

AMENDED IN SENATE AUGUST 6, 2008

AMENDED IN SENATE JULY 2, 2008

AMENDED IN ASSEMBLY APRIL 1, 2008

AMENDED IN ASSEMBLY MARCH 24, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1873**

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**Introduced by Assembly Member Lieu**

February 4, 2008

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An act to amend Sections 116.570, ~~116.610~~, and 116.820 of the Code of Civil Procedure, ~~relating to small claims court~~ *to amend Sections 68085.1 and 68565 of the Government Code, and to amend Section 903.1 of the Welfare and Institutions Code, relating to courts.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1873, as amended, Lieu. ~~Small claims court.~~ *Courts.*

(1) Existing law authorizes any party to a small claims action to submit a written request to postpone a hearing date for good cause, as specified. Existing law requires the court to charge and collect a \$10 fee for the filing of a request for postponement and rescheduling of a hearing date after timely service of both the claim and order directing the parties to appear has been made upon the defendant.

This bill would require that the request to postpone the hearing state whether any previous requests to postpone the hearing date were made by the requesting party and whether the court granted those requests. The bill would specify that the \$10 fee for the filing of a request for postponement after service of the claim and order shall be nonrefundable. The bill would require the court also to collect a

nonrefundable \$10 fee for the filing of a request for postponement and rescheduling of a hearing date before service of the claim and order, or a counterclaim, if the court granted a prior postponement to the party making the request.

(2) Existing law provides for the enforcement of the judgment of a small claims court and requires the clerk to charge and collect specified fees for the issuance of a writ of execution, an abstract of judgment, or an order of examination of a judgment debtor.

This bill would instead require the clerk to charge and collect all fees associated with the enforcement of judgments, including, among other things, statutory fees for preparing and issuing, and recording and indexing, an abstract of judgment or a certified copy of a judgment, statutory fees for filing a notice of judgment lien on personal property, and statutory fees for issuing a writ for the enforcement of the judgment, as specified.

(3) *Existing law authorizes the Judicial Council to establish a court interpreters advisory panel to assist the council in performing its duties under this article.*

*This bill would modify the definition of court interpreter for the purpose of that provision to include an interpreter qualified to interpret for deaf or hearing-impaired persons, as specified.*

(4) *Existing law provides that the person liable for the support of a minor, the estate of that person, and the estate of the minor, are liable for the cost to the county of legal services rendered to the minor by the public defender or other public attorney or by an attorney in private practice pursuant to an order of the juvenile court. Existing law also provides that the person liable for the support of a minor and the estate of that person shall also be liable for any cost to the county of legal services rendered directly to the father, mother, or spouse, of the minor or any other person liable for the support of the minor, in a dependency proceeding by the public defender or other public attorney or by an attorney in private practice.*

*This bill would provide that those persons are also liable for the cost to the court of those legal services provided by an attorney appointed pursuant to an order by the juvenile court.*

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

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

1 SECTION 1. Section 116.570 of the Code of Civil Procedure  
2 is amended to read:

3 116.570. (a) Any party may submit a written request to  
4 postpone a hearing date for good cause.

5 (1) The written request may be made either by letter or on a  
6 form adopted or approved by the Judicial Council.

7 (2) The request shall state whether any previous requests to  
8 postpone the hearing date were made by the requesting party and  
9 whether the court granted those requests.

10 (3) The request shall be filed at least 10 days before the hearing  
11 date, unless the court determines that the requesting party has good  
12 cause to file the request at a later date.

13 (4) On the date of making the written request, the requesting  
14 party shall mail or personally deliver a copy to each of the other  
15 parties to the action.

16 (5) (A) If the court finds that the interests of justice would be  
17 served by postponing the hearing, the court shall postpone the  
18 hearing, and shall notify all parties by mail of the new hearing  
19 date, time, and place.

20 (B) On one occasion, upon the written request of a defendant  
21 guarantor, the court shall postpone the hearing for at least 30 days,  
22 and the court shall take this action without a hearing. This  
23 subparagraph does not limit the discretion of the court to grant  
24 additional postponements under subparagraph (A).

25 (6) The court shall provide a prompt response by mail to any  
26 person making a written request for postponement of a hearing  
27 date under this subdivision.

28 (b) If service of the claim and order upon the defendant is not  
29 completed within the number of days before the hearing date  
30 required by subdivision (b) of Section 116.340, and the defendant  
31 has not personally appeared and has not requested a postponement,  
32 the court shall postpone the hearing for at least 15 days. If a  
33 postponement is ordered under this subdivision, the clerk shall  
34 promptly notify all parties by mail of the new hearing date, time,  
35 and place.

