§ 301. Statute of limitations

(a) For the purpose of computing the period of limitation under article two of the civil practice law and rules, a proceeding is commenced upon the filing of a petition, provided process is issued and service made upon any respondent within one hundred twenty days after the date of the filing of the petition, except that when process is served by publication, the first publication be made within one hundred twenty days of the filing of the petition.

(b) If a proceeding is dismissed for failure to effect proper service, the petitioner may commence a new proceeding, despite the expiration of the statute of limitations after the commencement of the original proceeding, based upon the same instrument, transaction or occurrence or transactions or occurrences within one hundred twenty days of such dismissal provided that service is effected within such one hundred twenty day period.