

HOUSE No. 1750

House Bill No. 1502 as amended and passed by the House to be engrossed.

The Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and Twenty.

AN ACT

To establish a New Procedure for the Hearing and Determination of 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. The justices or a majority of them of all
2 the police, district and municipal courts, except the
3 municipal court of the city of Boston, shall make uniform
4 rules applicable to said courts, and the justices of the
5 municipal court of the city of Boston or a majority of
6 them shall make rules applicable to that court, providing
7 for a simple, informal, and inexpensive procedure, here-
8 inafter called the Procedure, for the determination, ac-
9 cording to the rules of substantive law, of claims in the
10 nature of contract or tort, other than slander and libel,
11 in which the plaintiff does not claim as debt or damages
12 more than thirty-five dollars, and a review of judgments
13 upon such claims when justice so requires. The pro-

14 cedure shall not be exclusive, but shall be alternative
15 to the formal procedure for causes begun by writ. The
16 procedure shall include the beginning of actions with an
17 entry fee of one dollar but without writ, and without
18 requirement, except by special order of court, of other
19 pleading than a statement to a clerk or an assistant clerk
20 of the court, who shall reduce the same to concise written
21 form in a docket kept for the purpose. The procedure
22 shall include notice by registered mail instead of the mode
23 of legal service heretofore required, and shall further
24 include provisions for early hearing of actions thus begun.
25 The procedure may include the modification of any or all
26 existing rules of pleading and practice, and a stay of the
27 entry of judgment or of the issue of execution. The rules
28 for the procedure may provide for the elimination of any
29 or all fees and costs now fixed by law, and may also
30 provide that the imposition of costs in causes under the
31 procedure shall be in the discretion of the court. In
32 causes begun under the procedure the court may on ap-
33 plication for cause shown issue writs of attachment of
34 property or person as in causes begun by writ.

1 SECTION 2. A plaintiff beginning a cause under the
2 procedure shall be deemed to have waived a trial by
3 jury and his right of appeal to the superior court, or in
4 the municipal court of the city of Boston to a report to
5 the appellate division of said court, unless said cause shall
6 be removed to the superior court as hereinafter provided,
7 in which case the plaintiff shall have the same right to
8 claim a trial by jury as if the cause had been begun in
9 the superior court. No other party to a cause under
10 the procedure shall be entitled to an appeal or report as
11 aforesaid. In lieu thereof, any such party may, prior
12 to the day upon which he shall be notified to appear, file

13 in the court in which the cause is pending a claim of trial
14 by jury, and his affidavit that there are questions of fact
15 in the cause requiring trial, with specifications of the
16 same, and that such trial is intended in good faith, to-
17 gether with the sum of three dollars for the entry of the
18 cause in the superior court. The clerk shall forthwith
19 transmit such original papers or attested copies thereof,
20 as the rules made under section one of this act may pro-
21 vide, and the superior court may try the cause as trans-
22 mitted or may require pleadings as in a cause begun by
23 writ, but the cause may be marked for trial on the list
24 of causes advanced for speedy trial by jury.

1 SECTION 3. The provisions of section four of chapter
2 six hundred and forty-nine of the acts of nineteen hun-
3 dred and twelve shall apply to all police, district and
4 municipal courts in causes begun under this act.

1 SECTION 4. The court may, in its discretion, transfer
2 a cause begun under this act to the regular civil docket
3 for formal hearing and determination as though it had
4 been begun by writ, and may impose terms upon such
5 transfer.

1 SECTION 5. In any cause begun by writ which might
2 have been begun under the informal procedure herein
3 provided for, the rules may provide, or the court may
4 by special order direct, that the costs to be recovered by
5 the plaintiff if he prevails, shall be eliminated in whole
6 or in part.

1 SECTION 6. This act shall take effect on the first day
2 of January, nineteen hundred and twenty-one.

HOUSE OF REPRESENTATIVES, May 13, 1920.

Passed to be engrossed.

Sent up for concurrence.

JAMES W. KIMBALL, *Clerk.*