SENATE DOCKET, NO. 1575 FILED ON: 1/21/2011

SENATE . . . . . No. 652

The Commonwealth of Massachusetts

PRESENTED BY:

***Frederick E. Berry*, (BY REQUEST)**

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act relative to the estate of the homestead.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Stefano Picciotto	*418 Lafayette Street* *Salem, MA 01970*

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SENATE . . . . . No. 652

By Mr. Berry (by request), a petition (accompanied by bill, Senate, No. 652) of [PETITIONERS LIST] for legislation relative to the estate of the homestead. The Judiciary.

The Commonwealth of Massachusetts

An Act relative to the estate of the homestead.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 188 is amended by amending the following language in Section 1 as follows:

"Declared homestead exemption", an exemption in the amount of $500,000 created by a written declaration, executed and recorded pursuant to section 5; provided, however, that: (1) with respect to a home owned by joint tenants or tenants by the entirety who are benefited by an estate of homestead declared pursuant to section 3, the declared homestead exemption shall remain whole and unallocated, provided that the owners together shall not be entitled to a declared homestead exemption in excess of $500,000; (2) if a home is owned by tenants in common or trust beneficiaries, the declared homestead exemption for each co-tenant and trust beneficiary who benefits by an estate of homestead declared pursuant to said section 3 shall be the product of: (i) $500,000; and (ii) the co-tenant's or trust beneficiary's percentage ownership interest; (3) except as provided in clause (4), each person who owns a home and who is benefited by an estate of homestead declared pursuant to section 2 shall be entitled to the declared homestead exemption without reduction, proration or allocation among other owners of the home; and (4) separate estates of homestead may be declared pursuant to sections 2 and 3 on the same home, and in such event: (i) if the home is owned by tenants in common or trust beneficiaries, the declared homestead exemption for each co-tenant and trust beneficiary who benefits by an estate of homestead declared pursuant to section 3 shall be calculated in the manner provided in clause (2), and the declared homestead exemption for each co-tenant and trust beneficiary who benefits by an estate of homestead declared pursuant to section 2 shall be calculated in the manner provided in clause (3); or (ii) if the home is owned by joint tenants or tenants by the entirety, the declared homestead exemption for the owners together shall be the sum of $500,000 multiplied by the number of declarations recorded pursuant to section 2, plus $250,000; provided, however, that the homestead exemption under this subclause shall remain whole and unallocated among the owners; and provided further, that no owner who declares a homestead, acting individually, shall be entitled to claim an exemption of more than $500,000;

27 and (5) the calculation of the amount of homestead exemption available to an owner shall not
28 sever a joint tenancy or tenancy by the entirety. Notwithstanding any provision of any other
29 section of this chapter, if the owner or owners have occupied said home as a principal residence
30 for more than 1,215 days, the homestead filing requirement is hereby waived. Moreover, if the
31 owner or spouse becomes disabled as defined in Section 1 of this chapter, or sixty-two years of
32 age or older, after said principal residence had been occupied for more than 1,215 days, the
33 protection for such ownership and spousal interests shall increase to $500,000 per individual,
34 regardless of whether such declaration has been filed.