

***First American Title Insurance Company
of New York***

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CURRENT DEVELOPMENTS

This is the second in a series of bulletins to be issued to clients of First American on cases and legislation of interest. A copy of any item noted can be requested by email to Michael J. Berey, Senior Underwriting Counsel at MB@TheOffice.net or by contacting your account representative at 212-922-9700.

Commencement of an Action By Filing - Chapter 476 of the Laws of 1997 replaces CPLR Section 306-b with a new Section 306-b for all actions commenced in the Supreme and County courts on and after January 1, 1998. The existing Section requires that proof of service be filed in an action with the clerk of the court within 120 days of the filing of the summons and complaint. The failure to do so is a jurisdictional defect requiring dismissal of the action for defendants as to whom proof of service was not filed. Old Section 306-b enables the action to be recommenced within another 120 days following the “deemed” dismissal. Under the new law, only service must be completed within 120 days after filing. There is no requirement for filing proof of service. If service is not made on a defendant within 120 days, the court may on motion either dismiss the action or extend the 120 day period for service on good cause shown. Contact Howard Oken at 212-922-9700 for further information.

Condominiums - Chapter 498 of the Laws of 1997 effective August 26, 1997 adds Section 339-jj to the Real Property Law. If authorized by the Declaration of By-Laws of a Condominium, the Board of Managers is authorized following the fifth anniversary of the first conveyance of a unit, and on consent of majority in common interest of the unit owners, to borrow money for the making of repairs, additions and improvements to the condominium property. The Board of Managers may assign its rights to future income and common charges to the lender and assign to the lender the right to file and foreclose unpaid

common charges liens against individual unit owners who do not pay increases in common charge assessed to pay this indebtedness. No lien can be created against the common elements.

Federal Estate Taxes - The recently enacted Taxpayer Relief Act of 1997 phases in an increase in the uniform credit against estate and gift tax which has been \$600,000 for estates of persons dying on or after January 1, 1987. The exemption rises to \$625,000 for persons dying in 1998; \$650,000 in 1999; \$675,000 in 2000 and 2001; \$700,000 in 2002 and 2003; \$850,000 in 2004; \$950,000 in 2005; and \$1,000,000 in 2006 and thereafter.

New York City Real Property Transfer Tax (“NYC-RPT”): As previously reported, Chapter 314 of the Laws of 1997, amending Section 1201(b) of the Tax Law and Section 11-2102 of the City’s Administrative Code, allows for a continuing lien deduction from consideration on the transfer on or after August 28, 1997 of a one-to-three family house, an individual residential cooperative or condominium unit, or an economic interest in such property if the continuing mortgage, lien or encumbrance existed before the date of the transfer. The City’s Department of Finance has informally advised that the deduction will only be allowed for no consideration transfers. A DOF Bulletin is anticipated.

New York City Real Estate Taxes - The City Council has modified the real property tax rates for fiscal year 1998 (July 1, 1997 - June 30, 1998). New tax bills reflecting the change in rates will be issued in November. The rate for Class One has been changed from 11.068 to 10.849; for Class Two from 11.045 to 11.046; for Class Three from 8.483 to 8.282; and for Class Four from 10.072 to 10.164.

Internet News - Point your browser to <http://www.Titlelaw-NewYork.com> (207.36.51.192) for a WEB site containing transactional, title insurance and mortgage recording tax documents of interest to real estate counsel, and links to other useful real property related sites.

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