May 9, 2025 | Insights

Review of the Massachusetts Homestead Exemption in Light of Recent Changes

By: Yana Zheng

On August 6, 2024, Massachusetts passed legislation to raise the declared exemption limit for primary residences protected under the Massachusetts Homestead Act from $500,000 to $1,000,000 (Session Law 2024, c. 150, s. 51). Homeowners who have previously filed a homestead declaration do not need to re-file to take advantage of the increased protection amount. As a result, if you have already filed a homestead declaration, you will now automatically benefit from the $1,000,000 protection.

The new law also increases the homestead protection for elderly or disabled persons, from $500,000 per person in a primary residence, to $1,000,000 per person. Individuals who are disabled or aged 62 or older, regardless of marital status, can file a separate declaration to obtain this personal homestead protection. Multiple such exemptions can be combined to protect a single primary residence over the ordinary homestead limit of $1,000,000.

Back in 2021, we published an article covering Elderly Homestead Protection in Massachusetts. While much of the original information still holds true, recent regulatory updates have changed some calculations. To reflect these changes, we've refreshed and updated the article below.

What is homestead protection?

According to the Massachusetts Homestead Act, homestead protection shields your primary residence by requiring certain creditors to wait for the payment of their debts, after taxes and mortgages are satisfied and also after you receive the equity in your home up to the homestead exemption amount. This can result in junior creditors receiving little to no payment.

In Massachusetts, the automatic homestead exemption of $125,000 may be sufficient if the equity value of your home is less than $125,000, after amounts due for taxes and mortgages. However, if $125,000 is insufficient to protect your primary residence, you can affirmatively safeguard the equity value of your home up to $1,000,000 by filing a document called a "Declaration of Homestead" under Section 3 of the Massachusetts

Related Services

Real Estate Development

Related Attorneys

Yana Zheng

©2026 Rich May, P.C. All Rights Reserved

Homestead Act. ("Section 3 Declaration"). It's worth noting that the new legislation does not impact the automatic homestead exemption. Therefore, even with the new legislation, if an individual does not affirmatively file a homestead declaration, they will only be protected up to $125,000.

All owners who live at the residence are eligible to file the Section 3 Declaration, and to share homestead protection up to the $1,000,000 limit. In the case of multiple owners, the $1,000,000 exemption is divided between them, i.e. two co-owners would each have $500,000 of homestead protection. If a home is owned in trust, only the trustee can sign the declaration on behalf of the beneficiaries. Once a Section 3 Declaration is filed, it will continue to protect the declarant's family members who reside in the same house, even after the declarant dies.

What does homestead protection not cover?

A homestead declaration protects the homeowner's primary residence from certain creditor claims during bankruptcy. However, the following claims are not affected by homestead protection:

- a sale for federal, state and local taxes, assessments, claims, and liens;
- a mortgage on the home;
- an execution issued from the Probate Court to enforce its judgment that a spouse pay for the support of a spouse, former spouse or minor children;
- where buildings on land not owned by the owner of a homestead estate are attached, levied upon or sold for the ground rent of the lot where they stand;
- an execution issued from a court of competent jurisdiction to enforce its judgment based upon fraud, duress, undue influence or lack of capacity;
- a lien on the home recorded prior to the creation of the homestead.

Extra Protection for persons 62 or older

Unlike a Section 3 homestead that is shared among all owners of the home, the Massachusetts Homestead Act has a separate section that allows people 62 years or older to individually declare a $1,000,000 exemption per person in their primary residence under Section 2 of the Massachusetts Homestead Act. That is, if the home is co-owned by two seniors, then they each can declare the $1,000,000 exemption and do not need to share that amount. (Section 2 also addresses homestead protection for disabled persons, which is beyond the scope of this article.)

In order to obtain this homestead protection for elderly persons, you must affirmatively execute and record a Declaration under Section 2 ("Section 2 Declaration"). It is important to know that a prior Section 3 Declaration will not automatically convert into a Section 2 Declaration when you turn 62. Furthermore, filing a new Section 2 Declaration, or a second Section 3 Declaration, will not invalidate previous declarations you filed. Instead, a later

©2026 Rich May, P.C. All Rights Reserved

homestead declaration shall relate back to the first declaration.

Now let's consider three scenarios to better understand how elderly homestead protection works; in each scenario, the equity value of the house is presumed to be over $2,000,000.

Scenario 1

First, Bob is the sole owner of the house, and he is over 62. In this case, Bob can choose to file either a Section 3 or Section 2 Declaration; either will give him up to $1,000,000 of protection. Although apparently it makes no difference to Bob, the Section 3 Declaration may be a better choice here, because an elderly homestead declaration can be terminated by death of the declarant, leaving any heirs who live in the home with no protection. Nevertheless, if Bob's spouse, Betty, inherits the home, and lives there, then Bob's Section 2 Declaration will convert into a Section 3 Declaration for the benefit of the spouse. Betty can thereafter declare under Section 2 if she is eligible and that is her choice.

Scenario 2

The house is owned by Bob and Betty as tenants in common, and Bob is 62 but Betty is only 58. In this case, Bob can file a Section 2 Declaration and Betty can file a Section 3 Declaration. Together they may enjoy a total of $1,500,000 homestead protection. However, Bob may claim up to $1,000,000 under his personal elderly exemption, and Betty is limited to $500,000. It's important to note that this scenario is complex and requires careful consideration of the homeowners' specific circumstances, any existing creditor claims, and how the two homestead declarations may interact on a case-by-case basis.

Scenario 3

Bob and Betty own a house and both of them are over 62 years old. In this case, they can protect the house for an amount up to $2,000,000 as a family by each filing a Section 2 Declaration. However, Bob and Betty are each individually entitled to only $1,000,000 of protection. If Bob does not use all of his $1,000,000 in connection with creditors' claims, Betty cannot benefit from the balance—Betty is limited to her own $1,000,000 of protection.

Conclusion

It is true that the elderly homestead protection can sometimes provide additional protection for a family. Nevertheless, one needs to consider factors such as home equity value, number of owners, marriage status of co-tenant, etc., to make the best decision regarding homestead declarations.

Disclaimer: This summary is provided for educational and informational purposes only and is not legal advice. Any specific questions about these topics should be directed to attorney Yana Zheng.

© 2025 by Rich May, P.C. and Yana Zheng. All rights reserved.