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Accompanying the sixth recommendation of the Executive Office of Consumer Affairs (House, No. 33). The Judiciary.

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### **The Commonwealth of Massachusetts**

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

AN ACT IMPROVING SMALL CLAIMS COURT PROCEDURES FOR THE BENEFIT OF PERSONS WITH SMALL CLAIMS.

*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 15 of chapter 218 of the General Laws as  
2 most recently amended by section 2 of chapter 810 of the acts of  
3 1963, is hereby further amended by adding at the end thereof the  
4 following paragraph:—

5 The administrative judge of the Small Claims Court shall  
6 provide that the court be open for the filing of claims and the  
7 adjudication of controversies during regular working hours and  
8 during at least one evening a week and one Saturday morning per  
9 month.

1 SECTION 2. Section 21 of chapter 218 of the General Laws,  
2 as most recently amended by chapter 626 of the acts of 1975, is  
3 hereby further amended by striking out the first sentence and  
4 inserting in place thereof the following sentence:—

5 The chief justice of the district courts shall make uniform rules  
6 applicable to all district courts except the municipal court of the  
7 City of Boston, and the chief justice of the municipal court of the  
8 City of Boston shall make rules for said court, providing for a  
9 simple, informal and inexpensive procedure for the determina-  
10 tion, according to the rules of substantive law of claims in the  
11 nature of contracts or torts, or other than slander and libel, in  
12 which the plaintiff does not claim as debt or damage more than  
13 \$1000 and for a review of judgements upon such claims when  
14 justice so requires. Procedures so established will include

15 provisions requiring the court to determine what efforts have  
16 been made by the parties to settle their dispute. If the court is not  
17 satisfied that good faith settlement have been made, the court  
18 shall require parties to meet in the courthouse, in private or  
19 before a mediator, at their election, to attempt to settle their  
20 dispute. If the court is satisfied that good faith negotiations have  
21 been made and were not successful, the court shall proceed to the  
22 hearing without delay. Every settlement reached by the parties  
23 acting either alone or through mediation shall be submitted to the  
24 court for approval. Every reasonable settlement shall be (1)  
25 approved by the court; (2) regarded as a judgement entered by the  
26 court; and (3) processed for collection as prescribed in court  
27 procedure. The procedures governing actions taken in small  
28 claims matters will provide for an arbitration alternative to the  
29 regular courtroom adjudication of controversies. The clerk of  
30 courts will inform litigants appearing for hearing that they have  
31 the right to choose a hearing by binding, non-appealable  
32 courtroom adjudication or they, if all parties agree, select  
33 arbitration. Parties cannot withdraw from arbitration subsequent  
34 to its commencement without the consent of the court. The  
35 provisions governing conduct of regular adjudicatory  
36 proceedings shall govern the arbitration hearing, except that an  
37 arbitrator may not continue or transfer a case without the  
38 approval of the court. The court decision of the arbitrator is  
39 reviewable by the court upon a sufficient showing by the litigant  
40 that the arbitrator exceeded his authority or was biased. An  
41 award granted by an arbitrator shall be regarded as a judgement  
42 entered by the court and processed for collection as prescribed by  
43 normal court procedure. Arbitrators shall be selected and  
44 assigned to hearings in the manner prescribed by the ad-  
45 ministrative judge of the small claims court.