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By Mr. Walsh, a petition (accompanied by bill, Senate, No. 1107) of Joseph B. Walsh for legislation to further regulate the procedure for the appeal of summary process cases. The Judiciary.

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The Commonwealth of Massachusetts

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

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  
3 Acts of 1982, is hereby amended by striking out the second  
4 paragraph and inserting in place thereof the following para-  
5 graphs: —

6 In case of appeal from the district court on either or both  
7 issues involved or on any counterclaim, the appeal shall be  
8 to a jury of six in the District Court Department under sec-  
9 tion five of this chapter and section ninety-seven of chapter  
10 two hundred and thirty-one.

11 Trials by such juries of six shall proceed in accordance  
12 with the provisions of law applicable to trials by jury in the  
13 Superior Court, except that each party shall be entitled to  
14 two preemptory challenges. Jurors shall be drawn from the  
15 pool of jurors available for the jury sessions in civil cases in  
16 the Superior Court. The Administrative Justice of the Dis-  
17 trict Court Department shall designate at least one division  
18 in each region for the purpose of hearing such appeals;  
19 except that appeals from divisions within Suffolk County  
20 shall be held in the Boston Municipal Court or District Courts  
21 in Suffolk County or, with the approval of the Administrative  
22 Justice of the District Court Department may be held in such  
23 District Courts the judicial districts of which adjoin Suffolk  
24 County as are designated by said Administrative Justice; and  
25 provided further that with the approval of the Chief Admin-

26 istrative Justice, facilities of any department may be desig-  
27 nated by said Administrative Justice; and provided further  
28 that with the approval of the Chief Administrative Justice,  
29 facilities of any department may be designated for appeals  
30 from the District Court Department or from the Boston  
31 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  
3 the Acts of 1982, is hereby amended by striking out the  
4 words "Superior Court" and in the second paragraph and  
5 inserting in place thereof the words "jury of six in the Dis-  
6 trict Court Department". Section 5 of General Laws, Chapter  
7 239 is further amended by striking out the second sentence  
8 in the third paragraph and inserting the following sentence:  
9 "In an appeal from a judgment of a district court such bond  
10 shall be conditioned to enter the action in the jury of six in  
11 the District Court Department".

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

5 In appeals under this section, the deposit shall not be trans-  
6 mitted to the jury of six court or the appeals court unless  
7 specifically requested by said courts. The jury of six court  
8 in the District Court Department or the Superior or Housing  
9 Court Departments may give directions as to the manner  
10 of keeping such deposit. Upon final judgment for the plaintiff,  
11 all money due to him may be recovered in an action on the  
12 bond provided for in the third paragraph of this section.

13 The sixth paragraph of Section 5 of General Laws, Chap-  
14 ter 239 is hereby amended by striking out the third sentence  
15 and inserting in place thereof the following sentence: "If the  
16 motion was made in any district municipal court the request  
17 for review shall be to the appellate division of the District  
18 Court Department.