

3897

2011-2012 Regular Sessions

I N   S E N A T E

March 9, 2011

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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.