STATE OF NEW YORK

2879

2017-2018 Regular Sessions

IN ASSEMBLY

January 23, 2017

Introduced by M. of A. PAULIN, GALEF, WEPRIN -- Multi-Sponsored by -- M. of A. LUPARDO, THIELE -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the public officers law and the civil practice law and rules, in relation to preference given to an appeal to the appellate division of the supreme court regarding a denial of an exception from disclosure

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (d) of subdivision 5 of section 89 of the public officers law, as amended by chapter 339 of the laws of 2004, is amended to read as follows:

(d) **(i)** A proceeding to review an adverse determination pursuant to paragraph (c) of this subdivision may be commenced pursuant to article seventy-eight of the civil practice law and rules. Such proceeding, when brought by a person seeking an exception from disclosure pursuant to this subdivision, must be commenced within fifteen days of the service of the written notice containing the adverse determination provided for in subparagraph two of paragraph (c) of this subdivision. **The proceeding shall be given preference and shall be brought on for argument on such terms and conditions as the presiding justice may direct, not to exceed forty-five days.**

(ii) Appeal to the appellate division of the supreme court must be made in accordance with subdivision (a) of section fifty-five hundred thirteen of the civil practice law and rules.

(iii) An appeal taken from an order of the court requiring disclosure:

(A) shall be given preference; and

(B) shall be brought on for argument on such terms and conditions as the presiding justice may direct, upon application by any party to the proceeding; and

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

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(C) shall be deemed abandoned when the party requesting an exclusion from disclosure fails to serve and file a record and brief within sixty days after the date of the notice of appeal, unless consent of further extension is given by all parties, or unless further extension is granted by the court upon such terms as may be just and upon good cause shown.

§ 2. Subdivision (b) of rule 5521 of the civil practice law and rules, as amended by chapter 487 of the laws of 2016, is amended to read as follows:

(b) Consistent with the provisions of section one thousand one hundred twelve of the family court act, appeals from orders, judgments or decrees in proceedings brought pursuant to articles three, seven, ten and ten-A and parts one and two of article six of the family court act, and pursuant to sections three hundred fifty-eight-a, three hundred eighty-three-c, three hundred eighty-four, and three hundred eighty-four-b of the social services law, and pursuant to paragraph (d) of subdivision four **and subparagraph (ii) of paragraph (d) of subdivision five** of section eighty-nine of the public officers law, shall be given preference and may be brought on for argument on such terms and conditions as the court may direct without the necessity of a motion.

§ 3. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that if chapter 487 of the laws of 2016 shall not have taken effect on or before such date then section two of this act shall take effect on the same date and in the same manner as such chapter of the laws of 2016 takes effect.