

**HOUSE . . . . . No. 1738**

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The Commonwealth of Massachusetts

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PRESENTED BY:

***John D. Keenan***

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*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 passage of the accompanying bill:

An Act relative to the creative economy.

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PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>John D. Keenan</i>	<i>7th Essex</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>
<i>Kate Hogan</i>	<i>3rd Middlesex</i>

**HOUSE . . . . . No. 1738**

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By Mr. Keenan of Salem, a petition (accompanied by bill, House, No. 1738) of John D. Keenan and others relative to intellectual property . Labor and Workforce Development.

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The Commonwealth of Massachusetts

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**In the Year Two Thousand Thirteen**  
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An Act relative to the creative economy.

*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. Subsection (a) of section 148B of chapter 149 of the Massachusetts General  
2 Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting the following  
3 clause:-

4 (4) or if an individual who is engaged in a profession, trade, or occupation that creates  
5 intellectual property that is or is not protected under federal copyright law, federal patent law,  
6 federal licensing laws or any other applicable federal, state or international law or treaty  
7 governing intellectual property is exempt from section 148B of chapter 149 if they meet the  
8 following:

9 (i) The individual identifies, markets, or promotes themselves as a freelancer, as self-  
10 employed, as a sole proprietor or as an independent business.

11 (ii) The individual controls and regularly negotiates the use of their intellectual property.

12 (iii) The individual meets the federal standards on independent contractors such, as but  
13 not limited to, the Internal Revenue Service 20 Factor Test and any Internal Revenue Service or  
14 federal industry specific independent contractor test that may exist.

15 The exception shall not apply to an individual who has been coerced, threatened or  
16 intimidated into establishing an independent business.

17 SECTION 2. Notwithstanding any general or special law to the contrary, if an individual  
18 is a member or is affiliated with a union, guild, membership organization, or professional  
19 organization, the employer of the individual is required to abide by the work standards, contracts,  
20 pay rate and/or other work practices and agreements established by said union, membership

21 organization, professional organization, or guild. Membership in a professional development  
22 organization, union, guild created by a specific employer for its employees and/or independent  
23 contractors shall not meet the definition of a union, guild, membership organization or  
24 professional organization.