S T A T E O F N E W Y O R K

6655--A

Cal. No. 627

I N S E N A T E

March 8, 2012

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:

Section 1. Section 1804 of the New York city civil court act, as amended by chapter 650 of the laws of 1991, is amended to read as follows:

S 1804. Informal and simplified procedure on small claims. The court shall conduct hearings upon small claims in such manner as to do substantial justice between the parties according to the rules of substantive law and shall not be bound by statutory provisions or rules of practice, procedure, pleading or evidence, except statutory provisions relating to privileged communications and personal transactions or communications with a decedent or mentally ill person. THE COURT MAY CONSIDER EQUITABLE CLAIMS AND COUNTERCLAIMS, INCLUDING BUT NOT LIMITED TO, UNJUST ENRICHMENT AND QUANTUM MERUIT, AND EQUITABLE DEFENSES INCLUDING, BUT NOT LIMITED TO, LACHES AND EQUITABLE ESTOPPEL. An itemized bill or invoice, receipted or marked paid, or two itemized estimates for services or repairs, are admissible in evidence and are prima facie evidence of the reasonable value and necessity of such services and repairs. Disclosure shall be unavailable in small claims procedure except upon order of the court on showing of proper circumstances. In every small claims action, where the claim arises out of the conduct of the defendant's business at the hearing on the matter, the judge or 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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certifying authority and any business or professional association of which the defendant is a member. The provisions of this act and the rules of this court, together with the statutes and rules governing supreme court practice, shall apply to claims brought under this article so far as the same can be made applicable and are not in conflict with the provisions of this article; in case of conflict, the provisions of this article shall control.

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

S 1804. Informal and simplified procedure on small claims.

The court shall conduct hearings upon small claims in such manner as to do substantial justice between the parties according to the rules of substantive law and shall not be bound by statutory provisions or rules of practice, procedure, pleading or evidence, except statutory provisions relating to privileged communications and personal transactions or communications with a decedent or mentally ill person. THE COURT MAY CONSIDER EQUITABLE CLAIMS AND COUNTERCLAIMS, INCLUDING BUT NOT LIMITED TO, UNJUST ENRICHMENT AND QUANTUM MERUIT, AND EQUITABLE DEFENSES INCLUDING, BUT NOT LIMITED TO, LACHES AND EQUITABLE ESTOPPEL. An itemized bill or invoice, receipted or marked paid, or two itemized estimates for services or repairs, are admissible in evidence and are prima facie evidence of the reasonable value and necessity of such services and repairs. Disclosure shall be unavailable in small claims procedure except upon order of the court on showing of proper circumstances. In every small claims action, where the claim arises out of the conduct of the defendant's business at the hearing on the matter, the judge or arbitrator shall determine the appropriate state or local licensing or certifying authority and any business or professional association of which the defendant is a member. The provisions of this act and the rules of this court, together with the statutes and rules governing supreme court practice, shall apply to claims brought under this article so far as the same can be made applicable and are not in conflict with the provisions of this article; in case of conflict, the provisions of this article shall control.

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

S 1804. Informal and simplified procedure on small claims.

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

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

S 4. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.