

2015-2016 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2015

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

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  
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, AND DOES  
11 NOT OTHERWISE PERMIT A PLAINTIFF TO BRING A CAUSE OF ACTION AGAINST A  
12 THIRD PARTY IF SUCH THIRD PARTY WAS THE PLAINTIFF'S EMPLOYER AT THE TIME  
13 OF THE INCIDENT OR INJURY.

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