36 (c) This section does not limit the inherent power of the court  
37 to order postponements of hearings in appropriate circumstances.

1 (d) A nonrefundable fee of ten dollars (\$10) shall be charged  
2 and collected for the filing of a request for postponement and  
3 rescheduling of a hearing date after timely service pursuant to  
4 subdivision (b) of Section 116.340 has been made upon the  
5 defendant.

6 (e) A nonrefundable fee of ten dollars (\$10) shall be charged  
7 and collected for the filing of a request for postponement and  
8 rescheduling of a hearing date before service has been made  
9 pursuant to subdivision (b) of Section 116.340 or subdivision (b)  
10 of Section 116.360 if the court granted a prior postponement to  
11 the party making the request.

12 ~~SEC. 2. Section 116.610 of the Code of Civil Procedure is~~  
13 ~~amended to read:~~

14 ~~116.610. (a) The small claims court shall give judgment for~~  
15 ~~damages, or equitable relief, or both damages and equitable relief,~~  
16 ~~within the jurisdictional limits stated in Sections 116.220, 116.221,~~  
17 ~~and 116.231, and may make any orders as to time of payment or~~  
18 ~~otherwise as the court deems just and equitable for the resolution~~  
19 ~~of the dispute.~~

20 ~~(b) The court may, at its discretion or on request of any party,~~  
21 ~~continue the matter to a later date in order to permit and encourage~~  
22 ~~the parties to attempt resolution by informal or alternative means.~~

23 ~~(c) The judgment shall include a determination whether the~~  
24 ~~judgment resulted from a motor vehicle accident on a California~~  
25 ~~highway caused by the defendant's operation of a motor vehicle,~~  
26 ~~or by the operation by some other individual, of a motor vehicle~~  
27 ~~registered in the defendant's name.~~

28 ~~(d) If the defendant has filed a claim against the plaintiff, or if~~  
29 ~~the judgment is against two or more defendants, the judgment, and~~  
30 ~~the statement of decision if one is rendered, shall specify the basis~~  
31 ~~for, and the character and amount of, the liability of each of the~~  
32 ~~parties, including, in the case of multiple judgment debtors, whether~~  
33 ~~the liability of each is joint or several.~~

34 ~~(e) If specific property is referred to in the judgment, whether~~  
35 ~~it be personal or real, tangible or intangible, the property shall be~~  
36 ~~identified with sufficient detail to permit efficient implementation~~  
37 ~~or enforcement of the judgment.~~

38 ~~(f) In an action against several defendants, the court may, in its~~  
39 ~~discretion, render judgment against one or more of them, leaving~~

1 the action to proceed against the others, whenever a several  
2 judgment is proper.

3 ~~(g) (1) The prevailing party is entitled to the costs of the action,~~  
4 ~~including the costs of serving the order for the appearance of the~~  
5 ~~defendant.~~

6 ~~(2) Notwithstanding paragraph (1) of this subdivision and~~  
7 ~~subdivision (b) of Section 1032, the amount of the small claims~~  
8 ~~court fee paid by a party pursuant to subdivision (c) of Section~~  
9 ~~116.230 that exceeds the amount that would have been paid if the~~  
10 ~~party had paid the fee pursuant to subdivision (b) of Section~~  
11 ~~116.230 shall not be recoverable as costs.~~

12 ~~(3) Notwithstanding paragraph (1) of this subdivision and~~  
13 ~~subdivision (b) of Section 1032, costs associated with appearing~~  
14 ~~by telephone shall not be recoverable.~~

15 ~~(h) When the court renders judgment, the clerk shall promptly~~  
16 ~~deliver or mail notice of entry of the judgment to the parties, and~~  
17 ~~shall execute a certificate of personal delivery or mailing and place~~  
18 ~~it in the file.~~

19 ~~(i) The notice of entry of judgment shall be on a form approved~~  
20 ~~or adopted by the Judicial Council.~~

21 ~~SEC. 3.~~

22 *SEC. 2.* Section 116.820 of the Code of Civil Procedure is  
23 amended to read:

24 116.820. (a) The judgment of a small claims court may be  
25 enforced as provided in Title 9 (commencing with Section 680.010)  
26 of Part 2 and in Sections 674 and 1174 on the enforcement of  
27 judgments of other courts. A judgment of the superior court after  
28 a hearing on appeal, and after transfer to the small claims court  
29 under subdivision (d) of Section 116.780, may be enforced like  
30 other judgments of the small claims court, as provided in Title 9  
31 (commencing with Section 680.010) of Part 2 and in Sections 674  
32 and 1174 on the enforcement of judgments of other courts.

