

GENERAL CONSTRUCTION LAW

LAWS 1909, CHAP. 27

AN ACT relating to construction, constituting chapter twenty-two of the consolidated laws.

Became a law February 17, 1909, with the approval of the Governor. Passed, three-fifths being present.

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

CHAPTER 22 OF THE CONSOLIDATED LAWS

GENERAL CONSTRUCTION LAW

- Article 1. Short title (§ 1).
2. Meaning of terms (§§ 10-62).
 - 2-a. Classification of corporations and definitions (§§ 65-67).
 3. Ancient statutes and resolutions (§§ 70-72).
 4. References, titles and head notes (§§ 80-81).
 5. Effect of repeals (§§ 90-96).
 6. Effect of consolidated laws (§§ 100-101).
 7. Application of chapter (§ 110).
 8. Laws repealed; when to take effect (§§ 120, 121).

ARTICLE 1

SHORT TITLE

Section 1. Short title.

§ 1. Short title. This chapter shall be known as the "General Construction Law."

ARTICLE 2

MEANING OF TERMS

- Section 10. Acknowledge and acknowledgment.
11. Acknowledgment or proof of instrument.
 - 11-a. Acquisition.
 - 11-b. Appropriation.
 12. Affidavit.

- 13. Adjournment of meeting.
- 13-a. Armed forces of the United States.
- 13-b. Board of supervisors.
- 14. Bond and undertaking.
- 15. Chattels.
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- 25-b. Injury to property.
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- 27. Last, preceding, next and following.
- 28. Mental disability, mental illness, developmental disability, addictive disorder and addiction disorder.
- 28-a. Mandate.
- 28-b. Magistrate.

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- 38. Property.
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- 41. Quorum and majority.
- 41-a. Recital in record of meeting as evidence.
- 42. Register of county.
- 43. Seal of court, public officer or corporation.
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- 44-a. Seal on written instrument.
- 45. Seal, private as corporate seal.
- 46. Signature.
- 47. State.
- 47-a. Superintendent of schools.
- 48. Tense, present.
- 49. Territory.
- 50. Time, computation.
- 51. Time, night.
- 52. Time, standard.
- 53. Time, use of standard.
- 53-a. Trial juror; trial jury.
- 54. Village.
- 55. Women.
- 56. Writing and written.

- 57. Year, common and leap.
- 58. Year in statute, contract and public or private instrument.
- 59. Bastard; illegitimate child.
- 60. Newspapers.
- 61. Date for determining last completed assessment rolls.
- 62. Size of type.

§ 10. Acknowledge and acknowledgment. The terms acknowledge and acknowledgment, when used with reference to the execution of an instrument or writing other than a deed of real property, include a compliance with the provisions of the next section by either such proof or acknowledgment.

§ 11. Acknowledgment or proof of instrument. When the execution of any instrument or writing is authorized or required by law to be acknowledged, or to be proven so as to entitle it to be filed or recorded in a public office, the acknowledgment may be taken or the proof made before any officer then and there authorized to take the acknowledgment or proof of the execution of a deed of real property to entitle it to be recorded in a county clerk's office, and shall be made and certified in the same manner as such acknowledgment or proof of such deed.

§ 11-a. Acquisition. The term "acquisition" means the act of acquiring any title to, right or interest in, real property through the exercise of the power of eminent domain pursuant to the provisions of the eminent domain procedure law.

§ 11-b. Appropriation. The term "appropriation" when used in reference to the acquiring of any title to, right or interest in real property through the exercise of the power of eminent domain, shall be deemed to mean acquisition.

§ 12. Affidavit. When an affidavit is authorized or required it may be sworn to before any officer authorized by law to take the acknowledgment of deeds in this state, unless a particular officer is specified before whom it is to be taken.

§ 13. Adjournment of meeting. Any meeting referred to in section forty-one of this chapter may be adjourned by a less number than a quorum.

