

AMENDED IN ASSEMBLY APRIL 20, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2126

Introduced by Assembly Members Lieu and Leno

February 21, 2006

An act to amend Section 580 of the Code of Civil Procedure, and to amend Section 290 of, and to repeal and add Sections 291 and 4502 of, the Family Code, relating to enforcement of judgments.

LEGISLATIVE COUNSEL'S DIGEST

AB 2126, as amended, Lieu. Enforcement of judgments.

(1) Existing law provides that certain types of relief may not be granted in a limited civil case, including enforcement of an order under the Family Code.

This bill would remove the enforcement of an order under the Family Code from the listed types of relief that may not be granted in a limited civil case.

(2) Under existing law, a judgment or order for possession or sale of property made or entered pursuant to the Family Code is subject to a specified period of enforceability and a procedure for renewal. Existing law also provides that a judgment for child, family, or spousal support is enforceable until paid in full and is exempt from any requirement that judgments be renewed, but may be renewed as specified.

This bill would revise and recast these provisions to provide, instead, that a money judgment or judgment for possession or sale of property that is made or entered under the Family Code, including a judgment for child, family, or spousal support, is enforceable until paid in full or otherwise satisfied. The bill would provide that these

judgments are exempt from any requirement that a judgment be renewed, but may be renewed as specified.

(3) The bill would require the Judicial Council, on or before January 1, 2008, to ~~publish~~ *develop* self-help materials that include a description of the remedies available for enforcement of a judgment under the Family Code, and practical advice on how to avoid disputes relating to the enforcement of a support obligation.

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 580 of the Code of Civil Procedure is
2 amended to read:

3 580. (a) The relief granted to the plaintiff, if there is no
4 answer, cannot exceed that demanded in the complaint, in the
5 statement required by Section 425.11, or in the statement
6 provided for by Section 425.115; but in any other case, the court
7 may grant the plaintiff any relief consistent with the case made
8 by the complaint and embraced within the issue. The court may
9 impose liability, regardless of whether the theory upon which
10 liability is sought to be imposed involves legal or equitable
11 principles.

12 (b) Notwithstanding subdivision (a), the following types of
13 relief may not be granted in a limited civil case:

14 (1) Relief exceeding the maximum amount in controversy for
15 a limited civil case as provided in Section 85, exclusive of
16 attorney's fees, interest, and costs.

17 (2) A permanent injunction.

18 (3) A determination of title to real property.

19 (4) Declaratory relief, except as authorized by Section 86.

20 SEC. 2. Section 290 of the Family Code is amended to read:

21 290. A judgment or order made or entered pursuant to this
22 code may be enforced by the court by execution, the appointment
23 of a receiver, or contempt, or by any other order as the court in
24 its discretion determines from time to time to be necessary.

25 SEC. 3. Section 291 of the Family Code is repealed.

26 SEC. 4. Section 291 is added to the Family Code, to read:

27 291. (a) A money judgment or judgment for possession or
28 sale of property that is made or entered under this code, including

1 a judgment for child, family, or spousal support, is enforceable
2 until paid in full or otherwise satisfied.

3 (b) A judgment described in this section is exempt from any
4 requirement that a judgment be renewed. Failure to renew a
5 judgment described in this section has no effect on the
6 enforceability of the judgment.

7 (c) A judgment described in this section may be renewed
8 pursuant to Article 2 (commencing with Section 683.110) of
9 Chapter 3 of Division 1 of Title 9 of Part 2 of the Code of Civil
10 Procedure. An application for renewal of a judgment described in
11 this section, whether or not payable in installments, may be filed:

12 (1) If the judgment has not previously been renewed as to past
13 due amounts, at any time.

14 (2) If the judgment has previously been renewed, the amount
15 of the judgment as previously renewed and any past due amount
16 that became due and payable after the previous renewal may be
17 renewed at any time after a period of at least five years has
18 elapsed from the time the judgment was previously renewed.

19 (d) In an action to enforce a judgment for child, family, or
20 spousal support, the defendant may raise, and the court may
21 consider, the defense of laches only with respect to any portion
22 of the judgment that is owed to the state.

23 (e) Nothing in this section supersedes the law governing
24 enforcement of a judgment after the death of the judgment
25 creditor or judgment debtor.

26 (f) On or before January 1, 2008, the Judicial Council shall
27 ~~publish~~ *develop* self-help materials that include: (1) a description
28 of the remedies available for enforcement of a judgment under
29 this code, and (2) practical advice on how to avoid disputes
30 relating to the enforcement of a support obligation. The self-help
31 materials shall be made available to the ~~parties in a proceeding~~
32 ~~under this code~~ *public through the Judicial Council self-help*
33 *Web site*.

34 (g) As used in this section, “judgment” includes an order.

35 SEC. 5. Section 4502 of the Family Code is repealed.

36 SEC. 6. Section 4502 is added to the Family Code, to read:

1 4502. The period for enforcement and procedure for renewal
2 of a judgment or order for child, family, or spousal support is
3 governed by Section 291.

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