

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:
Kevin J. Murphy

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:
An Act to clarify the language of the General Laws relative to homesteads.

PETITION OF:

<u>NAME:</u> Kevin J. Murphy	<u>DISTRICT/ADDRESS:</u> 18th Middlesex
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[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1606 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and 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 sections 1 and
2 1A and inserting in their place the following section:-

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

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

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

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

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

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

1. Federal, state and local taxes, assessments, claims and liens:
2. Debts contracted that are secured by a mortgage on the premises, whether said mortgage was executed by the owner or by a predecessor in title;
3. Any and all debts, encumbrances or contracts existing prior to the filing of the declaration of homestead;
4. An execution issued from the probate court to enforce its judgment that a spouse pay a certain amount weekly or otherwise for the support of a spouse or minor children;
5. Where buildings on land not owned by the owner of a homestead estate are attached, levied upon or sold for the ground rent of the lot whereon they stand;
6. Upon an execution issued from a court of competent jurisdiction to enforce its judgment based on fraud, mistake, duress, undue influence or lack of capacity.

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

SECTION 3. Said section 6 of said chapter 188, as so appearing, is further amended by striking out, in line 6 the words "such property" and inserting in their place the words: -

property which is subject to a mortgage executed before an estate of homestead was acquired therein, or executed afterward and containing a release thereof.

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

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