§ 13-a. Armed forces of the United States. "Armed forces of the United States" means the army, navy, marine corps, air force, space force and coast guard including all components thereof, and the national guard when in the service of the United States pursuant to call as provided by law. Pursuant to this definition no person shall be considered a member or veteran of the armed forces of the United States unless such member or veteran's service therein is or was on a full-time active duty basis, other than active duty for training or such member or veteran was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in oceangoing service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, from the Department of

Defense or the member or veteran served as a United States civilian employed by the American Field Service and served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and (i) was discharged or released therefrom under honorable conditions, or (ii) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or the member or veteran served as a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, December fourteenth, nineteen hundred forty-one through August fourteenth, nineteen hundred forty-five, and (iv) was discharged or released therefrom under honorable conditions, or (v) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (vi) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service.

§ 13-b. Board of supervisors. The term "board of supervisors" means the elective governing body of a county, by whatever name designated.

§ 14. Bond and undertaking. A provision of law authorizing or requiring a bond to be given shall be deemed to have been complied with by the execution of an undertaking to the same effect.

§ 15. Chattels. The term chattels includes goods and chattels; and, where the term appears in any statute or rule pertaining to an action to

recover the same, it also includes all specific personal property, such as, but not limited to, certificates of stock, bonds, notes, or other securities or obligations.

§ 16. Choose. The term choose includes elect and appoint.

§ 16-a. Civil action. The term "civil action" means any action except when prosecuted in the name of the people of the state of New York, as plaintiffs against a party charged with crime.

§ 16-b. Condemnation. The term "condemnation" when used in reference to the acquiring of any title to, right or interest in, real property through the exercise of the power of eminent domain, shall be deemed to mean acquisition.

§ 17. Criminal code. The term criminal code means the code of criminal procedure.

§ 18. Consolidated laws. The term Consolidated Laws shall mean the compilation of the statutes prepared by the board of statutory consolidation and the amendments thereof.

§ 18-a. Criminal action. A "criminal action" is prosecuted in the name of the people of the state of New York, as plaintiffs, against a party charged with crime.

§ 19. Day, calendar. A calendar day includes the time from midnight to midnight. Sunday or any day of the week specifically mentioned means a calendar day.

§ 20. Day, computation. A number of days specified as a period from a certain day within which or after or before which an act is authorized or required to be done means such number of calendar days exclusive of the calendar day from which the reckoning is made. If such period is a period of two days, Saturday, Sunday or a public holiday must be excluded from the reckoning if it is an intervening day between the day from which the reckoning is made and the last day of the period. In computing any specified period of time from a specified event, the day upon which the event happens is deemed the day from which the reckoning is made. The day from which any specified period of time is reckoned shall be excluded in making the reckoning.

§ 20-a. Distinct parcel. "Distinct parcel" of real property is a part of the property which is or may be set off by boundary lines as distinguished from an undivided share or interest therein.

§ 22. Gender. Whenever words of the masculine or feminine gender appear in any law, rule, regulation, or resolution unless the sense of the sentence indicates otherwise, they shall be deemed to refer to persons of any gender. This construction shall apply to gender indicative suffixes or prefixes as well as to gender indicative words. Whenever the reference is to a corporation, board, body, group, organization or other entity comprising more than one person or to an assemblage of persons or to an inanimate object the reference shall be construed to be neutral in gender. Hereafter, in any law, rule, regulation, or resolution, gendered terms shall not be used and gender-neutral terms, including but not limited to "they", "them" and "theirs", shall be used in substitution therefor and with the same force and effect; provided, however, if any such law, rule, regulation, or resolution is in reference to a specific person, the language referring to such person shall be gendered in accordance with the gender identity of such person.

§ 23. Heretofore and hereafter. Each of the terms, heretofore, and hereafter, in any provision of a statute, relates to the time such provision takes effect.

§ 24. Public holidays; half-holidays. The term public holiday includes the following days in each year: the first day of January, known as New Year's day; the third Monday of January, known as Dr. Martin Luther King, Jr. day; the twelfth day of February, known as Lincoln's birthday; the third Monday in February, known as Washington's birthday; the last Monday in May, known as Memorial day; the second Sunday in June, known as Flag day; the nineteenth day of June, known as Juneteenth; the fourth day of July, known as Independence day; the first Monday in September, known as Labor day; the second Monday in October, known as Columbus day; the eleventh day of November, known as Veterans' day; the fourth Thursday in November, known as Thanksgiving day; and the twenty-fifth day of December, known as Christmas day, and if any of such days except Flag day is Sunday, the next day thereafter; each general election day, and each day appointed by the president of the United States or by the governor of this state as a day of general thanksgiving, general fasting and prayer, or other general religious observances. The term half-holiday includes the period from noon to midnight of each Saturday which is not a public holiday.

