

By Mr. Murphy of Lowell, petition of Kevin J. Murphy and others for legislation to protect owners of manufactured homes from attachment under the homestead law of the Commonwealth. The Judiciary.

The Commonwealth of Massachusetts

PETITION OF:

Kevin J. Murphy
David M. Nangle

Thomas A. Golden Jr.
Steven C. Panagiotakos

In the Year Two Thousand and Five.

AN ACT TO CLARIFY THE LANGUAGE OF MASSACHUSETTS GENERAL LAWS CHAPTER 188 RELATED 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:

SECTION 1. Chapter 188 of the General Laws as appearing in the 2002 Official Edition, is hereby amended by striking out sections 1 and 1A and inserting in their place the following section:—

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

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

18 Where a husband and wife both sign a single declaration of
19 homestead, it shall have the same effect as if they each filed a sep-
20 arate declaration of homestead. The registry of deeds filing fee
21 for a declaration of homestead signed by both husband and wife
22 shall be the same as the filing fee charge for an individual declara-
23 tion of homestead.

24 The protections of this chapter shall extend to debts incurred by
25 a family member of said owner so long as said family member
26 occupies or intends to occupy such real property or manufactured
27 home as his principal residence. For purposes of this chapter, the
28 term "family member" shall mean the spouse, child, or children,
29 or parent of said owner.

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

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

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

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

1 SECTION 3. Said section 6 of said chapter 188, as so
2 appearing, is further amended by striking out, in line 6 the words

3 “such property” and inserting in their place the words:— property
4 which is subject to a mortgage executed before an estate of home-
5 stead was acquired therein, or executed afterward and containing a
6 release thereof.

1 SECTION 4. Section 7 of said chapter 188, as so appearing is
2 hereby amended by adding the following paragraph:—
3 A mortgage executed by an owner for property that is already
4 subject to a declaration of homestead shall not terminate such
5 homestead.

