

Accompanying the ninth recommendation of the Consumers' Council (House, No. 59). The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Three.

AN ACT SIMPLIFYING RESOLUTION OF CONSUMER CLAIMS IN SMALL CLAIMS COURTS.

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

1 Chapter 218 of the General Laws is hereby amended by adding
2 the following section: —

3 *Section 25A.*

4 (1) In this section, the following definitions apply:

5 "Consumer claim" is a claim filed under this section arising
6 out of a consumer transaction.

7 "Consumer transaction" means a transaction between a
8 natural person and a merchant under which the natural person
9 acquires real or personal property, services, credit or money for
10 personal, family or household purposes.

11 "Merchant" means a person or organization regularly engaged
12 in the business of providing real or personal property, services,
13 credit or money to natural persons for their personal, family or
14 household purposes.

15 "Organization" means a corporation, trust, estate, partnership,
16 cooperative, or association.

17 (2) The Chief Justice of the District Courts shall appoint to
18 each Small Claims Court within the Commonwealth one or more
19 consumer claims officers as the number of consumer claims filed
20 with each court requires, to hear consumer claims. Such
21 consumer claims officers need not be attorneys, but must be
22 familiar with the mechanics and legal aspects of consumer
23 transactions and possess a demonstrated ability to resolve
24 disputes between adverse parties. The Chief Justice shall establish
25 criteria for meeting these qualifications.

26 (3) The Chief Justice shall establish rules of procedure under
27 which consumer claims shall be initiated, heard, decided and
28 enforced, including

29 (a) Simple forms in laymen's language, such forms to be in
30 both English and Spanish;

31 (b) Times and places of operation convenient to the con-
32 sumers of each district;

33 (c) Provision for interpreters unless the consumer claims
34 officer speaks the language of a party not fluent in English;

35 (d) Filing of consumer claims by or against consumers solely
36 in the district of the consumer's residence;

37 (e) Uniform fees for filing consumer claims, not exceeding \$5.

38 (4) Irrespective of the consumer claims officer's resolution of
39 or decision in a dispute, a merchant who initiates the claim shall
40 pay to the court twenty percent of the amount of the claim
41 irrespective of the ultimate disposition of the matter.

42 (5) Consumer claims officers shall be paid from \$9,000 to
43 \$13,000 per annum. All costs of operating the consumer claims
44 system shall be paid from the filing fees and merchant charges as
45 provided in this section.

46 (6) Any party to a consumer claim may within thirty days file
47 a petition to review a final decision of the consumer claims
48 officer with the District Judge. The District Judge shall affirm,
49 reverse or otherwise modify such decision or remand the matter
50 for further hearing within thirty days after a petition for review
51 is filed. A consumer claim filed with a consumer claims officer is
52 not subject to removal to another court, but a claim filed initially
53 in another court may be removed by either party for a hearing
54 before a consumer claims officer. There shall be no appeal from a
55 decision of the District Judge, except on a matter of law certified
56 by the District Judge.