

Sponsor Statement for HB 427

Third-Party Civil Action

An Act relating to civil claims against a third-party; amending Rule 14(c), Alaska Rules of Civil Procedure; and providing for an effective date.

Released: February 13, 2002
Contact: Representative Joe Green's office at (907) 465-4931

Under current state law, if a plaintiff sues a defendant who is only partially responsible for the plaintiff's loss, the defendant must prove to the court the portion of fault shared by any third party defendants. If the original defendant is successful, the plaintiff automatically receives a judgment against the third party defendant for the third party defendant's percentage of fault. If a third party defendant prevails, the original defendant must pay the third-party's attorney fees.

The plaintiff bears no risk of incurring any third party defendant's attorney fees. This saves the plaintiff the cost (and liability) of pursuing all of the potential defendants, and allows them to "cherry pick" the easy targets. It also creates an undue burden on a defendant who is not entirely at fault for a plaintiff's loss.

House Bill 427 would place the responsibility for pursuing third party defendants on the plaintiff. The proposed changes to statute would require a plaintiff to file notice with the court if the plaintiff intends to pursue judgment against any third party defendants identified by the original defendant. The plaintiff then becomes partially responsible for the attorney's fees of any prevailing third party defendants the plaintiff chose to seek judgment against.