



## **New Massachusetts Law Offers Additional Protection for Homeowners**

By: Michael J. Rossi, Esq.

Imagine you are in a car accident and the other driver (or a pedestrian) is seriously injured. He or she files a lawsuit against you and wins a judgment in excess of your insurance coverage limits. If you own a home, that person may have the right to force the sale of your property to collect the balance of the judgment. The same goes for a credit card company that is seeking satisfaction of an overdue balance or even a medical provider looking to collect overdue bills.

For most homeowners, the prospect of losing their home to a creditor is not a pressing concern. But in this economic climate, little can be taken for granted and homeowners are well-advised to take precautions. A new law that went into effect earlier this year makes it easier for Massachusetts homeowners to safeguard their most valuable asset – their homes.

To protect your home from the reach of creditors, you can file a Declaration of Homestead. A Declaration of Homestead is a legal document containing certain information about your property that is filed at the Registry of Deeds in the county where the property is located. Once the form is properly recorded, creditors are prevented from seizing or forcing the sale of the home to collect debts of up to \$500,000. In other words, the first \$500,000 of equity in the home is shielded from reach of creditors. Elderly and disabled persons may be entitled to additional protection of up to \$1 million.

Under the new Massachusetts law, homeowners are entitled to an automatic homestead protection of \$125,000, even if they have not recorded a Declaration of Homestead with the Registry of Deeds. (Protection was not automatic under the old law). This may cover the amount of your down payment, but is it enough to protect the full value of your home? Probably not. Homestead forms are available at the Registries of Deeds, through the Massachusetts Secretary of State, and at most law offices. The state recording fee is currently \$35, a small price to pay for the benefits of added protection.

Homestead protection is only available for one's primary residence. An owner cannot declare a homestead on multiple properties. Also, certain debts are exempt from the homestead law, most notably, a mortgage on the home, a lien on the home recorded prior

to the creation of the homestead, and government liens (including liens as a result of the payment of Medicaid benefits). Homesteads do not take the place of homeowners' insurance – they offer a different type of protection that becomes effective after any liability insurance is used to pay a judgment covered under a particular policy.

A Declaration of Homestead offers powerful and inexpensive protection to Massachusetts homeowners. In increasingly uncertain economic times, it is a simple step that homeowners can take to safeguard their most valuable asset.

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*The information presented in this article reflects the personal views of the author and should neither be construed as formal legal advice nor the creation of an attorney-client relationship.*

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