

By Mr. Keating, a petition (accompanied by bill, Senate, No. 1740) of William R. Keating and Michael P. Walsh for legislation to make technical changes in the home improvement contractor law. Government Regulations.

---

---

**The Commonwealth of Massachusetts**

---

In the Year One Thousand Nine Hundred and Ninety-Two.

---

**AN ACT MAKING TECHNICAL CHANGES TO THE HOME IMPROVEMENT CONTRACTOR LAW.**

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

1 SECTION 1. Chapter 142A of the General Laws as added by  
2 Chapter 453 of the Acts of 1991 is hereby amended in Section 5,  
3 line 11 by deleting the words "after execution".

1 SECTION 2. Chapter 142A of the General Laws as added by  
2 Chapter 453 of the Acts of 1991 is hereby further amended in  
3 Section 7 by inserting at the end of the first paragraph the  
4 following:

5 For the purpose of this section, the six-month period shall not  
6 begin to run until the claimant obtains a Judgment or a  
7 confirmation of the Arbitration Award or until there is a default  
8 in payment or performance by the losing party of an Order issued  
9 or confirmed by the Court, whichever is later. The claimant need  
10 not obtain an execution, if the claim is based upon a judgment  
11 or confirmed award obtained pursuant to this chapter, in order  
12 to enforce the claim through the supplementary process provisions  
13 of G.L. c.224, §14 *et seq.*, as modified herein. The Secretary of  
14 Consumer Affairs and Business Regulation may determine, by  
15 regulation, the customary and reasonable efforts to collect the  
16 judgment or award that will be required to be met before the Fund  
17 Administrator will be authorized to disburse money from the  
18 Guaranty Fund.

1 SECTION 3. Chapter 142 of the General Laws as added by  
2 Chapter 453 of the Acts of 1991 is hereby further amended by  
3 adding after Section 7 the following: —

4 Section 7A. Collection of Arbitration Awards and Judgments:

5 An owner who has obtained an Arbitration Award pursuant  
6 to this chapter may file a "Petition to Enforce an Arbitration  
7 Award or Judgment Pursuant to G.L. c.142A" (hereinafter  
8 referred to as "Petition") in the District Court, for the district in  
9 which the owner resides, and an owner who has obtained a  
10 judgment pursuant to this chapter may file said Petition in the  
11 District Court in the district in which the judgment was rendered,  
12 only after the time period for taking an appeal from the award  
13 or judgment has expired, provided that no appeal has been taken,  
14 but no later than 120 days from the time the judgment or award  
15 was rendered. In the event of an appeal, said filing shall occur  
16 no later than 120 days after the rescript or order issued by the  
17 appellate court has been entered in the trial court. Confirmation  
18 of an award rendered pursuant to G.L. c.142A, may be brought  
19 in the District Court regardless of the dollar amount of the award.

20 Upon payment of an entry fee, which shall equal the fee required  
21 for a Supplementary Process action filed in accordance with  
22 G.L. c.224, §14 *et seq.*, the Clerk of the District Court shall accept  
23 and docket a simplified Petition in lieu of a complaint, whose full  
24 title shall be "Petition To Enforce an Arbitration Award or  
25 Judgment Pursuant to G.L. c.142A." The Petition shall be in a  
26 form approved by the Chief Justice of the District Courts and shall  
27 be provided by the Clerk of Courts and be completed in  
28 typewritten or printed form by the Petitioner. Such Petition shall  
29 include a concise statement of the claim indicating that the  
30 petitioner is the recipient of an Arbitration Award or Judgment  
31 pursuant to G.L. c142A and including, but not limited to, the  
32 following information:

33 (i) the name and address of the Petitioner;

34 (ii) the name and address of the party against whom relief is  
35 sought, as listed on the Arbitration Award or Judgment;

36 (iii) the date the Arbitration decision or judgment was rendered  
37 and the date of mailing to the person against whom relief is sought,  
38 if different from the date of decision;

39 (iv) a detailed description of the award granted by the  
40 Arbitrator or court;

41 (v) a statement signed under the pains and penalties of  
42 perjury, by the petitioner, that the award or judgment has not been  
43 paid or executed or a statement indicating the extent to which  
44 the award or judgment has been paid or executed; and

45 (vi) the date of the filing and the signature of the Petitioner.

46 A copy of the judgment or a copy of the Arbitration Award,  
47 certified by the private arbitration service which issued the Award,  
48 as is appropriate, shall be attached by the petitioner to the petition.  
49 Any petition filed shall also be deemed an application for  
50 Supplementary Process pursuant to the provisions of G.L. c.224,  
51 §14, *et seq.* and shall proceed in a manner consistent with  
52 G.L. c.224, §14, except that notice shall be given by certified mail,  
53 by the clerk, as provided for Small Claims procedures in G.L.  
54 c.218, §22 and by the rules of court applicable to Small Claims  
55 and shall include a provision for early hearing. The provisions of  
56 G.L. c.224, §19 shall not be applicable herein. Except as modified  
57 herein, or unless contrary to the provisions contained herein, all  
58 other provisions of the Supplementary Process procedure shall  
59 apply to actions pursuant to G.L. c.142A.

60 With respect to an Arbitration Award issued pursuant to this  
61 Chapter, after notice, and upon hearing of the Petitioner's claim,  
62 the Court shall first determine, based upon the record, whether  
63 the Award was rendered in accordance with G.L. c.142A and,  
64 upon finding that the Award has been so rendered, shall further  
65 determine whether the decision of the arbitrator was supported  
66 upon findings that the Petitioner suffered losses as a result of:

- 67 (1) registered contractor or subcontractor conduct;
- 68 (2) work performed in a poor or unworkmanlike manner;
- 69 (3) a common law violation; or
- 70 (4) a violation of any statute or regulation designed for the  
71 protection of consumers, including but not limited to, prohibited  
72 acts listed in section seventeen.

73 If the Court is satisfied that the Award was made in accordance  
74 with G.L. c.142A, it shall confirm the Award and state its findings  
75 in writing.

76 Following the Court's confirming of the Award or upon the  
77 petition filed pursuant to a judgment obtained under this Chapter,  
78 as appropriate, the court, shall also cause an examination to be  
79 made of the person against whom the Award was confirmed or  
80 the judgment rendered for the purpose of issuing a payment order.

81 The hearing shall proceed in a manner similar to the  
82 Supplementary Process provisions of G.L. c.224, §16 and the  
83 court shall have all powers available to it as it has under that  
84 statute.

85 There shall be no appeal from any judgment or order entered  
86 pursuant to the supplementary process procedures, as modified  
87 herein, except that any party aggrieved by any ruling of law may  
88 have the ruling reported for determination to the Appellate  
89 Division of the District Court, pursuant to the applicable rules  
90 of court.

1 SECTION 4. Chapter 142A of the General Laws as added by  
2 Chapter 453 of the Acts of 1991 is hereby amended in Section 8,  
3 at the end of the next to last paragraph, by deleting the period  
4 and adding, "and confirmed by the court pursuant to Section 7A."