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

3762

2011-2012 Regular Sessions

I N S E N A T E

March 3, 2011

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 assertable defenses of a third-party defendant

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

Section 1. Section 1008 of the civil practice law and rules is amended to read as follows:

S 1008. Answer of third-party defendant; defenses. The third-party defendant shall answer the claim asserted against him OR HER by serving copies of his OR HER answer upon the third-party plaintiff. The third-party defendant may assert against the plaintiff in his OR HER answer any defenses which the third-party plaintiff has to the plaintiff's claim EXCEPT AN OBJECTION OR DEFENSE THAT THE SUMMONS AND COMPLAINT, SUMMONS WITH NOTICE OR NOTICE OF PETITION AND PETITION WAS NOT PROPERLY SERVED, OR THAT JURISDICTION WAS NOT OBTAINED OVER THE THIRD-PARTY PLAINTIFF. The third-party defendant shall have the rights of a party adverse to the other parties in the action, including the right to counter-claim, cross-claim and appeal.

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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