

555--A

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. DeFRANCISCO -- read twice and ordered printed, and when printed to be committed 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-
21 MENT FROM THE DEFENDANT-JUDGMENT DEBTOR OF, THE CAUSE OF ACTION FOR

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

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

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