

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 712**

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**Introduced by Assembly Member Evans**

February 26, 2009

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

LEGISLATIVE COUNSEL'S DIGEST

AB 712, as amended, Evans. Small claims court: equitable relief.

Existing law establishes a small claims division, known as a small claims court, in each superior court. Existing law provides that the small claims court has jurisdiction over actions seeking certain forms of relief, including money damages in specified amounts. Existing law further provides that, in any of those actions, the court may grant equitable relief in the form of rescission, restitution, reformation, and specific performance in lieu of, or in addition to, money damages.

This bill would provide, in addition, that a small claims court has jurisdiction over an action for an injunction or other equitable relief *only* when a statute expressly authorizes a small claims court to award that relief. *The bill would provide that nothing in these provisions is intended to expand, or to encourage the expansion of, the jurisdiction of the small claims court.*

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

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

SECTION 1. Section 116.220 of the Code of Civil Procedure is amended to read:

116.220. (a) The small claims court has jurisdiction in the following actions:

(1) Except as provided in subdivisions (c), (e), and (f), for recovery of money, if the amount of the demand does not exceed five thousand dollars (\$5,000).

(2) Except as provided in subdivisions (c), (e), and (f), to enforce payment of delinquent unsecured personal property taxes in an amount not to exceed five thousand dollars (\$5,000), if the legality of the tax is not contested by the defendant.

(3) To issue the writ of possession authorized by Sections 1861.5 and 1861.10 of the Civil Code if the amount of the demand does not exceed five thousand dollars (\$5,000).

(4) To confirm, correct, or vacate a fee arbitration award not exceeding five thousand dollars (\$5,000) between an attorney and client that is binding or has become binding, or to conduct a hearing de novo between an attorney and client after nonbinding arbitration of a fee dispute involving no more than five thousand dollars (\$5,000) in controversy, pursuant to Article 13 (commencing with Section 6200) of Chapter 4 of Division 3 of the Business and Professions Code.

(5) For an injunction or other equitable relief *only* when a statute expressly authorizes a small claims court to award that relief.

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

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

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

1 (2) For any action against a defendant guarantor that does not  
2 charge a fee for its guarantor or surety services, if the amount of  
3 the demand does not exceed two thousand five hundred dollars  
4 (\$2,500).

5 (3) For any action brought by a natural person against a  
6 defendant guarantor that charges a fee for its guarantor or surety  
7 services, if the amount of the demand does not exceed six thousand  
8 five hundred dollars (\$6,500).

9 (4) For any action brought by an entity other than a natural  
10 person against a defendant guarantor that charges a fee for its  
11 guarantor or surety services or against the Registrar of the  
12 Contractors' State License Board as the defendant guarantor, if  
13 the amount of the demand does not exceed four thousand dollars  
14 (\$4,000).

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

18 (e) Notwithstanding subdivision (a), in any action filed by a  
19 plaintiff incarcerated in a Department of Corrections and  
20 Rehabilitation facility, the small claims court has jurisdiction over  
21 a defendant only if the plaintiff has alleged in the complaint that  
22 he or she has exhausted his or her administrative remedies against  
23 that department, including compliance with Sections 905.2 and  
24 905.4 of the Government Code. The final administrative  
25 adjudication or determination of the plaintiff's administrative claim  
26 by the department may be attached to the complaint at the time of  
27 filing in lieu of that allegation.

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

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

1     *SEC. 2. Nothing in this act is intended to expand, or to*  
2     *encourage the expansion of, the jurisdiction of the small claims*  
3     *court.*

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