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

713

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. DINOWITZ -- read once and referred to the Committee on Codes

AN ACT to amend the civil practice law and rules, in relation to when third-party practice is allowed

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

Section 1. Section 1007 of the civil practice law and rules, as amended by chapter 216 of the laws of 1992, is amended to read as follows:

S 1007. When third-party practice allowed. After the service of [his] THE answer BUT NO LATER THAN NINETY DAYS AFTER THE COMPLETION OF EXAMINATIONS BEFORE TRIAL OF THE PARTIES TO THE MAIN ACTION, UNLESS CONSENTED TO BY THE PARTIES OR, UPON WRITTEN APPLICATION OF ANY OF THE PARTIES IN THE MAIN ACTION, THE COURT, IN ITS DISCRETION, EXTENDS SUCH TIME FOR GOOD CAUSE FOR THE DELAY, a defendant may [proceed against a person not a party who is or may be liable to that defendant for all or part of the plaintiff's claim against that defendant,] IMPLEAD A THIRD PARTY by filing pursuant to section three hundred four of this chapter a third-party summons and complaint with the clerk of the court in the county in which the main action is pending, for which a separate index number shall not be issued but a separate index number fee shall be collected. The third-party summons and complaint and all prior pleadings served in the action shall be served upon such person within one hundred twenty days of the filing. A defendant serving a third-party complaint shall be styled a third-party plaintiff and the person so served shall be styled a third-party defendant. The defendant shall also serve a copy of such third-party complaint upon the plaintiff's attorney simultaneously upon issuance for service of the third-party complaint on the third-party defendant.

S 2. This act shall take effect on the first of September next succeeding the date on which it shall have become a law and shall be applicable to all actions commenced on and after such date.

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

LBD04340-01-1