member of
22 another owner, is entitled to the protection of one or more additional homesteads filed by such
23 owner, may combine the exemptions of all such declarations of homestead.

24 The following shall be exempt from the provisions of this chapter:

- 25 1. Federal, state and local taxes, assessments, claims and liens:
- 26 2. Debts contracted that are secured by a mortgage on the premises, whether said
27 mortgage was executed by the owner or by a predecessor in title;
- 28 3. Any and all debts, encumbrances or contracts existing prior to the filing of the
29 declaration of homestead;
- 30 4. An execution issued from the probate court to enforce its judgment that a spouse
31 pay a certain amount weekly or otherwise for the support of a spouse or minor children;
- 32 5. Where buildings on land not owned by the owner of a homestead estate are
33 attached, levied upon or sold for the ground rent of the lot whereon they stand;

34 6. Upon an execution issued from a court of competent jurisdiction to enforce its
35 judgment based on fraud, mistake, duress, undue influence or lack of capacity.

36 SECTION 2. Section 6 of said chapter 188, as so appearing, is hereby amended by
37 striking out the last sentence.

38 SECTION 3. Said section 6 of said chapter 188, as so appearing, is further amended by
39 striking out, in line 6 the words “such property” and inserting in their place the words: - property
40 which is subject to a mortgage executed before an estate of homestead was acquired therein, or
41 executed afterward and containing a release thereof.

42 SECTION 4. Section 7 of said chapter 188, as so appearing is hereby amended by adding
43 the following paragraph: -

44 A mortgage executed by an owner for property that is already subject to a declaration of
45 homestead shall not terminate such homestead.