

AMENDED IN SENATE JUNE 20, 2006

AMENDED IN ASSEMBLY MARCH 27, 2006

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 2455

Introduced by Assembly Member Nakanishi

February 23, 2006

An act to amend Section 116.220 of the Code of Civil Procedure, relating to small claims court.

LEGISLATIVE COUNSEL'S DIGEST

AB 2455, as amended, Nakanishi. Small claims court: jurisdiction.

Existing law specifies that the jurisdiction of the small claims court includes various actions in which the demand does not exceed \$5,000, with specified exceptions. This jurisdiction includes actions against defendant guarantors who are required to respond based upon the default, actions, or omissions of another, if the demand does not exceed \$2,500, or, on and after January 1, 2000, \$4,000, if the defendant guarantor charges a fee for its services or the defendant guarantor is the Registrar of the Contractors' State License Board. Existing law also provides that the small claims court has jurisdiction in an action brought by a natural person if the demand does not exceed \$7,500, except as specified.

This bill would revise and recast these provisions to provide that the jurisdiction of the small claims court includes ~~actions against defendant guarantors who are required to respond based upon the default, actions, or omissions of another, if the demand does not exceed the amounts described above, and either (a) the defendant guarantor charges a fee for its services or (b) the defendant guarantor~~

~~is the Registrar of the Contractors' State License Board, and the demand is brought by other than a natural person. The bill would clarify that the small claims court has jurisdiction in (1) any action brought by a natural person against the Registrar of the Contractors' State License Board where as the defendant guarantor if the demand does not exceed \$7,500, except as specified, (2) any action against a defendant guarantor that does not charge a fee for its guarantor or surety services, if the amount of the demand does not exceed \$2,500, and (3) any action against a defendant guarantor that charges a fee for its guarantor or surety services or an action brought by an entity other than a natural person against the Registrar of the Contractors' State License Board as the defendant guarantor, if the amount of the demand does not exceed \$4,000.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
 State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 116.220 of the Code of Civil Procedure
 2 is amended to read:
 3 116.220. (a) The small claims court has jurisdiction in the
 4 following actions:
 5 (1) Except as provided in subdivisions (c), (e), and (f), for
 6 recovery of money, if the amount of the demand does not exceed
 7 five thousand dollars (\$5,000).
 8 (2) Except as provided in subdivisions (c), (e), and (f), to
 9 enforce payment of delinquent unsecured personal property taxes
 10 in an amount not to exceed five thousand dollars (\$5,000), if the
 11 legality of the tax is not contested by the defendant.
 12 (3) To issue the writ of possession authorized by Sections
 13 1861.5 and 1861.10 of the Civil Code if the amount of the
 14 demand does not exceed five thousand dollars (\$5,000).
 15 (4) To confirm, correct, or vacate a fee arbitration award not
 16 exceeding five thousand dollars (\$5,000) between an attorney
 17 and client that is binding or has become binding, or to conduct a
 18 hearing de novo between an attorney and client after nonbinding
 19 arbitration of a fee dispute involving no more than five thousand
 20 dollars (\$5,000) in controversy, pursuant to Article 13
 21 (commencing with Section 6200) of Chapter 4 of Division 3 of
 22 the Business and Professions Code.

1 (b) In any action seeking relief authorized by subdivision (a),
2 the court may grant equitable relief in the form of rescission,
3 restitution, reformation, and specific performance, in lieu of, or
4 in addition to, money damages. The court may issue a
5 conditional judgment. The court shall retain jurisdiction until full
6 payment and performance of any judgment or order.

7 ~~(e) Notwithstanding subdivision (a), the small claims court has~~
8 ~~jurisdiction over a defendant guarantor who is required to~~
9 ~~respond based upon the default, actions, or omissions of another,~~
10 ~~only if the demand does not exceed (1) two thousand five~~
11 ~~hundred dollars (\$2,500), or (2) on and after January 1, 2000,~~
12 ~~four thousand dollars (\$4,000), and either of the following~~
13 ~~conditions apply:~~

14 ~~(1) The defendant guarantor charges a fee for its guarantor or~~
15 ~~surety services.~~

16 ~~(2) The defendant guarantor is the Registrar of the~~
17 ~~Contractors' State License Board, and the demand is brought by~~
18 ~~other than a natural person. For any demand subject to this~~
19 ~~chapter that is brought by a natural person against the Registrar~~
20 ~~of the Contractors' State License Board as the defendant~~
21 ~~guarantor, Section 116.221 shall apply.~~

22 *(c) Notwithstanding subdivision (a), the small claims court has*
23 *jurisdiction over a defendant guarantor as follows:*

24 *(1) For any action brought by a natural person against the*
25 *Registrar of the Contractors' State License Board as the*
26 *defendant guarantor, the small claims jurisdictional limit stated*
27 *in Section 116.221 shall apply.*

28 *(2) For any action against a defendant guarantor that does not*
29 *charge a fee for its guarantor or surety services, if the amount of*
30 *the demand does not exceed two thousand five hundred dollars*
31 *(\$2,500).*

32 *(3) For any action against a defendant guarantor that charges*
33 *a fee for its guarantor or surety services or an action brought by*
34 *an entity other than a natural person against the Registrar of the*
35 *Contractors' State License Board as the defendant guarantor, if*
36 *the amount of the demand does not exceed four thousand dollars*
37 *(\$4,000).*

38 (d) In any case in which the lack of jurisdiction is due solely to
39 an excess in the amount of the demand, the excess may be
40 waived, but any waiver is not operative until judgment.

1 (e) Notwithstanding subdivision (a), in any action filed by a
2 plaintiff incarcerated in a Department of Corrections ~~facility or a~~
3 ~~Youth Authority and Rehabilitation~~ facility, the small claims
4 court has jurisdiction over a defendant only if the plaintiff has
5 alleged in the complaint that he or she has exhausted his or her
6 administrative remedies against that department, including
7 compliance with Sections 905.2 and 905.4 of the Government
8 Code. The final administrative adjudication or determination of
9 the plaintiff's administrative claim by the department may be
10 attached to the complaint at the time of filing in lieu of that
11 allegation.

12 (f) In any action governed by subdivision (e), if the plaintiff
13 fails to provide proof of compliance with the requirements of
14 subdivision (e) at the time of trial, the judicial officer shall, at his
15 or her discretion, either dismiss the action or continue the action
16 to give the plaintiff an opportunity to provide that proof.

17 (g) For purposes of this section, "department" includes an
18 employee of a department against whom a claim has been filed
19 under this chapter arising out of his or her duties as an employee
20 of that department.