

DISCLOSURE CONCERNING THE MASSACHUSETTS HOMESTEAD ACT
M.G.L. c. 188 § 14
WHAT IS 'HOMESTEAD?'

A homestead estate exempts a certain amount of the equity of a home from attachment, seizure, execution on judgment, levy and sale for the unsecured debts of the owner of the home, except for the following:

- federal, state and local taxes, assessments, claims and liens
- liens recorded prior to the creation of the estate
- mortgages
- orders of the probate court for support
- a levy or sale for ground rents (where the homeowner does not own the land); and
- an execution from a court to enforce a judgment based upon fraud, mistake, duress, undue influence or lack of capacity.

Under the Act, the homeowner's equity in the home is protected for up to one year after a sale of the home, and, if the home has suffered a casualty that results in the payment of insurance proceeds, then the insurance proceeds are protected for up to two years, in order to allow the homeowner time to acquire a homestead in a new (or reconstructed) home.

Homestead protection is available for owner-occupied, residential one to four-family homes, condominium units, cooperative apartments and for manufactured homes. Co-owners of a home "share" the exemption amount.

AUTOMATIC HOMESTEAD:

All homeowners are entitled to automatic homestead protection of up to \$125,000 of the equity in their homes. You do not need to do anything to have the benefit of this protection.

An automatic homestead can be subordinated to an unsecured debt of the homeowner of up to \$20,000, but the homeowner and any non-owner spouse must consent in writing.

DECLARED HOMESTEAD:

By making a written declaration of homestead, recorded in the registry of deeds, a homeowner's homestead protection is increased to \$500,000.

Some other benefits of declaring a homestead include:

- A non-owner spouse who lives with the owner has the benefit of the homestead (until terminated in writing)
- A declared homestead cannot be subordinated to an unsecured debt
- If an unmarried owner declares a homestead and marries thereafter, the declaration will automatically benefit the owner's spouse upon marriage; similarly, a divorce and/or remarriage will not affect the homestead of the spouse who remains in the home as his/her primary residence
- A trustee of property held in trust can declare homestead for the beneficiaries of the trust who occupy the home as their principal residence.
- Elderly and disabled persons who declare homestead are each entitled to a separate exemption of up to V \$500,000, which is personal and not shared with any other co-owners of the home.