[THREE INCH TOP MARGIN]

# **AFFIDAVIT RELATIVE TO HOMESTEAD** **PURSUANT TO M.G.L. c. 188 § 13**

I \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ hereby state as follows, pursuant to M.G. L. c. 188 § 13:

1. I own the premises at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, by virtue of:
   1. [ ] deed from \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ dated \_\_\_\_\_\_\_\_\_\_ and recorded in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ County Registry of Deeds:
2. [ ] in Book \_\_\_\_\_, Page \_\_\_\_\_
3. [ ] herewith
   1. [ ] Certificate of Title No. \_\_\_\_\_\_\_ filed with \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Registry District of the Land Court
   2. [ ] Inheritance from \_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_ Probate Case No. \_\_\_\_\_\_\_\_\_\_
   3. [ ] Other [describe document and provide appropriate recording/registration/court docket information]: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
4. [ ] The premises have never been my primary residence or the principal residence of a spouse of mine. [If this box is checked, skip Paragraphs 3 and 4.]
5. I have the benefit of an estate of homestead which was:
   1. [ ] Created automatically pursuant to M.G.L. c. 188, §4, at which time:
6. [ ] I was unmarried
7. [ ] I was married to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
   1. [ ] Created by declaration pursuant to M.G.L. c. 188, §2 or §3, recorded in said Registry of Deeds in Book \_\_\_\_\_\_\_, Page \_\_\_\_\_\_\_/filed in said District as Document No. \_\_\_\_\_\_\_, at which time:
8. [ ] I was unmarried
9. [ ] I was married to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
10. I am:
    1. [ ] unmarried (and any person referred to in Paragraph 3 (a) (ii) or Paragraph 3 (b) (ii) above is not entitled to claim the benefit of an existing estate of homestead in the premises)
    2. [ ] married, but my spouse, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, does not occupy or intend to occupy the premises as his/her principal residence, and is therefore not entitled to claim the benefit of an existing estate of homestead in the premises(and any person referred to in Paragraph 3 (a) (ii) or Paragraph 3 (b) (ii) above is not entitled to claim the benefit of an existing estate of homestead in the premises)
11. This affidavit is made in connection with the execution of a deed/release/mortgage executed and recorded on or about this date.

REBA Form No. 16D

Signed under the penalties of perjury this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

On this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name of document signer), proved to me through satisfactory evidence of identification, which were \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, to be the person who signed the preceding or attached document in my presence, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of (his) (her) knowledge and belief.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(official signature and seal of notary)

My commission expires: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*Comments*

1. *Per M.G.L. c. 188, § 13: “A deed, release or mortgage containing a statement of the marital status of a grantor may be relied upon by a good faith purchaser for value. As to acts undertaken in good faith reliance on such deed, release or mortgage, an affidavit executed and acknowledged by the grantor, releaser or mortgagor under penalty of perjury stating that, at the time of delivery of the deed, release or mortgage, the affiant had no spouse then entitled to claim the benefit of an existing estate of homestead, shall be conclusive proof of the nonexistence of such benefit at that time. The affidavit may be recorded in connection with the execution and delivery of a deed, release or mortgage and shall be accepted in the appropriate registry of deeds and registry district of the land court. The subsequent residency or renewal of residency in the home by a spouse of the grantor, releaser or mortgagor shall not defeat the priority of a mortgage, release or conveyance accepted in reliance on such affidavit.”*
2. *If the property is held in trust, this affidavit is unnecessary, since M.G.L. c. 188, § 10 provides that an estate of homestead in property held in trust may be terminated by the execution of a deed or a release of homestead by the trustee, and M.G.L. c. 188, § 9 provides that an estate of homestead is automatically subordinated to a mortgage signed by the record owner of the property.*

*See M.G.L. c. 188, as amended by Chapter 395 of the Acts of 2010 (Approved December 16, 2010) (Effective March 16, 2011)*

Adopted May 2, 2011

Amended May 6, 2013 (to add Paragraph 2)

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