



**First American Title Insurance Company of New York
CURRENT DEVELOPMENTS
SPECIAL EDITION**

Current Developments issued on February 27, 2006 reported that Chapter 767 of the Laws of 2005 ("Chapter 767") had amended the publication requirements for domestic and foreign limited liability companies, domestic and foreign professional limited liability partnerships, domestic and foreign limited partnerships and domestic and foreign limited liability partnerships (each an "Entity"). The changes made by Chapter 767 are effective on June 1, 2006.

The Governor has signed further legislation (the "New Chapter") making (as stated in the "Introducer's Memorandum of Support") "technical and clarifying amendments to Chapter 767". The New Chapter makes the changes discussed below, each of which is also effective June 1.

Chapter 767 required that notice of the formation of an Entity be published once a week for four successive weeks in two newspapers of the County in which the office of the Entity is "intended to be located", instead of for six weeks as the law had provided. The New Chapter changes the number of publications required to be made back to six weeks in the County in which the office of the Entity "is located". The New Chapter also requires that the notice of formation set forth the principal business location, if any, of the Entity.

Chapter 767 required that the notice of formation set forth the names of the ten persons, or such lesser number of persons, who are actively engaged in the business and affairs of, and have the most valuable membership, or general and limited partnership interests, as applicable, in the Entity. This requirement has been deleted by the New Chapter.

Chapter 767 provides that if an Entity formed on or after June 1, 2006 does not, within 120 days of the date of its formation, meet the publication requirements and file its certificate and affidavits of publication with the Department of State the authority of the Entity to carry on, conduct or transact any business in New York is suspended until there is substantial compliance. Neither the failure to comply with the requirements for publication nor the suspension of the Entity's authority to conduct business impairs or limits the validity of any contract or act of the Entity, or its right to defend in any action or special proceeding brought against it in New York State. This has not been changed by the New Chapter.

The New Chapter further provides that the failure to comply with publication and filing requirements will not result in the member, manager, partner or agent of the Entity becoming liable for the contractual obligations or other liabilities of the Entity.

Chapter 767 provides that an Entity formed prior to June 1, 2006 that has complied with the publication and filing requirement in effect when it was formed is not required to comply with the new requirements. However, an Entity formed prior to June 1, 2006 which did not comply with publication and filing requirements under prior law has 18 months to comply with the new publication and filing requirements. The New Chapter changes the 18 month period for compliance to 12 months.

Under consideration was a provision for the members or limited partners, as applicable, of an Entity that did not comply with the new publication and filing requirements within the statutory time period to be "personally and fully liable, jointly and severally, with such [Entity] and with each other [member/limited partner] for all debts, obligations and liabilities of such [Entity] incurred or arising at any time after such effective date [June 1, 2006]". This was not included in the New Chapter.

A copy of the New Chapter (Senate Bill S6831-B) can be obtained on the Internet at <http://assembly.state.ny.us/leg/?bn=S06831&sh=t>

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