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I N S E N A T E

March 8, 2012

Introduced by Sen. BONACIC -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the New York city civil court act, the uniform district court act, the uniform city court act, and the uniform justice court act, in relation to the consideration of equitable claims and defenses in small claims actions

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 1804 of the New York city civil court act, as
2 amended by chapter 650 of the laws of 1991, is amended to read as
3 follows:
4 S 1804. Informal and simplified procedure on small claims. The court
5 shall conduct hearings upon small claims in such manner as to do
6 substantial justice between the parties according to the rules of
7 substantive law and shall not be bound by statutory provisions or rules
8 of practice, procedure, pleading or evidence, except statutory
9 provisions relating to privileged communications and personal trans-
10 actions or communications with a decedent or mentally ill person. THE
11 COURT MAY CONSIDER EQUITABLE CLAIMS AND COUNTERCLAIMS, INCLUDING BUT NOT
12 LIMITED TO, UNJUST ENRICHMENT AND QUANTUM MERUIT, AND EQUITABLE DEFENSES
13 INCLUDING, BUT NOT LIMITED TO, LACHES AND EQUITABLE ESTOPPEL. An item-
14 ized bill or invoice, receipted or marked paid, or two itemized esti-
15 mates for services or repairs, are admissible in evidence and are prima
16 facie evidence of the reasonable value and necessity of such services
17 and repairs. Disclosure shall be unavailable in small claims procedure
18 except upon order of the court on showing of proper circumstances. In
19 every small claims action, where the claim arises out of the conduct of
20 the defendant's business at the hearing on the matter, the judge or
21 arbitrator shall determine the appropriate state or local licensing or
22 certifying authority and any business or professional association of
23 which the defendant is a member. The provisions of this act and the
24 rules of this court, together with the statutes and rules governing
25 supreme court practice, shall apply to claims brought under this article

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 so far as the same can be made applicable and are not in conflict with
2 the provisions of this article; in case of conflict, the provisions of
3 this article shall control.

4 S 2. Section 1804 of the uniform district court act, as amended by
5 chapter 650 of the laws of 1991, is amended to read as follows:

6 S 1804. Informal and simplified procedure on small claims. The court
7 shall conduct hearings upon small claims in such manner as to do
8 substantial justice between the parties according to the rules of
9 substantive law and shall not be bound by statutory provisions or rules
10 of practice, procedure, pleading or evidence, except statutory
11 provisions relating to privileged communications and personal trans-
12 actions or communications with a decedent or mentally ill person. THE
13 COURT MAY CONSIDER EQUITABLE CLAIMS AND COUNTERCLAIMS, INCLUDING BUT NOT
14 LIMITED TO, UNJUST ENRICHMENT AND QUANTUM MERUIT, AND EQUITABLE DEFENSES
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22 the defendant's business at the hearing on the matter, the judge or
23 arbitrator shall determine the appropriate state or local licensing or
24 certifying authority and any business or professional association of
25 which the defendant is a member. The provisions of this act and the
26 rules of this court, together with the statutes and rules governing
27 supreme court practice, shall apply to claims brought under this article
28 so far as the same can be made applicable and are not in conflict with
29 the provisions of this article; in case of conflict, the provisions of
30 this article shall control.

31 S 3. Section 1804 of the uniform city court act, as amended by chapter
32 650 of the laws of 1991, is amended to read as follows:

33 S 1804. Informal and simplified procedure on small claims.

34 The court shall conduct hearings upon small claims in such manner as
35 to do substantial justice between the parties according to the rules of
36 substantive law and shall not be bound by statutory provisions or rules
37 of practice, procedure, pleading or evidence, except statutory
38 provisions relating to privileged communications and personal trans-
39 actions or communications with a decedent or mentally ill person. THE
40 COURT MAY CONSIDER EQUITABLE CLAIMS AND COUNTERCLAIMS, INCLUDING BUT NOT
41 LIMITED TO, UNJUST ENRICHMENT AND QUANTUM MERUIT, AND EQUITABLE DEFENSES
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45 facie evidence of the reasonable value and necessity of such services
46 and repairs. Disclosure shall be unavailable in small claims procedure
47 except upon order of the court on showing of proper circumstances. In
48 every small claims action, where the claim arises out of the conduct of
49 the defendant's business at the hearing on the matter, the judge or
50 arbitrator shall determine the appropriate state or local licensing or
51 certifying authority and any business or professional association of
52 which the defendant is a member. The provisions of this act and the
53 rules of this court, together with the statutes and rules governing
54 supreme court practice, shall apply to claims brought under this article
55 so far as the same can be made applicable and are not in conflict with

1 the provisions of this article; in case of conflict, the provisions of
2 this article shall control.

3 S 4. Section 1804 of the uniform justice court act, as amended by
4 chapter 650 of the laws of 1991, is amended to read as follows:

5 S 1804. Informal and simplified procedure on small claims.

6 The court shall conduct hearings upon small claims in such manner as
7 to do substantial justice between the parties according to the rules of
8 substantive law and shall not be bound by statutory provisions or rules
9 of practice, procedure, pleading or evidence, except statutory
10 provisions relating to privileged communications and personal trans-
11 actions or communications with a decedent or mentally ill person. THE
12 COURT MAY CONSIDER EQUITABLE CLAIMS AND COUNTERCLAIMS, INCLUDING BUT NOT
13 LIMITED TO, UNJUST ENRICHMENT AND QUANTUM MERUIT, AND EQUITABLE DEFENSES
14 INCLUDING, BUT NOT LIMITED TO, LACHES AND EQUITABLE ESTOPPEL. An item-
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21 the defendant's business at the hearing on the matter, the judge or
22 arbitrator shall determine the appropriate state or local licensing or
23 certifying authority and any business or professional association of
24 which the defendant is a member. The provisions of this act and the
25 rules of this court, together with the statutes and rules governing
26 supreme court practice, shall apply to claims brought under this article
27 so far as the same can be made applicable and are not in conflict with
28 the provisions of this article; in case of conflict, the provisions of
29 this article shall control.

30 S 5. This act shall take effect on the first of January next succeed-
31 ing the date on which it shall have become a law.