

By Mr. Cerasoli of Quincy, petition of Robert A. Cerasoli for legislation to extend the benefits of a homestead exemption to unmarried persons. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Six.

AN ACT INCREASING THE BENEFITS OF A HOMESTEAD EXEMPTION AND EXTENDING THE BENEFITS TO UNMARRIED PERSONS.

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
2 amended by striking out section 1, as appearing in the 1984 Official
3 Edition, and inserting in place thereof the following two sec-
4 tions: —

5 Section 1A. An estate of homestead to the extent of one
6 hundred thousand dollars in the land and buildings may be
7 acquired pursuant to this chapter by an owner or owners of a home
8 or one or all who rightfully possess the premise by lease or other-
9 wise and who occupy or intend to occupy said home as a principal
10 residence. Said estate shall be exempt from the laws of conveyance,
11 descent, devise, attachment, levy on execution and sale for payment
12 of debts of legacies except in the following cases: —

13 (1) sale for taxes;

14 (2) for a debt contracted prior to the acquisition of said estate of
15 homestead;

16 (3) for a debt contracted for the purchase of said home;

17 (4) upon an execution issued from the probate court to enforce its
18 judgment that a spouse pay a certain amount weekly or otherwise
19 for the support of a spouse or minor children;

20 (5) where buildings on land not owned by the owner of a home-
21 stead estate are attached, levied upon or sold for the ground rent of
22 the lot whereon they stand.

23 For the purposes of this chapter, an owner of a home shall
24 include a sole owner, joint tenant, tenant by the entirety or tenant in
25 common; provided, that each owner may acquire only one estate of
26 homestead upon his or her principal residence.

27 Section 1B. Where an estate of homestead exists and the declar-
28 ant of the homestead exemption has a spouse or minor unmarried
29 children below the age of eighteen years, said estate of homestead
30 shall be considered to have been declared for the benefit of a family.
31 Where both spouses have declared an estate of homestead in the
32 same or different property they shall be entitled to only one exemp-
33 tion of homestead for the entire family at the place of their principal
34 residence.

1 SECTION 2. Said chapter 188 is hereby further amended by
2 striking out section 7, as so appearing, and inserting in place
3 thereof the following section: —

4 Section 17. No conveyance of property in which an estate of
5 homestead exists for the benefit of a family, without a release or
6 waiver of such an estate, in compliance with section twelve shall
7 include the part so held and exempted, or defeat the right of the
8 owner or the owner's spouse and minor unmarried children to a
9 homestead therein, unless such conveyance is by deed signed by the
10 owner and spouse, they being competent to so act, or unless such
11 right is released as provided in chapter two hundred and nine;
12 provided, however, that a deed duly executed without the signature
13 of one spouse, but with the signature of the owner, shall be valid to
14 pass, according to its terms, any title or interest in the property
15 beyond the estate of homestead. Upon the death of one spouse, any
16 conveyance of property upon which an estate of homestead has
17 been declared for the benefit of a family must be accomplished
18 in accordance with section eight.

1 SECTON 3. Said chapter 188 is hereby further amended by
2 adding the following two sections: —

3 Section 11. Where two or more persons own property as tenants
4 in common, the exemption of homestead which any one tenant may
5 claim shall not exceed that tenant's divided interest in said
6 property.

7 Where two or more persons own property as joint tenants, the

8 exemption of homestead which any one tenant may claim shall be
9 limited as if that tenant had an equal divided interest and was a
10 tenant in common with all other joint tenants. Any joint tenant or
11 tenant in common who is not considered to have declared an estate
12 of homestead for the benefit of a family shall have the right to
13 convey away his interest and title in property notwithstanding an
14 estate of homestead exists for the benefit of any other joint tenant
15 or tenant in common.

16 Section 12. An estate of homestead created pursuant to section
17 two may be dissolved during the lifetime of the owner by an
18 instrument releasing said estate, signed, sealed and acknowledged
19 by the same owner or owners who originally declared the home-
20 stead exemption, except that an estate of homestead for the benefit
21 of the family may only be released by an instrument signed and
22 sealed by both spouses indicating said release.

