S T A T E O F N E W Y O R K

10428

I N A S S E M B L Y

May 29, 2012

Introduced by M. of A. CUSICK -- read once and referred to the Committee on Judiciary

AN ACT to amend the civil practice law and rules, in relation to appeals of proceedings against a body or officer

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivisions (a) and (b) of section 5513 of the civil practice law and rules, as amended by chapter 214 of the laws of 1996, are amended to read as follows:

(a) Time to take appeal as of right. An appeal as of right must be taken within thirty days after service by a party upon the appellant of a copy of the judgment or order appealed from and written notice of its entry, except that when the appellant has served a copy of the judgment or order and written notice of its entry, the appeal must be taken within thirty days thereof; PROVIDED, HOWEVER, THAT, AN APPEAL AS OF RIGHT OF A PROCEEDING CONDUCTED PURSUANT TO ARTICLE SEVENTY-EIGHT OF THIS CHAPTER MUST BE TAKEN WITHIN TWO YEARS AFTER SERVICE BY A PARTY UPON THE APPELLANT OF A COPY OF THE JUDGMENT OR ORDER APPEALED FROM AND WRITTEN NOTICE OF ITS ENTRY, EXCEPT THAT WHEN THE APPELLANT HAS SERVED A COPY OF THE JUDGMENT OR ORDER AND WRITTEN NOTICE OF ITS ENTRY, THE APPEAL MUST BE TAKEN WITHIN TWO YEARS THEREOF.

(b) Time to move for permission to appeal. The time within which a motion for permission to appeal must be made shall be computed from the date of service by a party upon the party seeking permission of a copy of the judgment or order to be appealed from and written notice of its entry, or, where permission has already been denied by order of the court whose determination is sought to be reviewed, of a copy of such order and written notice of its entry, except that when such party seeking permission to appeal has served a copy of such judgment or order and written notice of its entry, the time shall be computed from the date of such service. A motion for permission to appeal must be made within thirty days; PROVIDED, HOWEVER, THAT IN THE CASE OF AN APPEAL OF A PROCEEDING CONDUCTED PURSUANT TO ARTICLE SEVENTY-EIGHT OF THIS CHAPTER, SUCH MOTION MUST BE MADE WITHIN TWO YEARS.

S 2. This act shall take effect immediately and shall apply to proceedings commenced pursuant to article 78 of the civil practice law and rules on or after such effective date.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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