§ 24-a. Closing of banking organizations on Saturday; Sunday, public holiday or Saturday afternoon banking transactions; emergency bank holidays. 1. Any banking organization lawfully doing business within the state of New York may be closed on any one or more Saturdays upon the adoption of a resolution to such effect by a majority vote of the board of directors or the board of trustees thereof or of the partners in the case of a private banker. Any one or more of such Saturdays shall, with respect to any such banking organization which shall be closed thereon in accordance with the provisions of this subdivision, constitute a public holiday within the meaning of such term as used in and for all purposes of section twenty-five and twenty-five-a of this chapter (but not, in the case of negotiable instruments, for the purposes of

subdivision two of section twenty-five thereof), and shall neither be a "full business day" nor a banking day within the meaning of such terms as used in and for all purposes of the uniform commercial code. The term "banking organization", as used in this section (except where otherwise defined therein), shall mean any banking organization as defined in the banking law, any branch or agency of a foreign banking corporation, any national bank, federal reserve bank, federal savings and loan association, federal savings bank, federal home loan bank or federal credit union, and any person or association of persons lawfully carrying on the business of banking in this state whether incorporated or not. As used in this section (except where otherwise defined therein), the term "officers" shall mean the person or persons designated by the board of directors or trustees of a banking organization, or the partners in the case of a private banker, to act for the banking organization in carrying out the provisions of this section; the term "office" shall mean any place at which a banking organization transacts business other than its principal office; and the term "person" shall include natural persons, corporations, partnerships and associations.

2. Nothing in any law of this state shall in any manner whatsoever affect the validity of, or render void or voidable, the payment certification or acceptance of a check or other negotiable instrument under the uniform commercial code or any other transaction by a banking organization in this state, because done or performed on any Sunday or public holiday, or on any Saturday between twelve o'clock noon and midnight, provided such payment, certification, acceptance, or other transaction would be valid if done or performed on any business day or before twelve o'clock noon on such Saturday; provided, further, that nothing in this subdivision shall be construed to compel any banking organization in this state, which by law or custom is entitled to close at twelve o'clock noon on any Saturday, to keep open for the transaction of business or to perform any of the acts or transactions aforesaid, on any Saturday after such hour except at its own option or to compel any banking organizations in this state to keep open on a public holiday except at its own option and then only to the extent it elects to do so.

3. a. The governor is authorized, by proclamation, to designate and

appoint one or more holidays, or holiday periods, to be known as bank holidays, to be observed throughout the state, or to be observed in a portion or portions thereof, as specified in such proclamation, if an emergency as hereinafter defined, shall, in his opinion, require such action.

b. Whenever the officers of a banking organization are of the opinion that an emergency, as hereinafter defined, exists which affects one or more or all the banking organization's offices, they shall have authority to close one or more or all such offices even though the governor has not issued and does not issue a proclamation of emergency, provided however, that provision is made by such officers for the transaction of the business normally transacted at a closed office at another office or the principal office of the banking organization, until further notice. The office or offices so closed shall remain closed until the officers or, in the case of a banking organization as defined in the banking law, the superintendent of financial services, direct that it be opened. A banking organization closing an office or offices pursuant to this paragraph shall give prompt notice to the superintendent of financial services of its action.

c. Whenever the officers of a banking organization are of the opinion that an emergency, as hereinafter defined, exists which affects the banking organization's principal office, they shall have authority to close such principal office even though the governor has not issued and does not issue a proclamation of emergency, provided however, that provision is made by such officers for the transaction of the business normally transacted at such principal office, at another office of the banking organization, until further notice; provided further however, that if no other office of the banking organization can be so designated for the transaction of the business normally transacted at the principal office, the officers may direct that the principal office shall be closed only with the prior approval of the superintendent of financial services. The superintendent of financial services, in giving such approval, may require certification of such official of the federal government or of the state of New York or a political subdivision thereof as he deems sufficient to establish that an emergency exists

which affects such banking organization's principal office. A banking organization closing such principal office pursuant to this paragraph shall give prompt notice to the superintendent of financial services of its action.

