# STATE OF NEW YORK

3486

2021-2022 Regular Sessions

# IN ASSEMBLY

January 27, 2021

Introduced by M. of A. DINOWITZ -- 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:**

Section 1. The civil practice law and rules is amended by adding a new section 1405 to read as follows:

**§ 1405. Permitting plaintiff, as judgment creditor against defendant, to recover and collect unsatisfied judgment or portion of judgment against third-party defendant or co-defendant liable for contribution or indemnification. (a) Where a plaintiff has entered a judgment against a defendant and the judgment remains unsatisfied thirty days after it has been served on the defendant-judgment debtor, and where judgment has been entered in favor of the defendant-judgment debtor against a co-defendant or third-party defendant on a cause of action for contribution or for contractual or common law indemnification, the plaintiff-judgment creditor may collect any unsatisfied amount of the plaintiff's judgment against the defendant from the co-defendant or third-party defendant up to the amount awarded on the cause of action for contribution or indemnification.**

**(b) Where the plaintiff's judgment remains unsatisfied thirty days after it has been served on the defendant-judgment debtor, and where the defendant-judgment debtor has a cause of action for contribution or for contractual or common law indemnification which has not been reduced to judgment, the plaintiff-judgment creditor may attach, or take an assignment from the defendant-judgment debtor of, the cause of action for contribution or indemnification, and prosecute the cause of action in the plaintiff's own name or in the name of the defendant-judgment debtor, and recover a judgment therein for the same amount of contrib-**

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

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**ution or indemnification as would be awarded to the defendant-judgment debtor if the defendant-judgment debtor had satisfied plaintiff's original judgment in full. Such remedy is in addition to any other means available to the plaintiff-judgment debtor for enforcement of the judgment. This section shall not authorize direct recovery against a third-party defendant in those circumstances in which the third-party claim against that third-party defendant would have been barred by the provisions of section eleven of the workers' compensation law, and does not otherwise permit a plaintiff to bring a cause of action against a third party if such third party was the plantiff's employer at the time of the incident or injury.**

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