

3762

2011-2012 Regular Sessions

I N S E N A T E

March 3, 2011

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Introduced by Sen. DeFRANCISCO -- 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 OR HER by serving  
5 copies of his OR HER answer upon the third-party plaintiff. The third-  
6 party defendant may assert against the plaintiff in his OR HER answer  
7 any defenses which the third-party plaintiff has to the plaintiff's  
8 claim EXCEPT AN OBJECTION OR DEFENSE THAT THE SUMMONS AND COMPLAINT,  
9 SUMMONS WITH NOTICE OR NOTICE OF PETITION AND PETITION WAS NOT PROPERLY  
10 SERVED, OR THAT JURISDICTION WAS NOT OBTAINED OVER THE THIRD-PARTY  
11 PLAINTIFF. The third-party defendant shall have the rights of a party  
12 adverse to the other parties in the action, including the right to coun-  
13 ter-claim, cross-claim and appeal.  
14 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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