

2042

2009-2010 Regular Sessions

I N   S E N A T E

February 11, 2009

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Introduced by Sens. DeFRANCISCO, MAZIARZ -- read twice and ordered  
printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the civil practice law and rules, in relation to assert-  
able defenses of a third-party defendant

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

1     Section 1. Section 1008 of the civil practice law and rules is amended  
2     to read as follows:  
3     S 1008. Answer of third-party defendant; defenses. The third-party  
4     defendant shall answer the claim asserted against him by serving copies  
5     of his answer upon the third-party plaintiff. The third-party defendant  
6     may assert against the plaintiff in his answer any defenses which the  
7     third-party plaintiff has to the plaintiff's claim EXCEPT AN OBJECTION  
8     OR DEFENSE THAT THE SUMMONS AND COMPLAINT, SUMMONS WITH NOTICE OR NOTICE  
9     OF PETITION AND PETITION WAS NOT PROPERLY SERVED. The third-party  
10    defendant shall have the rights of a party adverse to the other parties  
11    in the action, including the right to counter-claim, cross-claim and  
12    appeal.  
13    S 2. This act shall take effect immediately.

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

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