

ASSEMBLY BILL

No. 712

Introduced by Assembly Member Evans

February 26, 2009

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 introduced, 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 when a statute expressly authorizes a small claims court to award that relief.

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:

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), to enforce
5 payment of delinquent unsecured personal property taxes in an
6 amount not to exceed five thousand dollars (\$5,000), if the legality
7 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 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)*
22 *to (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.