

ASSEMBLY BILL

No. 280

Introduced by Assembly Member Brown

February 11, 2015

An act to amend Sections 116.130, 116.220, and 116.231 of the Code of Civil Procedure, relating to small claims court.

LEGISLATIVE COUNSEL'S DIGEST

AB 280, as introduced, Brown. Small claims court: jurisdiction.

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 prohibits a city, county, city and county, school district, county office of education, community college district, local district, or any other local public entity from filing a claim in the small claims division if the amount of the demand exceeds \$5,000. Existing law also provides that a small claims action filed by a city, county, city and county, school district, county office of education, community college district, local district, or any other local public entity must be transferred out of the small claims division if the opposing party is represented by legal counsel and properly informs the entity of this fact.

This bill would give the small claims court jurisdiction over an action filed by a city, county, city and county, school district, county office of education, community college district, local district, or any other local public entity if the amount of the demand does not exceed \$10,000. This bill would also eliminate the provision relating to the transfer of small claims actions where the opposing party is represented by counsel.

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 116.130 of the Code of Civil Procedure
2 is amended to read:
3 116.130. In this chapter, unless the context indicates otherwise:
4 (a) "Plaintiff" means the party who has filed a small claims
5 action. The term includes a defendant who has filed a claim against
6 a plaintiff.
7 (b) "Defendant" means the party against whom the plaintiff has
8 filed a small claims action. The term includes a plaintiff against
9 whom a defendant has filed a claim.
10 (c) "Judgment creditor" means the party, whether plaintiff or
11 defendant, in whose favor a money judgment has been rendered.
12 (d) "Judgment debtor" means the party, whether plaintiff or
13 defendant, against whom a money judgment has been rendered.
14 (e) "Person" means an individual, corporation, partnership,
15 limited liability partnership, limited liability company, firm,
16 association, *city, county, city and county, school district, county*
17 *office of education, community college district, local district, or*
18 *any other entity.*
19 (f) "Individual" means a natural person.
20 (g) "Party" means a plaintiff or defendant.
21 (h) "Motion" means a party's written request to the court for
22 an order or other action. The term includes an informal written
23 request to the court, such as a letter.
24 (i) "Declaration" means a written statement signed by an
25 individual which includes the date and place of signing, and a
26 statement under penalty of perjury under the laws of this state that
27 its contents are true and correct.
28 (j) "Good cause" means circumstances sufficient to justify the
29 requested order or other action, as determined by the judge.
30 (k) "Mail" means first-class mail with postage fully prepaid,
31 unless stated otherwise.
32 SEC. 2. Section 116.220 of the Code of Civil Procedure is
33 amended to read:
34 116.220. (a) The small claims court has jurisdiction in the
35 following actions:

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

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

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

11 (4) To confirm, correct, or vacate a fee arbitration award not
12 exceeding five thousand dollars (\$5,000) between an attorney and
13 client that is binding or has become binding, or to conduct a hearing
14 de novo between an attorney and client after nonbinding arbitration
15 of a fee dispute involving no more than five thousand dollars
16 (\$5,000) in controversy, pursuant to Article 13 (commencing with
17 Section 6200) of Chapter 4 of Division 3 of the Business and
18 Professions Code.

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

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

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

30 (1) For any action brought by a natural person against the
31 Registrar of the Contractors' State License Board as the defendant
32 guarantor, the small claims jurisdictional limit stated in Section
33 116.221 shall apply.

34 (2) For any action against a defendant guarantor that does not
35 charge a fee for its guarantor or surety services, if the amount of
36 the demand does not exceed two thousand five hundred dollars
37 (\$2,500).

38 (3) For any action brought by a natural person against a
39 defendant guarantor that charges a fee for its guarantor or surety

1 services, if the amount of the demand does not exceed six thousand
 2 five hundred dollars (\$6,500).

3 (4) For any action brought by an entity other than a natural
 4 person against a defendant guarantor that charges a fee for its
 5 guarantor or surety services or against the Registrar of the
 6 Contractors’ State License Board as the defendant guarantor, if
 7 the amount of the demand does not exceed four thousand dollars
 8 (\$4,000).

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

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

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

27 (g) For purposes of this section, “department” includes an
 28 employee of a department against whom a claim has been filed
 29 under this chapter arising out of his or her duties as an employee
 30 of that department.

31 (h) *Notwithstanding subdivision (a), the small claims court has*
 32 *jurisdiction over an action brought by a city, county, city and*
 33 *county, school district, county office of education, community*
 34 *college district, local district, or any other local public entity if*
 35 *the amount of the demand does not exceed ten thousand dollars*
 36 *(\$10,000).*

37 SEC. 3. Section 116.231 of the Code of Civil Procedure is
 38 amended to read:

39 116.231. (a) Except as provided in subdivision (d), no person
 40 may file more than two small claims actions in which the amount

1 demanded exceeds two thousand five hundred dollars (\$2,500),
2 anywhere in the state in any calendar year.

3 (b) Except as provided in subdivision (d), if the amount
4 demanded in any small claims action exceeds two thousand five
5 hundred dollars (\$2,500), the party making the demand shall file
6 a declaration under penalty of perjury attesting to the fact that not
7 more than two small claims actions in which the amount of the
8 demand exceeded two thousand five hundred dollars (\$2,500) have
9 been filed by that party in this state within the calendar year.

10 (c) The Legislature finds and declares that the pilot project
11 conducted under the authority of Chapter 1196 of the Statutes of
12 1991 demonstrated the efficacy of the removal of the limitation
13 on the number of actions public entities may file in the small claims
14 courts on claims exceeding two thousand five hundred dollars
15 (\$2,500).

16 (d) The limitation on the number of filings exceeding two
17 thousand five hundred dollars (\$2,500) does not apply to filings
18 where the claim does not exceed ~~five~~ *ten* thousand dollars ~~(\$5,000)~~
19 ~~(\$10,000)~~ that are filed by a city, county, city and county, school
20 district, county office of education, community college district,
21 local district, or any other local public entity. ~~If any small claims~~
22 ~~action is filed by a city, county, city and county, school district,~~
23 ~~county office of education, community college district, local~~
24 ~~district, or any other local public entity pursuant to this section,~~
25 ~~and the defendant informs the court either in advance of the hearing~~
26 ~~by written notice or at the time of the hearing, that he or she is~~
27 ~~represented in the action by legal counsel, the action shall be~~
28 ~~transferred out of the small claims division. A city, county, city~~
29 ~~and county, school district, county office of education, community~~
30 ~~college district, local district, or any other local public entity may~~
31 ~~not file a claim within the small claims division if the amount of~~
32 ~~the demand exceeds five thousand dollars (\$5,000).~~