33 (b) The clerk of the court shall charge and collect all fees  
34 associated with the enforcement of judgments under Title 9  
35 (commencing with Section 680.010) of Part 2. The clerk shall  
36 immediately deposit all the fees collected under this section into  
37 a bank account established for this purpose by the Administrative  
38 Office of the Courts. The money shall be remitted to the State  
39 Treasury under rules adopted by, or trial court financial policies  
40 and procedures authorized by, the Judicial Council under

1 subdivision (a) of Section 77206 of the Government Code. The  
2 Controller shall distribute the fees to the Trial Court Trust Fund  
3 as provided in Section 68085.1 of the Government Code.

4 (c) The prevailing party in any action subject to this chapter is  
5 entitled to the costs of enforcing the judgment and accrued interest.

6 *SEC. 3. Section 68085.1 of the Government Code is amended*  
7 *to read:*

8 68085.1. (a) This section applies to all fees and fines that are  
9 collected on or after January 1, 2006, under all of the following:

10 (1) Sections 177.5, 209, 403.060, 491.150, 631.3, 683.150,  
11 704.750, 708.160, 724.100, 1134, 1161.2, 1218, and 1993.2 of,  
12 subdivision (g) of Section 411.20 and subdivisions (c) and (g) of  
13 Section 411.21 of, and Chapter 5.5 (commencing with Section  
14 116.110) of Title 1 of Part 1 of, the Code of Civil Procedure.

15 (2) Section 3112 of the Family Code.

16 (3) Section 31622 of the Food and Agricultural Code.

17 (4) Subdivision (d) of Section 6103.5, Sections 68086 and  
18 68086.1, subdivision (d) of Section 68511.3, Sections 68926.1 and  
19 69953.5, and Chapter 5.8 (commencing with Section 70600).

20 (5) Section 103470 of the Health and Safety Code.

21 (6) Subdivisions (b) and (c) of Section 166 and Section 1214.1  
22 of the Penal Code.

23 (7) Sections 1835, 1851.5, 2343, 7660, and 13201 of the Probate  
24 Code.

25 (8) Sections 14607.6 and 16373 of the Vehicle Code.

26 (9) Section 71386 of this code, Sections 304, 7851.5, and 9002  
27 of the Family Code, ~~and~~ Section 1513.1 of the Probate Code, *and*  
28 *Section 903.1 of the Welfare and Institutions Code*, if the  
29 reimbursement is for expenses incurred by the court.

30 (10) Section 3153 of the Family Code, if the amount is paid to  
31 the court for the cost of counsel appointed by the court to represent  
32 a child.

33 (b) On and after January 1, 2006, each superior court shall  
34 deposit all fees and fines listed in subdivision (a), as soon as  
35 practicable after collection and on a regular basis, into a bank  
36 account established for this purpose by the Administrative Office  
37 of the Courts. Upon direction of the Administrative Office of the  
38 Courts, the county shall deposit civil assessments under Section  
39 1214.1 of the Penal Code and any other money it collects under  
40 the sections listed in subdivision (a) as soon as practicable after

1 collection and on a regular basis into the bank account established  
2 for this purpose and specified by the Administrative Office of the  
3 Courts. The deposits shall be made as required by rules adopted  
4 by, and financial policies and procedures authorized by, the Judicial  
5 Council under subdivision (a) of Section 77206. Within 15 days  
6 after the end of the month in which the fees and fines are collected,  
7 each court, and each county that collects any fines or fees under  
8 subdivision (a), shall provide the Administrative Office of the  
9 Courts with a report of the fees by categories as specified by the  
10 Administrative Office of the Courts. The Administrative Office  
11 of the Courts and any court may agree upon a time period greater  
12 than 15 days, but in no case more than 30 days after the end of the  
13 month in which the fees and fines are collected. The fees and fines  
14 listed in subdivision (a) shall be distributed as provided in this  
15 section.

16 (c) (1) Within 45 calendar days after the end of the month in  
17 which the fees and fines listed in subdivision (a) are collected, the  
18 Administrative Office of the Courts shall make the following  
19 distributions:

20 (A) To the small claims advisory services, as described in  
21 subdivision (f) of Section 116.230 of the Code of Civil Procedure.

