



General Assembly

January Session, 2007

Raised Bill No. 7236

LCO No. 4593

04593_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING APPORTIONMENT OF LIABILITY IN A NEGLIGENCE ACTION AND ATTORNEY'S FEES IN AN ACTION OF FORECLOSURE OR UPON A BOND SUBSTITUTED FOR A MECHANIC'S LIEN.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (c) of section 52-102b of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2007*):

4 (c) No person who is immune from liability shall be made an
5 apportionment defendant. [nor shall such] Such person's liability shall
6 not be considered for apportionment purposes pursuant to section 52-
7 572h. If a defendant claims that the negligence of any person, who was
8 not made a party to the action, was a proximate cause of the plaintiff's
9 injuries or damage and the plaintiff has previously settled or released
10 the plaintiff's claims against such person, then a defendant may cause
11 such person's liability to be apportioned by filing a notice specifically
12 identifying such person by name and last known address and the fact
13 that the plaintiff's claims against such person have been settled or
14 released. Such notice shall also set forth the factual basis of the

15 defendant's claim that the negligence of such person was a proximate
16 cause of the plaintiff's injuries or damages. No such notice shall be
17 required if such person with whom the plaintiff settled or whom the
18 plaintiff released was previously a party to the action. Nothing in this
19 section shall preclude a defendant from alleging that the negligence of
20 any other person, including a person who is immune from liability
21 under subsection (a) of section 31-284, was a substantial factor in
22 causing the plaintiff's injuries or damages.

23 Sec. 2. Subsection (a) of section 52-249 of the general statutes is
24 repealed and the following is substituted in lieu thereof (*Effective*
25 *October 1, 2007*):

26 (a) The plaintiff in any action of foreclosure of a mortgage or lien,
27 upon obtaining a judgment of foreclosure, [when there has been a
28 hearing as to the form of judgment or the limitation of time for
29 redemption, shall be allowed the same costs, including a reasonable
30 attorney's fee, as if there had been a hearing on an issue of fact. The
31 same costs and fees shall be recoverable as part of the judgment] shall
32 be allowed costs and reasonable attorney's fees. A plaintiff who
33 prevails in any action upon a bond which has been substituted for a
34 mechanic's lien shall be allowed costs and reasonable attorney's fees.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	52-102b(c)
Sec. 2	<i>October 1, 2007</i>	52-249(a)

Statement of Purpose:

To permit a defendant in a negligence action to allege that another person, including a person who is immune from liability under worker's compensation law, was a substantial factor in causing the plaintiff's injuries or damages, and to clarify provisions concerning the award of costs and attorney's fees in an action of foreclosure of a mortgage or lien or an action upon a bond which has been substituted for a mechanic's lien.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]