STATE OF NEW YORK

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                                   7596

                        2019-2020 Regular Sessions

IN ASSEMBLY

                               May 13, 2019
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Introduced by M. of A. WRIGHT, DINOWITZ -- (at request of the Office of
  Court Administration) -- read once and referred to the Committee on
  Judiciary

AN ACT to amend the civil practice law and rules, in relation to the
  waiver of privileges

   **The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:**

 1   Section 1. The civil practice law and rules is amended by adding a new
 2 section 4550 to read as follows:
 3   **§ 4550. Scope of waiver of privileges. (a) When disclosure is made in
 4 an action or to a government office or agency that waives any privilege
 5 provided in this article, or any privilege under subdivision (c) and
 6 paragraph two of subdivision (d) of section three thousand one hundred
 7 one of this chapter, the waiver extends to an undisclosed communication
 8 or information only if: (1) the waiver is intentional; (2) the disclosed
 9 and undisclosed communications or information concern the same subject
10 matter; and (3) the disclosed and undisclosed communications ought in
11 fairness to be considered together.**
12   **(b) When made in an action or to a government office or agency, a
13 disclosure does not waive any privilege provided in this article, or any
14 privilege under subdivision (c) and paragraph two of subdivision (d) of
15 section three thousand one hundred one of this chapter, if: (1) the
16 disclosure is inadvertent; (2) the holder of the privilege or protection
17 took reasonable steps to prevent disclosure; and (3) the holder of the
18 privilege or protection took reasonable steps to rectify the error
19 unless the party in possession of the disclosure demonstrates that it
20 will be unduly prejudiced by the nullification of the waiver.**
21   § 2. This act shall take effect on the first of January next succeed-
22 ing the date on which it shall have become a law, and shall apply to all
23 actions pending on or commenced on or after such effective date.