d. Whenever the officers of a banking organization are of the opinion that an emergency, as hereinafter defined, exists which adversely affects the conduct of any business operation or function conducted at the bank's principal office, they shall have the authority, upon the prior approval of the superintendent of financial services, not to conduct such operation or function even though the governor has not issued and does not issue a proclamation of emergency; provided, however, that such officers may exercise this authority without such prior approval if they have in good faith attempted, but been unable, to contact the superintendent of financial services to request permission not to conduct such business operation or function; and provided further the principal office shall not be closed in its entirety pursuant to this paragraph. No business operation or function shall be closed pursuant to this paragraph d unless such officers have attempted, but in good faith found it infeasible to conduct such business operation or function at another office. A banking organization closing any business operation or function pursuant to this paragraph shall promptly notify the superintendent of financial services of its action in a manner prescribed by the superintendent.

e. The discretion of the officers of any banking organization in acting pursuant to this subdivision, when exercised in good faith, shall not be questioned in any court or place.

f. No banking organization and no director, officer or employee of a banking organization shall be liable to any person for any direct or indirect loss suffered by such person by reason of the banking organization's failure or inability to make access to the banking organization's premises and facilities available to such person or by reason of the banking organization's failure to perform, or its delay in performing, any contractual, statutory or other duty assumed by or imposed upon the banking organization in any capacity when such failure,

inability or delay is caused by the banking organization, or any office or the principal office thereof, being closed as authorized by this section.

g. An emergency, within the meaning of this section, shall mean any condition which may interfere with the conduct of normal banking operations, in the holiday area, or at one or more or all offices or the principal office of a banking organization or organizations, or which poses an imminent or existing threat to the safety and security of persons or property, or both, including floods, wind, rain, hail or snow storms, power failures, transportation failures, earthquake, fire, riots, strikes, civil commotion, labor disputes, enemy action or threat of enemy action, and any similar or different condition which may interfere physically with the conduct of normal banking operations in the holiday area.

h. During such holiday, holidays and holiday periods, provided for in paragraphs a through c of this subdivision, all banking organizations may close any or all of their places of business in the holiday area. The superintendent of financial services may, however, by special or general regulation, restriction, or order, provide that banking organizations (as such term is defined in the banking law) and branches and agencies of foreign banking corporations in this state shall, to the extent and at such of their places of business as may be directed by him, carry on such of their normal and usual operations or banking transactions in the holiday area during such holiday, holidays or holiday period, as may appear to him to be in the best interests of the public. Such holiday, holidays or holiday periods shall, with respect to such place or places of business in the holiday area of any banking organization which shall be closed thereon in accordance with the provisions of this subdivision, constitute a public holiday within the meaning of such term as used in and for all purposes of subdivision one of section twenty-five and of subdivision one of section twenty-five-a of this chapter (but not for the purposes of subdivision two of section twenty-five or of subdivision two of section twenty-five-a thereof), and shall neither be "full business days" nor banking days within the meaning of such terms as used in and for all purposes of the uniform

commercial code, to the extent that the performance of obligations under said code are not directed to be performed by the special or general regulations, restrictions or orders of the superintendent of financial services, and shall not be deemed to be public holidays for any other purpose, or under any other provision of law. If any banking operation or function is closed pursuant to paragraph d of this subdivision, a bank holiday shall be deemed to exist, with the same effects and limitations as set forth in the preceding sentence, with respect to such banking operation or function.

i. A bank office or principal office that has been closed as authorized by this section may nonetheless conduct limited operations and perform banking transactions (i) for the convenience of its customers or (ii) relating to transactions between that bank and other banks or persons which have remained open for business or are outside the holiday area.

j. For purposes of this section, each reference to the superintendent of financial services shall be deemed to include any official of the department of financial services to whom authority granted by this section has been delegated.

