



General Assembly

February Session, 2008

Raised Bill No. 643

LCO No. 2923

02923_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING APPORTIONMENT COMPLAINTS.

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 Section 52-102b of the general statutes is repealed and the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 one hundred twenty days of the
10 return date specified in the [plaintiff's original] complaint served on
11 the filing defendant. The defendant filing an apportionment complaint
12 shall serve a copy of such apportionment complaint on all parties to
13 the original action in accordance with the rules of practice of the
14 Superior Court on or before the return date specified in the
15 apportionment complaint. The person upon whom the apportionment
16 complaint is served, hereinafter called the apportionment defendant,
17 shall be a party for all purposes, including all purposes under section

18 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 not
38 made a party to the action or against whom the plaintiff withdrew all
39 claims, was a proximate cause of the plaintiff's injuries or damage and
40 the plaintiff has previously settled or released the plaintiff's claims
41 against such person, then a defendant may cause such person's liability
42 to be apportioned by filing a notice specifically identifying such person
43 by name and last known address and the fact that the plaintiff's claims
44 against such person have been settled or released. Such notice shall
45 also set forth the factual basis of the defendant's claim that the
46 negligence of such person was a proximate cause of the plaintiff's
47 injuries or damages. No such notice shall be required if such person
48 with whom the plaintiff settled or whom the plaintiff released or
49 against whom the plaintiff withdrew all claims was previously a party
50 to the action.

51 (d) Notwithstanding any applicable statute of limitation or repose,
52 the plaintiff or any other named defendant may, within sixty days of
53 the return date of the apportionment complaint served pursuant to
54 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 may cause
58 a person not a party to the action to be brought in as an apportionment
59 defendant under circumstances which under this section would entitle
60 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	<i>October 1, 2008</i>	52-102b

Statement of Purpose:

To allow a person's liability to be apportioned after the plaintiff withdraws a civil action against the person, in the same manner as

liability is apportioned to persons who have not been made a party to the action.

[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.]