

## **A Guide to the Homestead Act in Massachusetts**

For most of us, a house is the biggest investment we will ever make and the largest asset we will ever own. Most importantly, it is the place that we call home. Shouldn't we be doing all that we can to safeguard this important asset? To help you protect your home in case you are ever sued, the Massachusetts Legislature established an easy and inexpensive procedure that allows any homeowner to file a 'Declaration of Homestead.' Once filed, creditors cannot take your home to satisfy debts up to amounts set in the law.

Although the subject of Homestead is primarily under the jurisdiction of the Register of Deeds, the Suffolk County Probate and Family Court Registry has decided to actively publicize and promote The Homestead Act because it is an easy way for you to protect your family and your assets. It should also be an important part of any estate plan that provides for your family and your heirs.

All homeowners should review the following qualifiers to see if you are eligible to file a Homestead Declaration:

- You can file for protection on a home that you own only if it is your and / or your family's principal residence. The home can be a single or multi-family dwelling, apartment house, condominium unit, etc. -- just as long as it is a primary residence;
- An owner can claim Homestead Act protection regardless of marital status or the presence of children in the home;
- The Homestead Act does not apply to a secondary residence, such as a cottage or summer home, and you cannot claim more than one estate;
- Homestead can be filed by a sole owner, or by any of the owners if there is more than one. (Only one person should file to protect a family residence, except if there are two owners and both are either disabled or over the age of 62. In this instance, it is advantageous for both to file);
- Homestead Act protection will not stop enforcement of court ordered payments (child support, unpaid taxes, etc.) or if debts involve duress, fraud, etc, and does not stop foreclosure on your mortgage or debts incurred before filing the declaration;
- Where there is only one owner, or if one of the owners is under age 62 and not permanently disabled, effective October 25, 2000, The Homestead Act offers \$500,000 of protection. If there are two owners and both are at least 62 years old or permanently disabled, each may file separately under The Homestead Act for protection worth \$1,000,000 (disability must be proven with a letter from the Social Security Administration or a signed letter from your own doctor);

It is also important to remember the following facts:

- If a declaration has been filed and more than one owner becomes disabled or reaches age 62, a new declaration should be filed to increase the protection;
- Filing a declaration does not prevent you from selling the property, leaving it to someone in your will, etc;

To file a Declaration of Homestead, you will need to know the 'book and page' numbers of your recorded deed (or the 'Certificate of Title number' in the case of registered land). The fee to file a declaration is \$35.

Declarations must be filed in the Registry of Deeds in the county where you live. Burlington residents file at:

**Middlesex South Registry of Deeds**

208 Cambridge Street  
P.O. Box 68  
Cambridge, MA 02141-0068  
Phone: (617) 679-6310  
Fax: (617) 494-9083

If you are not in Massachusetts, contact your state's equivalent of the Registry of Deeds to see if a similar Homestead law exists in your state.

Should you have further questions, contact your local Register of Deeds or go on-line to: <http://www.sec.state.ma.us/rod/rodhom/homidx.htm> for frequently asked questions.

# The Commonwealth of Massachusetts

## Declaration of Homestead (General Laws Chapter 188, Sections 1 and 1A)

1. Name: \_\_\_\_\_, and \_\_\_\_\_  
*(add a second name only if ELDERLY (over 62 years of age) or DISABLED)*

2. Property Address: \_\_\_\_\_, Massachusetts.  
*(street number and street name (city or town))*

3. Select **ONE** of the following:

For Recorded Land (Deed/Inheritance): The deed being recorded in \_\_\_\_\_  
*(book) (page)*

or \_\_\_\_\_ from \_\_\_\_\_ Probate Court.  
*(docket number) (county)*

**OR**

For Registered Land (Certificate of Title): As Certificate of Title \_\_\_\_\_ registered in the Land  
*(number)*  
Registration Office in \_\_\_\_\_.  
*(book) (page)*

4. Check if **ELDERLY** (over 62 years of age) or **DISABLED**:

I (We), being 62 years of age or older or being physically or mentally disabled and because of such disability, am (are) not able to engage in substantial, gainful employment, which disability is evidenced by the attached award letter from the Social Security Administration or certification by a physician licensed by the Commonwealth of Massachusetts.

I (We) hereby declare that I (we) am (are) possessed of, and occupy said premises as a residence and Homestead as provided in Chapter 188, Section 1 or 1A, of the Massachusetts General Laws, as amended. I (We) expressly reserve the right to myself and my spouse, or to the survivor of us, our legal representatives, to revoke and rescind this Homestead as to ourselves and the rights of our minor, unmarried children.

### To be Signed by Applicants in Front of Notary Public:

Witness my (our) hand(s) and seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Signature(s): \_\_\_\_\_

### For Use by Notary Public Only:

#### COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, ss.

\_\_\_\_\_, 20\_\_\_\_\_, before me, the undersigned notary public, personally appeared

\_\_\_\_\_  
*(name(s) of the document signer(s))*

proved to me through satisfactory evidence of identification, which were \_\_\_\_\_,  
*(drivers license, passport, etc.)*

to be the person(s) whose name is (are) signed on the preceding or attached document in my presence.

Notary Public: \_\_\_\_\_ My commission expires: \_\_\_\_\_