

By Mr. Knapik, a petition (accompanied by bill, Senate, No. 862) of Michael R. Knapik, Shaun P. Kelly, Brian P. Lees, Henri S. Rauschenbach and other members of the General Court for legislation relative to the estate of homestead for elderly persons. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Seven.

AN ACT RELATIVE TO THE ESTATE OF HOMESTEAD FOR ELDERLY 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 Chapter 188 of the General Laws, as appearing in the 1994
2 Official Edition, is hereby amended by striking out section 1A and
3 inserting in place thereof the following section:—

4 Section 1A. Each individual, sixty-two years of age or older,
5 regardless of marital status, having an ownership interest in the
6 real property or manufactured home which serves as that individu-
7 al's principal residence shall hold an estate of homestead on said
8 real property or manufactured home utilized as said principal resi-
9 dence, notwithstanding the filing requirements of section 2, and
10 shall be protected against attachment, seizure or execution of
11 judgment to the extent of two hundred and fifty thousand dollars.

12 The real property or manufactured home of a disabled person,
13 as herein defined, shall be protected against attachment, seizure or
14 execution of judgment to the extent of two hundred and fifty thou-
15 sand dollars; provided, however, that such person has filed a dis-
16 abled person's declaration of homestead protection as provided in
17 section two; and, provided further, that such person occupies or
18 intends to occupy such real property or manufactured home as his
19 principal residence. A disabled person's declaration of homestead
20 protection shall be accompanied by either of the documents
21 referred to in the second paragraph of this section.

22 For the purposes of this section, a disabled person is defined as
23 an individual who has medically determinable permanent physical

24 or mental impairment which would meet the disability require-
25 ments for supplemental security income under the provisions of
26 42 USC 1382c(a)(3)(A) and (C), which are in effect at the time of
27 filing. An original or certified copy of a disability award letter
28 issued to the person by the United States Social Security
29 Administration; or a letter signed by a licensed physician regis-
30 tered with the Massachusetts Board of Registration in Medicine
31 certifying that the person meets the disability requirements stated
32 on 42 USC 1382c(a)(3)(A) and (C), which are in effect at the time
33 of filing, shall be recorded or filed, whichever is appropriate, with
34 a disabled person's declaration of homestead protection.

35 Each individual, sixty-two years of age or older, having an
36 ownership interest in the real property or manufactured home
37 which serves as that individual's principal residence shall be eli-
38 gible for protection of such ownership up to a maximum amount
39 of two hundred and fifty thousand dollars per individual.

40 Each disabled individual having an ownership interest in the
41 real property or manufactured home which serves as that indi-
42 vidual's principal residence and who qualifies under the provi-
43 sions of this section shall, upon filing a disabled person's declara-
44 tion of homestead protection, be eligible for protection of such
45 ownership interest up to a maximum amount of two hundred and
46 fifty thousand dollars per individual, regardless of whether such
47 declaration is filed individual or jointly with another.

48 The following shall be exempt from the provisions of this
49 section: federal, state and local taxes, assessments, claims and
50 liens; first and second mortgages held by financial institutions or
51 others; any and all debts, encumbrances or contracts existing prior
52 to the filing of the declaration; an execution issued from the pro-
53 bate court to enforce its judgment that a spouse pay a certain
54 amount weekly or otherwise for the support of a spouse or minor
55 children; where buildings on land not owned by the owner of a
56 homestead estate are attached, levied upon or sold for the ground
57 rent of the lot whereon they stand.

58 The elderly or disabled person's estate or claim of homestead
59 shall be terminated upon the sale or transfer of the real property or
60 manufactured home during the declarant's lifetime or upon the
61 sale or transfer of the declarant's interest in the real property or
62 manufactured home during the declarant's lifetime or upon the

63 death of the surviving declarant. An elderly or disabled person's
64 estate of homestead created by this section shall be terminated
65 during the lifetime of the declarant by deed conveying the prop-
66 erty in which such an estate of homestead exists signed by the
67 declarant; or by a release of the elderly or disabled person's estate
68 of homestead, duly signed, sealed and acknowledged by the
69 declarant and recorded in the registry of deeds for the county or
70 district in which such real estate is located; or by a release of the
71 elderly or disabled person's claim of homestead, duly signed,
72 sealed and acknowledged by the declarant and filed in the city or
73 town clerk's office in the city or town in which the manufactured
74 home is located; or pursuant to section two.

