

***First American Title Insurance Company
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CURRENT DEVELOPMENTS

This is another is a series of bulletins issued to clients of First American on cases, legislation and other items of interest. A copy of any item noted can be requested by email sent to Michael J. Berey, Senior Underwriting Counsel at MB@TheOffice.net or by contacting your account representative at 212-922-9700. Each issue of “Current Developments” is available on the Internet at www.titlelaw-newyork.com.

Certificates of Occupancy - Technical Policy and Procedure Notice #3/97 of the Department of Buildings of the City of New York dated November 3, 1997 eliminates for all multiple dwellings “effective immediately” the requirement that the certificate of occupancy be amended when apartments are combined to create larger dwelling units. An Alteration Type II application is needed and, after filing of a completion sign-off by a Professional Engineer or Registered Architect, the Department will issue a letter of completion. Some of the applicable restrictions are that natural light and air requirements remain in compliance for each new habitable room, the elimination of a second kitchen, the maintenance of existing means of egress, and the issuance of a new tentative tax lot number in the case of condominium units. Contact Michael Alfieri at 212-922-0647 for additional information.

Child Support - Chapter 398 of the Laws of 1997 effective January 1, 1998 amends the Social Services Law and the Lien Law to enable the enforcement of child support orders. state and local agencies. The State Department of Social Services or a Social Services District can file and foreclose a lien against real property of the Child Support Obligor for

unpaid support obligations (including that “which accrues in the future”). In addition, the agencies can proceed under Article 10 of the Debtor and Creditor Law to void as fraudulent a transfer of property made to avoid payment of a Child Support Creditor.

Leases - The Court of Appeals has held that an agreement extending the term of a lease not executed pursuant to an option to renew constitutes a new lease and not a continuation of the original lease. The Court withheld decision, however, on whether the exercise of an option to renew would be subject to the terms of a mortgage executed after the original lease. In this case the new lease term was held to be subject to the provisions of a fee mortgage entered into after the date of the original lease prohibiting the pre -payment of rent (required under the lease amendment) without the mortgagee’s written consent. The mortgagee was not require to provide the lessee with written notice of that restriction under Real Property Law Section 291-f . Dime Savings Bank of New York, FSB v. Montague Street Realty Associates, et al., 1997 N.Y. LEXIS 3214.

“Sanction Rules” - 22 NYCRR Section 130-1.1 (“Rules of the Chief Administrator”) has been amended effective January 1, 1998 to include a new requirement that all pleadings, written motions and other papers “served on another party of filed or submitted to the court shall be signed by an attorney, or by a party if the party is not represented”. The signatory is deemed to “certify that , to the best of that person’s knowledge, information and belief...the presentation of the paper or the contentions therein are not frivolous”. The printed name of the attorney or pro se litigant must be “clearly printed or typed directly below the signature”. Absent “good cause shown”, the failure to promptly correct the omission of the required signature once called to the attention of the attorney or party requires that the paper be stricken. Contact Alan Rubin at 516-832-3200 for further information.

Title Policy Endorsements - The Title Insurance Rate Service Association Inc.'s ("TIRSA") forms of Non-Imputation endorsements have been replaced effective October 1, 1997 with a single form of endorsement to be used when issuing an Owner's Policy "insuring the interest of a person or entity purchasing an interest in a corporation, partnership or other entity [such as an LLC] which owns real property". (TIRSA Rate Manual, Part I, Section 30). The endorsement provides alternative measures to compute policy liability.

Also effective October 1, 1997, there are now four alternative forms of revolving credit endorsements. The significant change is afforded in the form designated RCE-3, the Limited Term Special Coverage Revolving Credit Endorsement for Commercial Credit Line Mortgages securing a maximum principal indebtedness of less than \$3,000,000. This endorsement, for such mortgages not including building loan mortgages, with a term of three years or less, removes the prior endorsement's exclusion for mortgage recording tax on readvances due to Tax Law Section 253-b and the exclusion for the impairment of lien priority by reason of the pre-advance filing of a mechanics lien.

A Residential Limited Coverage Junior Loan Policy is now available in connection with a mortgage on a one-to-four family residence or condominium unit securing a principal indebtedness not exceeding \$150,000. Revolving credit and variable rate coverage is provided in the Junior Loan Policy by endorsement.

Internet News - Links to numerous municipal codes can be located at <http://www.spl.lib.wa.us/collec/lawcoll/municode.html> provided by the Seattle Public Library.

Best wishes for the New Year !

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