

1002--A

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. WEINSTEIN, ORTIZ -- Multi-Sponsored by -- M. of A. BRENNAN, CLARK, DINOWITZ, GALEF, GOTTFRIED, MILLMAN -- read once and referred to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, 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-

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

LBD03702-03-3

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

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