

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. WEINSTEIN, ORTIZ -- Multi-Sponsored by -- M. of
A. BOYLAND, BRENNAN, CLARK, COOK, DINOWITZ, GALEF, GOTTFRIED, MILLMAN
-- read once and referred to the Committee on Judiciary

AN ACT to amend the civil practice law and rules, in relation to permit-
ting a plaintiff to recover against a third party defendant in certain
cases

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

1 Section 1. The civil practice law and rules is amended by adding a new
2 section 1405 to read as follows:

3 S 1405. PERMITTING PLAINTIFF, AS JUDGMENT CREDITOR AGAINST DEFENDANT,
4 TO RECOVER AND COLLECT UNSATISFIED JUDGMENT OR PORTION OF JUDGMENT
5 AGAINST THIRD-PARTY DEFENDANT OR CO-DEFENDANT LIABLE FOR CONTRIBUTION OR
6 INDEMNIFICATION. (A) WHERE A PLAINTIFF HAS ENTERED A JUDGMENT AGAINST A
7 DEFENDANT AND THE JUDGMENT REMAINS UNSATISFIED THIRTY DAYS AFTER IT HAS
8 BEEN SERVED ON THE DEFENDANT-JUDGMENT DEBTOR, AND WHERE JUDGMENT HAS
9 BEEN ENTERED IN FAVOR OF THE DEFENDANT-JUDGMENT DEBTOR AGAINST A CO-DE-
10 FENDANT OR THIRD-PARTY DEFENDANT ON A CAUSE OF ACTION FOR CONTRIBUTION
11 OR FOR CONTRACTUAL OR COMMON LAW INDEMNIFICATION, THE PLAINTIFF-JUDGMENT
12 CREDITOR MAY COLLECT ANY UNSATISFIED AMOUNT OF THE PLAINTIFF'S JUDGMENT
13 AGAINST THE DEFENDANT FROM THE CO-DEFENDANT OR THIRD-PARTY DEFENDANT UP
14 TO THE AMOUNT AWARDED ON THE CAUSE OF ACTION FOR CONTRIBUTION OR INDEM-
15 NIFICATION.

16 (B) WHERE THE PLAINTIFF'S JUDGMENT REMAINS UNSATISFIED THIRTY DAYS
17 AFTER IT HAS BEEN SERVED ON THE DEFENDANT-JUDGMENT DEBTOR, AND WHERE THE
18 DEFENDANT-JUDGMENT DEBTOR HAS A CAUSE OF ACTION FOR CONTRIBUTION OR FOR
19 CONTRACTUAL OR COMMON LAW INDEMNIFICATION WHICH HAS NOT BEEN REDUCED TO
20 JUDGMENT, THE PLAINTIFF-JUDGMENT CREDITOR MAY ATTACH, OR TAKE AN ASSIGN-
21 MENT FROM THE DEFENDANT-JUDGMENT DEBTOR OF, THE CAUSE OF ACTION FOR
22 CONTRIBUTION OR INDEMNIFICATION, AND PROSECUTE THE CAUSE OF ACTION IN

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

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1 THE PLAINTIFF'S OWN NAME OR IN THE NAME OF THE DEFENDANT-JUDGMENT
2 DEBTOR, AND RECOVER A JUDGMENT THEREIN FOR THE SAME AMOUNT OF CONTRIB-
3 UTION OR INDEMNIFICATION AS WOULD BE AWARDED TO THE DEFENDANT-JUDGMENT
4 DEBTOR IF THE DEFENDANT-JUDGMENT DEBTOR HAD SATISFIED PLAINTIFF'S
5 ORIGINAL JUDGMENT IN FULL. SUCH REMEDY IS IN ADDITION TO ANY OTHER MEANS
6 AVAILABLE TO THE PLAINTIFF-JUDGMENT DEBTOR FOR ENFORCEMENT OF THE JUDG-
7 MENT. THIS SECTION SHALL NOT AUTHORIZE DIRECT RECOVERY AGAINST A THIRD-
8 PARTY DEFENDANT IN THOSE CIRCUMSTANCES IN WHICH THE THIRD-PARTY CLAIM
9 AGAINST THAT THIRD-PARTY DEFENDANT WOULD HAVE BEEN BARRED BY THE
10 PROVISIONS OF SECTION ELEVEN OF THE WORKERS' COMPENSATION LAW.

11 S 2. This act shall take effect immediately, and shall apply to all
12 judgments entered by plaintiffs on or after such date.