22 (B) To dispute resolution programs, as described in subdivision  
23 (b) of Section 68085.3 and subdivision (b) of Section 68085.4.

24 (C) To the county law library funds, as described in Sections  
25 116.230 and 116.760 of the Code of Civil Procedure, subdivision  
26 (b) of Section 68085.3, subdivision (b) of Section 68085.4, and  
27 Section 70621 of this code, and Section 14607.6 of the Vehicle  
28 Code.

29 (D) To the courthouse construction funds in the Counties of  
30 Riverside, San Bernardino, and San Francisco, as described in  
31 Sections 70622, 70624, and 70625.

32 (2) If any distribution under this subdivision is delinquent, the  
33 Administrative Office of the Courts shall add a penalty to the  
34 distribution as specified in subdivision (i).

35 (d) Within 45 calendar days after the end of the month in which  
36 the fees and fines listed in subdivision (a) are collected, the  
37 amounts remaining after the distributions in subdivision (c) shall  
38 be transmitted to the State Treasury for deposit in the Trial Court  
39 Trust Fund and other funds as required by law. This remittance  
40 shall be accompanied by a remittance advice identifying the

1 collection month and the appropriate account in the Trial Court  
2 Trust Fund or other fund to which it is to be deposited. Upon the  
3 receipt of any delinquent payment required under this subdivision,  
4 the Controller shall calculate a penalty as provided under  
5 subdivision (i).

6 (e) From the money transmitted to the State Treasury under  
7 subdivision (d), the Controller shall make deposits as follows:

8 (1) Into the State Court Facilities Construction Fund, the Judges'  
9 Retirement Fund, and the Equal Access Fund, as described in  
10 subdivision (c) of Section 68085.3 and subdivision (c) of Section  
11 68085.4.

12 (2) Into the Health Statistics Special Fund, as described in  
13 subdivision (b) of Section 70670 of this code and Section 103730  
14 of the Health and Safety Code.

15 (3) Into the Family Law Trust Fund, as described in Section  
16 70674.

17 (4) The remainder of the money shall be deposited into the Trial  
18 Court Trust Fund.

19 (f) The amounts collected by each superior court under Section  
20 116.232, subdivision (g) of Section 411.20, and subdivision (g) of  
21 Section 411.21 of the Code of Civil Procedure, Sections 304, 3112,  
22 3153, 7851.5, and 9002 of the Family Code, subdivision (d) of  
23 Section 6103.5, subdivision (d) of Section 68511.3 and Sections  
24 68926.1, 69953.5, 70627, 70631, 70640, 70661, 70678, and 71386  
25 of this code, and Sections 1513.1, 1835, 1851.5, and 2343 of the  
26 Probate Code, shall be added to the monthly apportionment for  
27 that court under subdivision (a) of Section 68085.

28 (g) If any of the fees provided in subdivision (a) are partially  
29 waived by court order or otherwise reduced, and the fee is to be  
30 divided between the Trial Court Trust Fund and any other fund or  
31 account, the amount of the reduction shall be deducted from the  
32 amount to be distributed to each fund in the same proportion as  
33 the amount of each distribution bears to the total amount of the  
34 fee. If the fee is paid by installment payments, the amount  
35 distributed to each fund or account from each installment shall  
36 bear the same proportion to the installment payment as the full  
37 distribution to that fund or account does to the full fee. If a court  
38 collects a fee that was incurred before January 1, 2006, under a  
39 provision that was the predecessor to one of the paragraphs  
40 contained in subdivision (a), the fee may be deposited as if it were

1 collected under the paragraph of subdivision (a) that corresponds  
2 to the predecessor of that paragraph and distributed in prorated  
3 amounts to each fund or account to which the fee in subdivision  
4 (a) must be distributed.

5 (h) Except as provided in Sections 470.5 and 6322.1 of the  
6 Business and Professions Code, and Sections 70622, 70624, and  
7 70625 of this code, no agency may take action to change the  
8 amounts allocated to any of the funds described in subdivision (c),  
9 (d), or (e).

