
By Mr. Sisitsky, a petition (accompanied by bill, Senate, No. 888) of Alan D. Sisitsky for legislation to regulate attachments and executions. The Judiciary.

The Commonwealth of Massachusetts

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

AN ACT REGULATING ATTACHMENTS AND EXECUTIONS.

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 42 of chapter 223 of the General Laws, as most
2 recently amended by section 1 of chapter 501 of the Acts of
3 1975, is hereby further amended by adding at the end of the
4 following paragraph: —

5 When making an attachment of real property the officer
6 shall serve upon the defendant, in the same manner as the
7 summons is served, a written notice reading substantially as
8 follows: —

9 “Notice of Attachment to Defendant”

10 “You have been sued by _____, the plaintiff, and
11 your land and the buildings thereon have been *attached*,
12 which means that unless the attachment is removed you can-
13 not legally transfer the property to anyone else, although you
14 may continue to live there or otherwise exercise all rights of
15 ownership.

16 “To remove the attachment you or your attorney must
17 either win the lawsuit or obtain a court order removing the
18 attachment pursuant to the Massachusetts Rules of Civil
19 Procedure.

20 “In all events it is important that you file an answer or
21 other legally appropriate pleading to the plaintiff’s complaint
22 within 20 days of the date on which the summons and this
23 notice were delivered to you. If you do not have an attorney,
24 you may be referred to one by calling the Lawyers Referral
25 Service listed in the telephone directory. If you cannot afford

26 a private lawyer, ask to be referred to a poverty law pro-
27 gram.”

1 SECTION 2. Section 14 of chapter 224, as most recently
2 amended by section 51 of chapter 377 of the Acts of 1975, is
3 hereby further amended by adding at the end the following
4 paragraph: —

5 When the judgment arises out of a transaction for the sale
6 or lease of goods, or the rendering of services, or both, pri-
7 marily for personal, family or household purposes and is in
8 total amount not greater than five thousand dollars, the judg-
9 ment debtor, if he has not been arrested on execution, or a
10 person in his behalf, may file an application for supplemen-
11 tary process and cause service to be made on the judgment
12 creditor (or his attorney of record in the action in which
13 judgment was entered), in a manner similar to that provided
14 in the first paragraph, requiring the judgment creditor to ap-
15 pear at the examination. If the judgment creditor or his at-
16 torney fails to appear, the judgment shall be uncollectible by
17 legal process, and any effort by the judgment creditor to col-
18 lect other than by legal process shall be treated as an unfair
19 debt collection practice under the provisions of section forty-
20 nine of chapter ninety-three.

1 SECTION 3. Section 28 of chapter 235 of the General Laws
2 is hereby amended by adding at the end the following sen-
3 tence: —

4 However, if the judgment is for a debt arising out of a trans-
5 action for the sale or lease of goods, or the rendering of serv-
6 ices, or both, primarily for personal, family or household pur-
7 poses and is in total amount not greater than five thousand
8 dollars, the judgment creditor shall not seek to have any
9 property taken upon execution without first proceeding
10 against the judgment debtor under supplementary process, as
11 set forth in sections fourteen and following of chapter two
12 hundred and twenty-four; and any levy made upon an execu-
13 tion in violation of this sentence shall be void.

1 SECTION 4. Section 1 of chapter 236 of the General Laws
2 is hereby amended by adding at the end the following sen-
3 tence: —

4 However, if the judgment is for a debt arising out of a trans-
5 action for the sale or lease of goods, or the rendering of serv-
6 ices, or both, primarily for personal, family or household pur-
7 poses and is in total amount not greater than five thousand
8 dollars, the judgment creditor shall not seek to have any
9 property taken upon execution without first proceeding
10 against the judgment debtor under supplementary process, as
11 set forth in sections fourteen and following of chapter two
12 hundred and twenty-four; and any levy made upon an execu-
13 tion in violation of this sentence shall be void.

