

6177

2013-2014 Regular Sessions

I N A S S E M B L Y

March 15, 2013

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:

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

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

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

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.