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

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I N S E N A T E

May 12, 2016

Introduced by Sen. BONACIC -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the civil practice law and rules, in relation to the burden of demonstrating comparative negligence

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

Section 1. Section 1412 of the civil practice law and rules, as added by chapter 69 of the laws of 1975, is amended to read as follows:

S 1412. Burden of pleading; burden of proof. Culpable conduct claimed in diminution of damages, in accordance with section fourteen hundred eleven, shall be an affirmative defense to be pleaded and proved by the party asserting the defense, AND THAT PARTY SHALL HAVE THE BURDEN OF INTERPOSING PROOF OF CULPABLE CONDUCT WHEN ASSERTING SUCH A DEFENSE ON A MOTION FOR SUMMARY JUDGMENT OR AT TRIAL.

S 2. This act shall take effect immediately and shall apply to all actions pending or commenced on or after such effective date.

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

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