

SENATE No. 1712

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act further regulating debt collection..

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. Section 34 of Chapter 235 of the General Laws, as appearing in the
2 2003 Official Edition, is hereby amended by striking out Paragraph First and inserting, in its
3 place, the following:

4 First, The necessary wearing apparel, beds and bedding for the debtor and the debtor’s
5 family; one heating unit used for warming the dwelling house; one stove used primarily for the
6 personal,

7 family, or household use of the debtor or a dependent of the debtor; one refrigerator so
8 used; one

9 freezer so used; one hot water heater so used; and the amount each month, not exceeding
10 five

11 hundred dollars, reasonably necessary to pay for fuel, heat, refrigeration, water, hot water
12 and

13 light for the debtor and the debtor’s family.

14 SECTION 2. Said Section 34 is hereby further amended by replacing, in
15 Paragraph Second, the words “three thousand dollars” with the words “fifteen thousand dollars”.

16 SECTION 3. Said Section 34 is hereby further amended by replacing, in
17 Paragraph Third, the words “two hundred dollars” with the words “five hundred dollars”.

18 SECTION 4. Said Section 34 is hereby further amended by replacing, in
19 Paragraph Fifth, the words “five hundred dollars” with the words “five thousand dollars”.

20 SECTION 5. Said Section 34 is hereby further amended by replacing, in
21 Paragraph Sixth, the Words “five hundred dollars” with the words “five thousand dollars

22 SECTION 6. Said Section 34 is hereby further amended by replacing, in
23 Paragraph Seventh, the words “three hundred dollars” with the words “six hundred dollars”.

24 SECTION 7. Said Section 34 is hereby further amended by replacing, in
25 Paragraph Ninth, the words “five hundred dollars” with the words “one thousand five hundred
26 dollars”.

27 SECTION 8. Said Section 34 is hereby further amended by replacing, in
28 Paragraph twelfth, the words “two hundred dollars each in value” with the words “three hundred
29 dollars each in resale value, and one computer and one television, in actual use by each debtor or
30 by his family.”.

31 SECTION 9. Said Section 34 is hereby further amended by replacing, in
32 Paragraph Fourteen, the words “two hundred dollars” with the words “two thousand five hundred
33 dollars”.

34 SECTION 10. Said Section 34 is hereby further amended by replacing, in
35 Paragraph Fifteenth, the words “one hundred and twenty-five dollars” with the words “two
36 thousand, five hundred dollars on any day.”.

37 SECTION 11. Said Section 34 is hereby further amended by replacing, in
38 Paragraph Sixteenth, the words “seven hundred dollars” with the words “seven thousand five
39 hundred dollars of wholesale resale value; however, the equitable value of a vehicle owned or
40 substantially used by a disabled person or a person 60 years of age or older shall be exempt up to
41 fifteen thousand dollars in wholesale resale value.”

42 SECTION 12. Said Section 34 is hereby further amended by inserting the
43 following three paragraphs after Paragraph Sixteenth, as so amended:

44 Seventeenth, The debtor’s aggregate interest in any personal property, not to exceed in
45 value

46 one thousand dollars plus up to five thousand dollars of any unused dollar amount of the
47 aggregate exemptions provided under paragraphs Second, Fifth and Sixteenth of this
48 Section.

49 Eighteenth, The debtor’s aggregate interest, not to exceed one thousand two hundred
50 twenty-

51 five dollars in value, in jewelry held primarily for the personal, family, or household use
52 of the

53 debtor or the spouse or a dependent of the debtor. Nineteenth, Defendants shall be
54 provided a notice when judgment is entered generally describing the income and property

55 exemptions provided by federal law and the laws of the Commonwealth in plain English. The
56 defendant is entitled to assert the exemption at the time of the seizure, and the seizing officer
57 shall not seize any exempt property. The defendant is entitled to a prompt hearing to determine
58 whether property seized by execution is exempt and to an order to promptly return exempt
59 property to the defendant, an award of attorney fees reasonably incurred by the defendant to
60 obtain the order, and any actual damages caused by the seizure. Notice of the right to a prompt
61 hearing shall be given the defendant at the time of the seizure of any property to satisfy a
62 judgment along with a general description of the income and property exemptions provided by
63 federal law and the laws of the Commonwealth, in plain English and in the primary language of
64 the defendant.

65 SECTION 14. Chapter 235 of the General Laws is hereby further amended by
66 inserting new Section 34a:

67 Section 34a:(a) On April 1, 2012, and at each three-year interval ending on April 1
68 thereafter, the dollar amounts of exemptions provided in M.G.L. ch. 235, Section 34 in effect
69 immediately before that date shall be adjusted as provided in subdivision (b).(b) The Attorney
70 General shall determine the amount of the adjustment based on the change in the annual
71 Massachusetts Consumer Price Index for All Urban Consumers, published by the Department of
72 Industrial Relations, Division of Labor Statistics, for the most recent three-year period ending on
73 December 31 preceding the adjustment, with each adjusted amount rounded to the nearest
74 twenty-five dollars (\$25).(c) Beginning April 1, 2007, the Attorney General shall publish a list
75 of the current dollar amounts of exemptions provided in M.G.L. ch. 235, Section 34, together
76 with the date of the next scheduled adjustment.(d) Adjustments made under subdivision (a) do

77 not apply with respect to cases commenced before the date of the adjustment, subject to any
78 contrary rule applicable under the federal Bankruptcy Code.

79 SECTION 15. Section 28 of Chapter 246 of the General Laws, as so appearing, is
80 hereby amended by replacing, in the first sentence thereof, the words “one hundred twenty-five
81 dollars” with the words: thirty times the greater of the federal or the Massachusetts hourly
82 minimum wage plus, for each dependent of the defendant, ten times the greater of the federal or
83 the Massachusetts minimum hourly wage for each week or portion thereof”.

84 SECTION 16. Section 28A of Chapter 246 of the General Laws, as so appearing,
85 is hereby amended by replacing the words “five hundred dollars” with the words “one thousand
86 two hundred dollars” each time they appear.

87 SECTION 17: Chapter 224 section 16 of the General Laws, as appearing, is
88 hereby further amended by inserting after the sentence in line 4 the following, “In the case of a
89 handicapped debtor or a debtor sixty years of age or older where the court finds that the debtor
90 has no property or income not exempt from being taken on execution, the proceedings shall be
91 dismissed without prejudice.”

92 SECTION 18: Chapter 224 section 16 of the General Laws, as appearing, is
93 hereby further amended by inserting in line 35 at the end the word "chapter" the following, “and
94 in the case of a handicapped debtor or a debtor sixty years of age or older where an order was
95 issued under the provisions of this chapter and the debtor is later determined to have only non-
96 exempt property or income, the court shall suspend the order and dismiss the proceedings
97 without prejudice.

98 SECTION 19: Chapter 224 section 16 of the General Laws, as appearing is
99 hereby further amended by adding at the end of the last paragraph the following, “For the
100 purpose of this section, the words “handicapped person” shall mean a person who has:
101 a) a physical or mental impairment which substantially limits one or more major life
102 activities; or
103 b) is regarded as having such impairment by receiving a state or federal disability benefit.