

SENATE No. 821

The Commonwealth of Massachusetts

PRESENTED BY:

Bruce E. Tarr

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act Consumer Legal Equalization Act.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Bruce E. Tarr

First Essex and Middlesex

Robert L. Hedlund

Plymouth and Norfolk

SENATE No. 821

By Mr. Tarr, a petition (accompanied by bill, Senate, No. 821) of Bruce E. Tarr and Robert L. Hedlund for legislation relative to Consumer Legal Equalization Act. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act Consumer Legal Equalization Act.

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. Chapter 223 of the General Laws, as appearing in the 2010 Official Edition,
2 is hereby amended by striking section 2C in its entirety and inserting in place thereof the
3 following new section:-

4 Section 2C. Whenever any action or proceeding is transferred to another court under any
5 provision of section two A, section two B, or section two D, such action or proceeding shall
6 thereafter proceed in the court to which it is thus transferred as though originally entered there.

7 SECTION 2. Chapter 223 of the General Laws, as appearing in the 2010 Official Edition,
8 is hereby further amended by inserting, after section 2C, the following new section:-

9 Consolidation of unsecured consumer actions

10 Section 2D. (a) In any action commenced within the district court department of the trial
11 courts of this Commonwealth, including, without limitation, those commenced as so-called
12 “small claims actions” under section twenty-one of chapter two hundred and eighteen, against a
13 natural person based upon any unsecured credit card or other revolving extension of credit to
14 such natural person, the administrative justice of the district court department of the trial court
15 shall, upon a motion filed by the defendant in such action within twenty days of the first entry of
16 a notice of appearance by an attorney authorized to practice law within this Commonwealth on
17 behalf of such defendant, transfer venue of such action to the division of the district court
18 department of the trial court so requested in the motion. The defendant making such motion shall
19 give notice thereof to the clerks or clerk magistrates of the divisions in which said action is
20 pending, to all other parties to such action, and to the administrative justice of the district court
21 department of the trial court. Thereafter, no action shall be taken with respect to said action until

it shall be transferred to the division of the district court department of the trial court so requested in said motion.

(b) All hearings, conferences and trials requested by any plaintiff with respect to any action commenced within the district court department of the trial courts of this Commonwealth, including, without limitation, those commenced as so-called “small claims actions” under section twenty-one of chapter two hundred and eighteen, against a natural person based upon any unsecured credit card or other revolving extension of credit to such natural person, where the defendant is represented of record by an attorney licensed to practice law within this Commonwealth, shall be scheduled, subject to mutual agreement between the parties, at a date and time designated by the defendant’s counsel by a written notice of designation served upon plaintiff within ten business days of plaintiff’s service upon defendant of such request; provided, however, that the date so designated by the defendant must be (1) no later than forty-five days after the date of service of plaintiff’s request and (2) on a date when the district court in which the action is pending normally hears such matters.

(c) All hearings, conferences and trials set by the district court with respect to any action commenced within the district court department of the trial courts of this Commonwealth, including, without limitation, those commenced as so-called “small claims actions” under section twenty-one of chapter two hundred and eighteen, against a natural person based upon any unsecured credit card or other revolving extension of credit to such natural person, where the defendant is represented of record by an attorney licensed to practice law within this Commonwealth, shall be scheduled, subject to the defendant’s right to waive such right or a mutual agreement between the parties, at a date and time together with all similar hearings, conferences and trials for all actions filed within any twelve month period where the defendants are represented by the same counsel of record. It shall be the defendant’s responsibility to assure compliance with this section by notifying the court in which any action is so pending of the need to consolidate all such actions by giving the clerk and the other parties notice of the required consolidation within ten business days of the court’s serving notice of any such hearings, conferences or trials.

(d) As used in this section, (1) the term “natural person,” shall have the meaning assigned to such term in section two of chapter ninety-three of the General Laws; (2) the term “credit card,” shall have the meaning assigned to such term in section one hundred four of chapter ninety-three of the General Laws; and (3) the term “extension of credit” shall have the meaning assigned to such term in section sixty-eight A of chapter ninety-three of the General Laws.