

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:

1     Section 1. Section 1007 of the civil practice law and rules, as  
2 amended by chapter 216 of the laws of 1992, is amended to read as  
3 follows:  
4     S 1007. When third-party practice allowed. After the service of [his]  
5 THE answer BUT NO LATER THAN NINETY DAYS AFTER THE COMPLETION OF EXAM-  
6 INATIONS BEFORE TRIAL OF THE PARTIES TO THE MAIN ACTION, UNLESS  
7 CONSENTED TO BY THE PARTIES OR, UPON WRITTEN APPLICATION OF ANY OF THE  
8 PARTIES IN THE MAIN ACTION, THE COURT, IN ITS DISCRETION, EXTENDS SUCH  
9 TIME FOR GOOD CAUSE FOR THE DELAY, a defendant may [proceed against a  
10 person not a party who is or may be liable to that defendant for all or  
11 part of the plaintiff's claim against that defendant,] IMPLEAD A THIRD  
12 PARTY by filing pursuant to section three hundred four of this chapter a  
13 third-party summons and complaint with the clerk of the court in the  
14 county in which the main action is pending, for which a separate index  
15 number shall not be issued but a separate index number fee shall be  
16 collected. The third-party summons and complaint and all prior pleadings  
17 served in the action shall be served upon such person within one hundred  
18 twenty days of the filing. A defendant serving a third-party complaint  
19 shall be styled a third-party plaintiff and the person so served shall  
20 be styled a third-party defendant. The defendant shall also serve a copy  
21 of such third-party complaint upon the plaintiff's attorney simultane-  
22 ously upon issuance for service of the third-party complaint on the  
23 third-party defendant.  
24     S 2. This act shall take effect on the first of September next  
25 succeeding the date on which it shall have become a law and shall be  
26 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