



General Assembly

February Session, 2008

**Raised Bill No. 640**

LCO No. 2938

\*02938 \_\_\_\_\_ JUD\*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

**AN ACT CONCERNING THE APPORTIONMENT OF LIABILITY AFTER  
A CLAIM IS WITHDRAWN.**

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

1 Section 1. Section 52-102b of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2008*):

3 (a) A defendant in any civil action to which section 52-572h applies  
4 may serve a writ, summons and complaint upon a person not a party  
5 to the action who is or may be liable pursuant to said section for a  
6 proportionate share of the plaintiff's damages in which case the  
7 demand for relief shall seek an apportionment of liability. Any such  
8 writ, summons and complaint, hereinafter called the apportionment  
9 complaint, shall be served [within] by the defendant not later than  
10 one hundred twenty days [of] after the return date specified in the  
11 [plaintiff's original] complaint that was served on the defendant. The  
12 defendant filing an apportionment complaint shall serve a copy of  
13 such apportionment complaint on all parties to the original action in  
14 accordance with the rules of practice of the Superior Court on or before  
15 the return date specified in the apportionment complaint. The person

16 upon whom the apportionment complaint is served, hereinafter called  
17 the apportionment defendant, shall be a party for all purposes,  
18 including all purposes under section 52-572h.

19 (b) The apportionment complaint shall be equivalent in all respects  
20 to an original writ, summons and complaint, except that it shall  
21 include the docket number assigned to the original action and no new  
22 entry fee shall be imposed. The apportionment defendant shall have  
23 available [to him] all remedies available to an original defendant  
24 including the right to assert defenses, set-offs or counterclaims against  
25 any party. If the apportionment complaint is served within the time  
26 period specified in subsection (a) of this section, no statute of limitation  
27 or repose shall be a defense or bar to such claim for apportionment,  
28 except that, if the action against the defendant who instituted the  
29 apportionment complaint pursuant to subsection (a) of this section is  
30 subject to such a defense or bar, the apportionment defendant may  
31 plead such a defense or bar to any claim brought by the plaintiff  
32 directly against the apportionment defendant pursuant to subsection  
33 (d) of this section.

34 (c) No person who is immune from liability shall be made an  
35 apportionment defendant nor shall such person's liability be  
36 considered for apportionment purposes pursuant to section 52-572h. If  
37 a defendant claims that the negligence of any person, who [was] is not  
38 [made] a party to the action, was a proximate cause of the plaintiff's  
39 injuries or damage and the plaintiff has previously settled or released  
40 the plaintiff's claims against such person or previously withdrawn an  
41 action against the person, then a defendant may cause such person's  
42 liability to be apportioned by filing a notice specifically identifying  
43 such person by name and last known address and the fact that the  
44 plaintiff's claims against such person have been settled, [or] released or  
45 withdrawn. Such notice shall also set forth the factual basis of the  
46 defendant's claim that the negligence of such person was a proximate  
47 cause of the plaintiff's injuries or damages. No such notice shall be  
48 required if such person with whom the plaintiff settled or whom the

49 plaintiff released or against whom the plaintiff withdrew the action  
50 was previously a party to the action.

51 (d) Notwithstanding any applicable statute of limitation or repose,  
52 the plaintiff or any named defendant may, [within] not later than sixty  
53 days [of] after the return date of the apportionment complaint served  
54 pursuant to subsection (a) of this section, assert any claim against the  
55 apportionment defendant arising out of the transaction or occurrence  
56 that is the subject matter of the original complaint.

57 (e) When a counterclaim is asserted against a plaintiff, [he] the  
58 plaintiff may cause a person not a party to the action to be brought in  
59 as an apportionment defendant under circumstances which under this  
60 section would entitle a defendant to do so.

61 (f) This section shall be the exclusive means by which a defendant  
62 may add a person who is or may be liable pursuant to section 52-572h  
63 for a proportionate share of the plaintiff's damages as a party to the  
64 action.

65 (g) In no event shall any proportionate share of negligence  
66 determined pursuant to subsection (f) of section 52-572h attributable to  
67 an apportionment defendant against whom the plaintiff did not assert  
68 a claim be reallocated under subsection (g) of said section. Such  
69 proportionate share of negligence shall, however, be included in or  
70 added to the combined negligence of the person or persons against  
71 whom the plaintiff seeks recovery, including persons with whom the  
72 plaintiff settled, [or] whom the plaintiff released under subsection (n)  
73 of section 52-572h, or against whom the plaintiff has withdrawn all  
74 claims, when comparing any negligence of the plaintiff to other parties  
75 and persons under subsection (b) of said section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2008	52-102b

**Statement of Purpose:**

To allow liability to be apportioned to a person after the plaintiff withdraws a civil action against the person in the same manner as liability is apportioned to parties with whom the plaintiff has settled or whom the plaintiff has released from liability.

*[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.]*