

HOUSE No. 1606

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
Thomas A. Golden, Jr.

David M. Nangle
Steven C. Panagiotakos

In the Year Two Thousand and Seven.

AN ACT TO CLARIFY THE LANGUAGE OF THE GENERAL LAWS RELATIVE 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:

1 SECTION 1. Chapter 188 of the General Laws is hereby amended
2 by striking out sections 1 and 1A and inserting in their place the
3 following section:—

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

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

16 Where a husband and wife both sign a single declaration of home-
17 stead, it shall have the same effect as if they each filed a separate
18 declaration of homestead. The registry of deeds filing fee for a dec-
19 laration of homestead signed by both husband and wife shall be the

20 same as the filing fee charge for an individual declaration of home-
21 stead.

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

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

32 The following shall be exempt from the provisions of this
33 chapter:—

34 1.) Federal, state and local taxes, assessments, claims and liens:—

35 2.) Debts contracted that are secured by a mortgage on the
36 premises, whether said mortgage was executed by the owner or by a
37 predecessor in title;

38 3.) Any and all debts, encumbrances or contracts existing prior to
39 the filing of the declaration of homestead;

40 4.) An execution issued from the probate court to enforce its judg-
41 ment that a spouse pay a certain amount weekly or otherwise for the
42 support of a spouse or minor children;

43 5.) Where buildings on land not owned by the owner of a home-
44 stead estate are attached, levied upon or sold for the ground rent of
45 the lot whereon they stand;

46 6.) Upon an execution issued from a court of competent jurisdic-
47 tion to enforce its judgment based on fraud, mistake, duress, undue
48 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 appearing,
2 is further amended by striking out, in line 6 the words “such prop-
3 erty” and inserting in their place the words:—

4 property which is subject to a mortgage executed before an estate
5 of homestead was acquired therein, or executed afterward and con-
6 taining a 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 home-
5 stead.