

By Mr. Flaherty of Boston, petition of John F. Burke and Michael F. Flaherty relative to further defining the concurrent appellate jurisdiction of the Appeals Court and the Supreme Judicial Court. The Judiciary.

The Commonwealth of Massachusetts

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

AN ACT FURTHER DEFINING THE CONCURRENT APPELLATE JURISDICTION OF THE APPEALS COURT AND THE SUPREME JUDICIAL COURT.

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 13 of Chapter 58A of the General Laws as
2 most recently amended by section 2 of chapter 72 of the acts of
3 1983, is hereby amended by striking the words "the supreme judi-
4 cial court" from the fourth, seventh, thirteenth and fourteenth
5 sentences and inserting in place thereof the words "the appeals
6 court".

1 SECTION 2. Section 391 of chapter 119 of the General Laws, as
2 amended by section 54 of chapter 478 of the acts of 1978, is hereby
3 further amended by adding the following paragraph: —

4 Review may be had in the appeals court in the same manner as is
5 provided for trials of civil cases held in the superior court
6 department.

1 SECTION 3. Section 42 of chapter 151A of the General Laws,
2 as most recently amended by section 10 of chapter 451 of the acts of
3 1983 is hereby further amended by striking out the words "supreme
4 judicial" as appearing in the twelfth sentence and inserting in place
5 thereof the word: — appeals.

1 SECTION 4. Section 10 of chapter 211A of the General Laws,
2 as amended by section 2 of chapter 344 of the acts of 1979, is hereby
3 further amended by striking out the first paragraph and inserting in
4 place thereof the following paragraph: —

5 Subject to such further appellate review by the supreme judicial
6 court as may be permitted pursuant to section eleven or otherwise,
7 the appeals court shall have concurrent appellate jurisdiction with
8 the supreme judicial court, to the extent review is otherwise allow-
9 able, with respect to a determination made in the appellate tax
10 board and in the superior court department, the housing court
11 department, the land court department, the probate and family
12 court department, the Boston municipal court department in jury
13 session, the Boston municipal court department appellate division,
14 the juvenile court department, the district court department in jury
15 session, and the district court department appellate divisions,
16 except in review of convictions for first degree murder. A report
17 from any such department of the trial court of any case, in whole or
18 in part, or any question of law arising therein shall be deemed to be
19 within the concurrent appellate jurisdiction of the supreme judicial
20 court and the appeals court.

1 SECTION 5. The second paragraph of said section 10 of said
2 chapter 211A, as so appearing, is hereby amended by striking out
3 the first sentence and inserting in place thereof the following
4 sentence: — Without regard to whether review is by appeal, report
5 or otherwise, appellate review of decisions made in the appellate
6 tax board and in the superior court department, the housing court
7 department, the land court department, the probate and family
8 court department, the Boston municipal court department and the
9 appellate division thereof, the juvenile court department, and the
10 district court department, and the appellate divisions thereof, if
11 within the jurisdiction of the appeals court, shall be in the first
12 instance by the appeals court except in the following cases in which
13 appellate review shall be directly by the supreme judicial court
14 without the necessity of any prior hearing or decision by the
15 appeals court on the merits of the issues sought to be reviewed: —

1 SECTION 6. The fifth sentence of section 19A of chapter 218 of
2 the General Laws, as amended by section 5 of chapter 377 of the

3 acts of 1975, is hereby further amended by striking out the words
4 “supreme judicial” and inserting in place thereof the word: —
5 appeals.

1 SECTION 7. The first sentence of the second paragraph of
2 section 19B of said chapter 218, as most recently amended by
3 section 6 of said chapter 377, is hereby further amended by striking
4 out the words “supreme judicial” and inserting in place thereof the
5 word: — appeals.

1 SECTION 8. Section 109 of chapter 231 of the General Laws,
2 as most recently amended by sections 108 and 108A of chapter 377
3 of the acts of 1975, is hereby further amended by striking out the
4 first and second sentences and inserting in place thereof the follow-
5 ing sentence: — An appeal to the appeals court shall lie from the
6 final decision of the appellate division of any division of the district
7 court department including appeals taken hereunder from the
8 appellate division of the Boston municipal court department.
9 and, by striking out the sixth sentence the words “supreme
10 judicial” and inserting in place thereof the word: — appeals.

1 SECTION 9. This act shall take effect on January 1, 1986 and
2 shall apply to all proceedings, determinations, orders, and judg-
3 ments entered on or after that date in any department of the trial
4 court and in the appellate tax board.

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