

The New Massachusetts Homestead Exemption Law Change: What Homeowners Need to Know

By: Brandon C. Walecka, Esq.

Walecka Law, P.C.

774-203-9003

Brandon@WaleckaLaw.com

In a significant development for Massachusetts homeowners, the Affordable Homes Act recently passed on August 6, 2024 has enhanced protections for primary residences. The Homestead Exemption is a crucial legal provision that shields the equity in a person's home from creditors in the event of bankruptcy, debt collection, or lawsuits.

What Is the Homestead Exemption?

The Homestead Exemption is a legal safeguard that protects the equity in a primary residence from certain creditors. This protection applies to single-family homes, condominiums, and some multi-family homes, as long as the property serves as the homeowner's principal residence. While it does not shield homes from all forms of debt—such as mortgages, tax liens, MassHealth estate recovery liens, or child support—it can be a powerful tool for protecting a family's most valuable asset.

In Massachusetts, homeowners are automatically protected up to a certain amount of equity, even if they don't file for the Homestead Exemption. For those who file a declaration of homestead with the Registry of Deeds, the protection amount is higher.

Key Changes Under the New Law

1. Increased Protection Amounts:

The automatic exemption for homeowners is \$125,000. However, if a homeowner files a declaration of homestead, the protection amount increases to \$1 million which is a substantial increase.

2. Enhanced Protections for the Elderly and Disabled:

Homeowners who are elderly (62 years or older) or disabled are also able to stack their exemptions which could mean up to \$2 million in protection.

3. Trusts:

A primary residence held in a trust can also qualify for a homestead exemption.

4. Protection for Proceeds from Home Sale:

If homeowners sell their property, the proceeds from the sale are protected for up to one year under the Homestead Exemption. This offers an additional layer of security for those who need time to reinvest their home equity into a new property. This ensures that sellers aren't vulnerable during the home-buying transition.

How Does This Affect Homeowners?

The changes to the Massachusetts Homestead Exemption law provide a greater level of security for homeowners. By increasing the exemption amounts, the new law lines up with the increasing housing market and ensures that individuals and families have a stronger safeguard against unexpected financial burdens.

For those concerned about protecting their primary residence from creditor claims, it's a good idea to file a Declaration of Homestead with the Registry of Deeds, particularly in light of the enhanced protections.

For elderly homeowners or those with special circumstances, it

may be wise to consult with an estate planning attorney to ensure your home is protected under the new law.

The information contained in this article is not intended to make you an expert on estate planning nor is this article intended to replace the need for the advice of a professional. Rather, this article is simply intended to provide a basic understanding of why estate planning is important for everybody and a basic understanding of some of the more common estate planning tools. This article does not constitute legal advice.