

6655--A

Cal. No. 627

I N   S E N A T E

March 8, 2012

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Introduced by Sens. BONACIC, HASSELL-THOMPSON -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the New York city civil court act, the uniform district court act, and the uniform city 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

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

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1 certifying authority and any business or professional association of  
2 which the defendant is a member. The provisions of this act and the  
3 rules of this court, together with the statutes and rules governing  
4 supreme court practice, shall apply to claims brought under this article  
5 so far as the same can be made applicable and are not in conflict with  
6 the provisions of this article; in case of conflict, the provisions of  
7 this article shall control.

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

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

11 The court shall conduct hearings upon small claims in such manner as  
12 to do substantial justice between the parties according to the rules of  
13 substantive law and shall not be bound by statutory provisions or rules  
14 of practice, procedure, pleading or evidence, except statutory  
15 provisions relating to privileged communications and personal trans-  
16 actions or communications with a decedent or mentally ill person. THE  
17 COURT MAY CONSIDER EQUITABLE CLAIMS AND COUNTERCLAIMS, INCLUDING BUT NOT  
18 LIMITED TO, UNJUST ENRICHMENT AND QUANTUM MERUIT, AND EQUITABLE DEFENSES  
19 INCLUDING, BUT NOT LIMITED TO, LACHES AND EQUITABLE ESTOPPEL. An item-  
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22 facie evidence of the reasonable value and necessity of such services  
23 and repairs. Disclosure shall be unavailable in small claims procedure  
24 except upon order of the court on showing of proper circumstances. In  
25 every small claims action, where the claim arises out of the conduct of  
26 the defendant's business at the hearing on the matter, the judge or  
27 arbitrator shall determine the appropriate state or local licensing or  
28 certifying authority and any business or professional association of  
29 which the defendant is a member. The provisions of this act and the  
30 rules of this court, together with the statutes and rules governing  
31 supreme court practice, shall apply to claims brought under this article  
32 so far as the same can be made applicable and are not in conflict with  
33 the provisions of this article; in case of conflict, the provisions of  
34 this article shall control.

35 S 3. Section 1804 of the uniform city court act, as amended by chapter  
36 650 of the laws of 1991, is amended to read as follows:

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

38 The court shall conduct hearings upon small claims in such manner as  
39 to do substantial justice between the parties according to the rules of  
40 substantive law and shall not be bound by statutory provisions or rules  
41 of practice, procedure, pleading or evidence, except statutory  
42 provisions relating to privileged communications and personal trans-  
43 actions or communications with a decedent or mentally ill person. THE  
44 COURT MAY CONSIDER EQUITABLE CLAIMS AND COUNTERCLAIMS, INCLUDING BUT NOT  
45 LIMITED TO, UNJUST ENRICHMENT AND QUANTUM MERUIT, AND EQUITABLE DEFENSES  
46 INCLUDING, BUT NOT LIMITED TO, LACHES AND EQUITABLE ESTOPPEL. An item-  
47 ized bill or invoice, receipted or marked paid, or two itemized esti-  
48 mates for services or repairs, are admissible in evidence and are prima  
49 facie evidence of the reasonable value and necessity of such services  
50 and repairs. Disclosure shall be unavailable in small claims procedure  
51 except upon order of the court on showing of proper circumstances. In  
52 every small claims action, where the claim arises out of the conduct of  
53 the defendant's business at the hearing on the matter, the judge or  
54 arbitrator shall determine the appropriate state or local licensing or  
55 certifying authority and any business or professional association of  
56 which the defendant is a member. The provisions of this act and the

1 rules of this court, together with the statutes and rules governing  
2 supreme court practice, shall apply to claims brought under this article  
3 so far as the same can be made applicable and are not in conflict with  
4 the provisions of this article; in case of conflict, the provisions of  
5 this article shall control.

6 S 4. This act shall take effect on the first of January next succeed-  
7 ing the date on which it shall have become a law.