

2012 -- H 7756

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LC01207
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE

Introduced By: Representatives Ehrhardt, Reilly, Chippendale, Morgan, and Costa

Date Introduced: February 16, 2012

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 10 of the General Laws entitled "Courts and Civil Procedure-
2 Procedure in Particular Actions" is hereby amended by adding thereto the following chapter:

3 CHAPTER 6.1

4 THE RHODE ISLAND JOINT AND SEVERAL LIABILITY ABOLITION ACT

5 **10-6.1-1. The Rhode Island joint and several liability abolition act.** – This act shall be
6 known and may be cited as the “Rhode Island joint and several liability abolition act”.

7 **10-6.1-2. Definitions.** – The following words, as used in this chapter, shall have the
8 meaning set forth below, unless the context clearly requires otherwise:

9 (a) “Damages” means pain, suffering, inconvenience, physical impairment,
10 disfigurement, mental anguish, emotional distress, loss of society and companionship, loss of
11 consortium, injury to reputation, humiliation, any other theory of damages such as fear of loss or
12 illness or injury, loss of earnings and earning capacity, loss of income, medical expenses and
13 medical care, rehabilitation services, custodial care, burial costs, loss of use of property, costs of
14 repair or replacement of property, costs of obtaining substitute domestic services, loss of
15 employment, loss of business or employment opportunities, and other objectively verifiable
16 monetary losses. It does not include any punitive damages.

17 (b) “Fault” means an act or omission of a person that is a proximate cause of injury or
18 death or another person or persons, damages to property, tangible or intangible, or economic
19 injury, including, but not limited to, negligence, malpractice, strict liability, absolute liability, or

1 failure to warn. Fault shall not include any tort that results from an act or omission committed
2 with a specific wrongful intent.

3 (c) “Person” means any individual, corporation, company, association, firm, partnership,
4 society, joint stock company, or any other entity, including any governmental entity or
5 unincorporated association of persons.

6 **10-6.1-3. Several liability.** – In any action for personal injury, property damage
7 accompanying personal injury, or wrongful death, the liability of each defendant for damages
8 shall be several only and shall not be joint. Each defendant shall be liable only for the amount of
9 damages allocated to that defendant in direct proportion to that defendant’s percentage of fault,
10 and a separate judgment shall be rendered against the defendant for that amount. To determine
11 the amount of judgment to be entered against each defendant, the court, with regard to each
12 defendant, shall multiply the total amount of damages recoverable by the plaintiff by the
13 percentage of each defendant’s fault, and that amount shall be the maximum recoverable against
14 said defendant.

15 **10-6.1-4. Fault of parties.** – (a) In assessing percentages of fault, the trier of fact shall
16 consider the fault of all persons who contributed to the alleged injury or death, or damage to
17 property, tangible or intangible, regardless of whether said person was, or could have been,
18 named as a party to the suit. Negligence or fault of a nonparty may be considered if the plaintiff
19 entered into a settlement agreement with the nonparty or if the defending party gives notice
20 within one hundred twenty (120) days of the date of trial that a nonparty was wholly or partially
21 at fault. The notice shall be given by filing a pleading in the action designating such nonparty
22 and setting forth such nonparty’s name and last-known address, or the best identification of such
23 nonparty that is possible under the circumstances, together with a brief statement of the basis for
24 believing such nonparty to be at fault.

25 (b) Nothing in this chapter is meant to eliminate or diminish any defenses or immunities
26 that currently exist, except as expressly noted herein. Assessments of percentages of fault for
27 nonparties are used only as a vehicle for accurately determining the fault of named parties.
28 Where fault is assessed against nonparties, findings of such fault shall not subject any nonparty to
29 liability in this or any other action, or be introduced as evidence of liability in any action.

30 **10-6.1-5. Concert of action.** – Joint liability shall be imposed on all who consciously and
31 deliberately pursue a common plan or design to commit a tortious act, or actively take part in it.
32 Any person held jointly liable under this section shall have a right of contribution from his/her
33 fellow defendants acting in concert. A defendant shall be held responsible only for the portion of
34 fault assessed to those with whom he/she acted in concert under this section.

1 **10-6.1-6. Burden of proof.** – The burden of alleging and proving fault shall be upon the
2 person who seeks to establish such fault.

3 **10-6.1-7. Limitations.** – Nothing in this chapter shall be construed to create a cause of
4 action. Nothing in this chapter shall be construed, in any way, to alter the immunity of any
5 person.

6 **10-6.1-8. Severability.** – If any provision of this chapter or the application thereof to any
7 person or circumstances is held invalid, such invalidity shall not affect other provisions or
8 applications of the chapter which can be given effect without the invalid provision or application,
9 and to this end the provisions of this chapter are declared to be severable.

10 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
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- 1 This act would abolish joint and several liability in Rhode Island.
- 2 This act would take effect upon passage.

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