10 (i) The amount of the penalty on any delinquent payment under  
11 subdivision (c) or (d) shall be calculated by multiplying the amount  
12 of the delinquent payment at a daily rate equivalent to 1 ½ percent  
13 per month for the number of days the payment is delinquent. The  
14 penalty shall be paid from the Trial Court Trust Fund. Penalties  
15 on delinquent payments under subdivision (d) shall be calculated  
16 only on the amounts to be distributed to the Trial Court Trust Fund  
17 and the State Court Facilities Construction Fund, and each penalty  
18 shall be distributed proportionately to the funds to which the  
19 delinquent payment was to be distributed.

20 (j) If a delinquent payment under subdivision (c) or (d) results  
21 from a delinquency by a superior court under subdivision (b), the  
22 court shall reimburse the Trial Court Trust Fund for the amount  
23 of the penalty. Notwithstanding Section 77009, any penalty on a  
24 delinquent payment that a court is required to reimburse pursuant  
25 to this section shall be paid from the court operations fund for that  
26 court. The penalty shall be paid by the court to the Trial Court  
27 Trust Fund no later than 45 days after the end of the month in  
28 which the penalty was calculated. If the penalty is not paid within  
29 the specified time, the Administrative Office of the Courts may  
30 reduce the amount of a subsequent monthly allocation to the court  
31 by the amount of the penalty on the delinquent payment.

32 (k) If a delinquent payment under subdivision (c) or (d) results  
33 from a delinquency by a county in transmitting fees and fines listed  
34 in subdivision (a) to the bank account established for this purpose,  
35 as described in subdivision (b), the county shall reimburse the Trial  
36 Court Trust Fund for the amount of the penalty. The penalty shall  
37 be paid by the county to the Trial Court Trust Fund no later than  
38 45 days after the end of the month in which the penalty was  
39 calculated.

1     *SEC. 4. Section 68565 of the Government Code is amended to*  
 2     *read:*

3     68565. (a) The Judicial Council may establish a court  
 4     interpreters advisory panel to assist the council in performing its  
 5     duties under this article. The panel shall include a majority of court  
 6     interpreters and may include judges and court administrators,  
 7     members of the bar, and others interested in interpreter services  
 8     in the courts. The panel shall develop operating guidelines and  
 9     procedures for Judicial Council approval.

10    (b) The panel shall seek the advice of judges, attorneys, court  
 11    administrators, court interpreters, providers of legal services, and  
 12    individuals and organizations representing the interests of foreign  
 13    language users.

14    (c) Panel members shall receive no compensation for their  
 15    services but shall be allowed necessary expenses for travel, board,  
 16    and lodging incurred in the discharge of their duties under the rules  
 17    adopted by the California Victim Compensation and Government  
 18    Claims Board.

19    (d) *Notwithstanding Section 68560.5, for purposes of subdivision*  
 20    *(a), an interpreter qualified under Section 754 of the Evidence*  
 21    *Code to interpret for deaf or hearing-impaired persons shall be*  
 22    *included in the definition of court interpreter.*

23    *SEC. 5. Section 903.1 of the Welfare and Institutions Code is*  
 24    *amended to read:*

25    903.1. (a) The father, mother, spouse, or other person liable  
 26    for the support of a minor, the estate of that person, and the estate  
 27    of the minor, shall be liable for the cost to the county *or to the*  
 28    *court of legal services rendered to the minor by the public defender*  
 29    ~~or other public attorney pursuant to an order of the juvenile court,~~  
 30    ~~or for the cost to the county for the legal services rendered to the~~  
 31    ~~minor by an attorney in private practice appointed pursuant to an~~  
 32    order of the juvenile court, *whichever entity incurred the expense.*  
 33    The father, mother, spouse, or other person liable for the support  
 34    of a minor and the estate of that person shall also be liable for any  
 35    cost to the county *or to the court of legal services rendered directly*  
 36    *to the father, mother, or spouse, of the minor or any other person*  
 37    *liable for the support of the minor, in a dependency proceeding by*  
 38    ~~the public defender or other public attorney appointed pursuant to~~  
 39    ~~an order of the juvenile court, or by an attorney in private practice~~  
 40    appointed pursuant to order of the juvenile court. The liability of

1 those persons (in this article called relatives) and estates shall be  
2 a joint and several liability.

3 (b) Notwithstanding subdivision (a), the father, mother, spouse,  
4 or other person liable for the support of the minor, the estate of  
5 that person, or the estate of the minor, shall not be liable for the  
6 costs of any of the legal services provided to any person described  
7 in this section if a petition to declare the minor a dependent child  
8 of the court pursuant to Section 300 is dismissed at or before the  
9 jurisdictional hearing.

O