

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Ms. Jehlen

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 further regulating debt collection.

PETITION OF:

NAME:

Ms. Jehlen

DISTRICT/ADDRESS:

Second Middlesex

The Commonwealth of Massachusetts

In the Year Two Thousand and 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 2003 Official
2 Edition, is hereby amended by striking out Paragraph First and inserting, in its place, the
3 following:

4
5 First, The necessary wearing apparel, beds and bedding for the debtor and the debtor's family;
6 one heating unit used for warming the dwelling house; one stove used primarily for the personal,
7 family, or household use of the debtor or a dependent of the debtor; one refrigerator so used; one
8 freezer so used; one hot water heater so used; and the amount each month, not exceeding five
9 hundred dollars, reasonably necessary to pay for fuel, heat, refrigeration, water, hot water and
10 light for the debtor and the debtor's family.

11

12 SECTION 2. Said Section 34 is hereby further amended by replacing, in Paragraph Second, the
13 words "three thousand dollars" with the words "fifteen thousand dollars".

14

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

17

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

20

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

23

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

26

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

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

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

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37 SECTION 10. Said Section 34 is hereby further amended by replacing, in Paragraph Fifteenth,

38 the words “one hundred and twenty-five dollars” with the words “two thousand, five hundred
39 dollars on any day.”.

40

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

46

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

49 Seventeenth, The debtor’s aggregate interest in any personal property, not to exceed in value
50 one thousand dollars plus up to five thousand dollars of any unused dollar amount of the
51 aggregate exemptions provided under paragraphs Second, Fifth and Sixteenth of this Section.

52 Eighteenth, The debtor’s aggregate interest, not to exceed one thousand two hundred twenty-
53 five dollars in value, in jewelry held primarily for the personal, family, or household use of the

54 debtor or the spouse or a dependent of the debtor. Nineteenth, Defendants shall be provided a
55 notice when judgment is entered generally describing the income and property exemptions
56 provided by federal law and the laws of the Commonwealth in plain English. The defendant is
57 entitled to assert the exemption at the time of the seizure, and the seizing officer shall not seize
58 any exempt property. The defendant is entitled to a prompt hearing to determine whether
59 property seized by execution is exempt and to an order to promptly return exempt property to the
60 defendant, an award of attorney fees reasonably incurred by the defendant to obtain the order,

61 and any actual damages caused by the seizure. Notice of the right to a prompt hearing shall be
62 given the defendant at the time of the seizure of any property to satisfy a judgment along with a
63 general description of the income and property exemptions provided by federal law and the laws
64 of the Commonwealth, in plain English and in the primary language of the defendant.

65

66 SECTION 14. Chapter 235 of the General Laws is hereby further amended by inserting new

67 Section 34a:

68 Section 34a:

69 (a) On April 1, 2012, and at each three-year interval ending on April 1 thereafter, the dollar
70 amounts of exemptions provided in M.G.L. ch. 235, Section 34 in effect immediately before that
71 date shall be adjusted as provided in subdivision (b).

72 (b) The Attorney General shall determine the amount of the adjustment based on the change
73 in the annual Massachusetts Consumer Price Index for All Urban Consumers, published by the
74 Department of Industrial Relations, Division of Labor Statistics, for the most recent three-year
75 period ending on December 31 preceding the adjustment, with each adjusted amount rounded to
76 the nearest twenty-five dollars (\$25).

77 (c) Beginning April 1, 2007, the Attorney General shall publish a list of the current dollar
78 amounts of exemptions provided in M.G.L. ch. 235, Section 34, together with the date of the
79 next scheduled adjustment.

80 (d) Adjustments made under subdivision (a) do not apply with respect to cases commenced
81 before the date of the adjustment, subject to any contrary rule applicable under the federal
82 Bankruptcy Code.

83

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

89
90 SECTION 16. Section 28A of Chapter 246 of the General Laws, as so appearing, is hereby
91 amended by replacing the words “five hundred dollars” with the words “one thousand two
92 hundred dollars” each time they appear.

93
94 SECTION 17: Chapter 224 section 16 of the General Laws, as appearing, is hereby further
95 amended by inserting after the sentence in line 4 the following, “In the case of a handicapped
96 debtor or a debtor sixty years of age or older where the court finds that the debtor has no
97 property or income not exempt from being taken on execution, the proceedings shall be
98 dismissed without prejudice.”

99
100 SECTION 18: Chapter 224 section 16 of the General Laws, as appearing, is hereby further
101 amended by inserting in line 35 at the end the word "chapter" the following, “and in the case of a
102 handicapped debtor or a debtor sixty years of age or older where an order was issued under the
103 provisions of this chapter and the debtor is later determined to have only non-exempt property or
104 income, the court shall suspend the order and dismiss the proceedings without prejudice.

105 SECTION 19:Chapter 224 section 16 of the General Laws, as appearing is hereby further
106 amended by adding at the end of the last paragraph the following, “For the purpose of this
107 section, the words “handicapped person” shall mean a person who has:

- 108 a) a physical or mental impairment which substantially limits one or more major life activities; or
- 109 b) is regarded as having such impairment by receiving a state or federal disability benefit.