

By Mr. DiMasi of Boston, petition of Salvatore F. DiMasi for legislation to further regulate procedures for the appeal of summary process cases. The Judiciary.

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**The Commonwealth of Massachusetts**

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

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AN ACT FURTHER REGULATING THE PROCEDURE FOR THE APPEAL OF SUMMARY PROCESS CASES.

*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. Section 3 of Chapter 239 of the General Laws,  
2 as most recently amended by Section 2 of Chapter 357 of the Acts  
3 of 1987, is hereby amended by striking out the second paragraph  
4 relative to appeals to the superior court department and inserting  
5 in place thereof the following paragraphs: —  
6 An appeal from the district court on either or both issues  
7 involved or on any counterclaim, shall be to a jury of six session  
8 in the district court department under section five of this chapter  
9 and section ninety-seven of chapter two hundred and thirty-one.  
10 The Boston municipal court department shall be authorized for  
11 the purpose of hearing appeals in said Boston municipal court  
12 department, or in a division of the district court department in  
13 Suffolk County.  
14 Trials by such juries of six shall proceed in accordance with the  
15 provisions of law applicable to trials by jury in the superior court,  
16 except that each party shall be entitled to two peremptory  
17 challenges. Jurors shall be drawn from the pool of jurors available  
18 for the jury sessions in civil cases in the superior court department.  
19 The administrative justice of the district court department shall  
20 designate at least one division in each region for the purpose of  
21 hearing such appeals; provided that appeals from divisions within  
22 Suffolk County shall be held in the Boston municipal court  
23 department or district courts in Suffolk County or, with the

24 approval of the administrative justice of the district court  
25 department may be held in such district courts the judicial districts  
26 of which adjoin Suffolk County as are designated by said  
27 administrative justice; and provided further that with the  
28 approval of the chief administrative justice of the trial court,  
29 facilities of any other department of the trial court may be  
30 designated by the chief administrative justice for appeals from  
31 divisions of the district court department or from the Boston  
32 municipal court department.

1 SECTION 2. Section 5 of Chapter 239 of the General Laws,  
2 as most recently amended by Section 3 of Chapter 304 of the Acts  
3 of 1982, is hereby amended by striking out the words "Superior  
4 Court" in the second paragraph and inserting in place thereof the  
5 words "jury of six session in the district court department".

1 SECTION 3. Section 5 of Chapter 239 of the General Laws,  
2 is further amended by striking out the second sentence in the third  
3 paragraph and inserting in place thereof the following  
4 sentence: —

5 In an appeal from a judgment of a district court such bond shall  
6 be conditioned to enter the action in the jury of six session in the  
7 district court department.

1 SECTION 4. Section 5 of Chapter 239 of the General Laws,  
2 is hereby further amended by striking out the fourth paragraph  
3 and inserting in place thereof the following paragraph: —

4 In appeals under this section, the deposit shall not be  
5 transmitted to the jury of six session in the district court  
6 department or the appeals court unless specifically requested by  
7 said courts. The jury of six session in the district court, or the  
8 superior court or housing court departments may give directions  
9 as to the manner of keeping such deposit. Upon final judgment  
10 for the plaintiff, all money due to him may be recovered in an  
11 action on the bond provided for in the third paragraph of this  
12 section.

1 SECTION 5. Section 5 of Chapter 239 of the General Laws  
2 is hereby further amended by striking out the first, second and

3 third sentences of the sixth paragraph and inserting in place  
4 thereof the following sentences: —

5 Any party aggrieved by the denial of a motion to waive the bond  
6 or who wishes to contest the amount of periodic payments  
7 required by the court may seek review of such decision. The  
8 request for review shall be to the single justice of the appeals court  
9 at the next sitting thereof.

