

3897

2011-2012 Regular Sessions

I N S E N A T E

March 9, 2011

Introduced by Sen. LANZA -- read twice and ordered printed, and when printed to be committed 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:

1 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:

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

14 (b) Time to move for permission to appeal. The time within which a
15 motion for permission to appeal must be made shall be computed from the
16 date of service by a party upon the party seeking permission of a copy
17 of the judgment or order to be appealed from and written notice of its
18 entry, or, where permission has already been denied by order of the
19 court whose determination is sought to be reviewed, of a copy of such
20 order and written notice of its entry, except that when such party seeking
21 permission to appeal has served a copy of such judgment or order and
22 written notice of its entry, the time shall be computed from the date of
23 such service. A motion for permission to appeal must be made within
24 such service.

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

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1 thirty days; PROVIDED, HOWEVER, THAT IN THE CASE OF AN APPEAL OF A
2 PROCEEDING CONDUCTED PURSUANT TO ARTICLE SEVENTY-EIGHT OF THIS CHAPTER,
3 SUCH MOTION MUST BE MADE WITHIN TWO YEARS.
4 S 2. This act shall take effect immediately and shall apply to
5 proceedings commenced pursuant to article 78 of the civil practice law
6 and rules on or after such effective date.