

By Mr. Flaherty of Boston, petition of Michael F. Flaherty for legislation to further regulate the procedure for appeal of summary process cases. The Judiciary.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Eighty-Four.

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, as  
2 most recently amended by Section 2 of Chapter 304 of the Acts of  
3 1982, is hereby amended by striking out the second paragraph and  
4 inserting in place thereof the following paragraphs: —

5 An appeal for the district court on either or both issues involved  
6 or on any counterclaim, shall be to a jury of six sessions in the  
7 district court department under section five of this chapter and  
8 section ninety-seven of chapter two hundred and thirty-one. The  
9 Boston municipal court department shall be authorized for the  
10 purpose of hearing appeals in said Boston municipal court  
11 department, or in the divisions of the district court department in  
12 Suffolk County.

13 Trials by such juries of six shall proceed in accordance with the  
14 provisions of law applicable to trials by jury in the superior court,  
15 except that each party shall be entitled to two preemptory  
16 challenges. Jurors shall be drawn from the pool of jurors available  
17 for the jury sessions in civil cases in the superior court department.

18 The administrative justice of the district court department shall  
19 designate at least one division in each region for the purpose of  
20 hearing such appeals; provided that appeals from divisions within  
21 Suffolk County shall be held in the Boston municipal court  
22 department or district courts in Suffolk County or, with the  
23 approval of the administrative justice of the district court depart-  
24 ment may be held in such district courts the judicial districts of  
25 which adjoin Suffolk County as are designated by said adminis-

26 trative justice; and provided further that with the approval of the  
27 chief administrative justice of the trial court, facilities of any other  
28 department of the trial court may be designated by the chief  
29 administrative justice for appeals from divisions of the district  
30 court department or from the Boston municipal court department.

1 SECTION 2. Section 5 of Chapter 239 of the General Laws, as  
2 most recently amended by Section 3 of Chapter 304 of the Acts of  
3 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, is  
2 further amended by striking out the second sentence in the third  
3 paragraph and inserting in place thereof the following sentence: —

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

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

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

1 SECTION 5. Section 5 of Chapter 239 of the General Laws is  
2 hereby amended by striking out the first, second and third  
3 sentences of the sixth paragraph and inserting in place thereof the  
4 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.