

# HOUSE . . . . . No. 1649

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By Mr. O’Flaherty of Chelsea, petition of Eugene L. O’Flaherty relative to the allocation of certain settlement proceeds by the Superior Court. The Judiciary.

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## The Commonwealth of Massachusetts

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In the Year Two Thousand and Seven.

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AN ACT GRANTING DISCRETION TO THE SUPERIOR COURT TO ALLOCATE CERTAIN SETTLEMENT PROCEEDS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Chapter 231 of the General Laws, as appearing in the 2004 Offi-  
2 cial Edition, is hereby amended by inserting after Section 72, the  
3 following section:—

4 Section 72A. In any action in which an injured person enters into  
5 a settlement with, or obtains a judgment upon trial from a third party  
6 and benefits for his injuries have been paid under Chapter one hun-  
7 dred and fifty-two, and the injured person and the insurer paying  
8 said benefits do not agree to the amount each is entitled to recover  
9 out of such settlement or judgment, there shall be a just and reason-  
10 able apportionment thereof in accordance with this section. If the  
11 settlement, judgment or funds available to satisfy the judgment are  
12 less than the amount of plaintiff’s total damages, the court or other  
13 authority authorized to approve settlements under section fifteen of  
14 chapter one hundred and fifty-two may reduce after a hearing the  
15 amount of said insurer’s lien in the action, after evaluation of the  
16 plaintiff’s total cognizable damages at law. Except in the case of a  
17 final judgment, where the plaintiff is dissatisfied with the appor-  
18 tionment by the court, he may withdraw his consent to the settlement.