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

8970

I N A S S E M B L Y

March 4, 2014

Introduced by M. of A. SCHIMMINGER -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the state administrative procedure act, in relation to the filing of objections to agency rules by the administrative regulations review commission

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

Section 1. Section 202 of the state administrative procedure act is amended by adding a new subdivision 10 to read as follows:

10. OBJECTION. IF THE ADMINISTRATIVE REGULATIONS REVIEW COMMISSION FINDS OBJECTION TO ALL OR A PORTION OF A PROPOSED OR ADOPTED RULE BECAUSE THAT RULE IS DEEMED TO BE UNREASONABLE, ARBITRARY, CAPRICIOUS, OR OTHERWISE BEYOND THE AUTHORITY DELEGATED TO THE AGENCY, THE COMMISSION MAY, IN WRITING, NOTIFY THE AGENCY OF THE OBJECTION. THE COMMISSION SHALL ALSO FILE A CERTIFIED COPY OF SUCH AN OBJECTION WITH THE DEPARTMENT OF STATE, DIVISION OF ADMINISTRATIVE RULES AND A NOTICE TO THE EFFECT THAT AN OBJECTION HAS BEEN FILED SHALL BE PUBLISHED IN THE NEXT ISSUE OF THE NEW YORK STATE REGISTER AND IN THE NEW YORK STATE CODE, RULES AND REGULATIONS WHEN THE RULE IS PRINTED IN IT. THE BURDEN OF PROOF SHALL THEN BE ON THE AGENCY IN ANY PROCEEDING FOR JUDICIAL REVIEW OR FOR ENFORCEMENT OF THE RULE HEARD SUBSEQUENT TO THE FILING TO ESTABLISH THAT THE RULE OR PORTION OF THE RULE TIMELY OBJECTED TO ACCORDING TO THE ABOVE PROCEDURE IS NOT UNREASONABLE, ARBITRARY, CAPRICIOUS, OR OTHERWISE BEYOND THE AUTHORITY DELEGATED TO IT.

S 2. This act shall take effect immediately.

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

LBD10051-03-4