§ 25. Public holiday, Saturday or Sunday in contractual obligations; extension of time where performance of act authorized or required by contract is due on Saturday, Sunday or public holiday. 1. Where a contract by its terms authorizes or requires the payment of money or the performance of a condition on a Saturday, Sunday or a public holiday, or authorizes or requires the payment of money or the performance of a condition within or before or after a period of time computed from a certain day, and such period of time ends on a Saturday, Sunday or a public holiday, unless the contract expressly or impliedly indicates a different intent, such payment may be made or condition performed on the next succeeding business day, and if the period ends at a specified hour, such payment may be made or condition performed, at or before the same hour of such next succeeding business day, with the same force and effect as if made or performed in accordance with the terms of the

contract.

2. Where time is extended by virtue of the provisions of this section, such extended time shall not be included in the computation of interest unless the contract so provides, except that when the period is specified as a number of months, such extended time shall be included in the computation of interest unless the contract otherwise provides.

3. Notwithstanding any other provision of law, all time deposits and certificates of deposit of banking organizations that mature on a Saturday, Sunday or bank holiday shall continue to accrue interest at the same rate fixed for the term of the deposit or certificate until the first banking day next succeeding the date of maturity, at which the principal and all accrued interest may be withdrawn, unless sooner withdrawn by the depositor.

§ 25-a. Public holiday, Saturday or Sunday in statutes; extension of time where performance of act is due on Saturday, Sunday or public holiday. 1. When any period of time, computed from a certain day, within which or after which or before which an act is authorized or required to be done, ends on a Saturday, Sunday or a public holiday, such act may be done on the next succeeding business day and if the period ends at a specified hour, such act may be done at or before the same hour of such next succeeding business day, except that where a period of time specified by contract ends on a Saturday, Sunday or a public holiday, the extension of such period is governed by section twenty-five of this chapter.

2. Where time is extended by virtue of the provisions of this section, such extended time shall not be included in the computation of interest, except that when the period is specified as a number of months, such extended time shall be included in the computation of interest.

§ 25-b. Injury to property. "Injury to property" is an actionable act, whereby the estate of another is lessened, other than a personal injury,

or the breach of a contract.

§ 25-c. Investment in bond and mortgage or note and mortgage. The term bond and mortgage or the term note and mortgage as heretofore or hereafter used in any statute which prescribes or authorizes investment therein, with or without a specified ratio of real property security, shall be deemed to include a share or part of a bond and mortgage or of a note and mortgage, as the case may be, prior in lien to all other shares and parts thereof and, for all purposes in connection with such an investment in a share or part, any specified ratio of real property security shall be determined on the basis of the investment in such share or part.

§ 26. Judge. The term "judge" includes every judicial officer authorized, alone or with others, to hold or preside over a court of record. It also includes a justice, surrogate, recorder, Town Justice, Village Justice, City Justice or other judicial officer authorized or required to act or prohibited from acting in or with respect to the matter or thing referred to in the provision wherein that word is used.

§ 26-a. Judgment creditor. "Judgment creditor" signifies the person who is entitled to collect or otherwise enforce, in his own right, a judgment for a sum of money, or directing the payment of a sum of money.

§ 26-b. Just compensation as including loss of mortgage financing. Notwithstanding any inconsistent provisions of law, whenever property is taken pursuant to the power of eminent domain (whether denominated condemnation, appropriation or otherwise) just compensation required by the state constitution shall include an amount sufficient to compensate for the loss of existing mortgage financing if such property was used prior to taking primarily as a residence however, such amount shall not exceed fifteen thousand dollars. In computing the amount of such loss, the following shall be considered: (a) the difference in the interest

rate payable on the existing mortgage from that prevailing at the date of taking in the area where the property is located for new mortgage loans on similar types of property to similar borrowers; (b) the length of time from the date of taking to the maturity of the existing mortgage, and (c) the prevailing costs to similar mortgage borrowers on similar types of property at the date of taking in the area where the property is located of obtaining and closing a new mortgage loan in an amount equal to the unpaid principal balance of the existing mortgage.

§ 27. Last, preceding, next and following. A reference to the last or preceding section, or other provision of a statute, means the section or other division immediately preceding, and a reference to the next or following section or other division of a statute means the section or other division immediately following.

§ 28. Mental disability, mental illness, developmental disability, addictive disorder and addiction disorder. The terms mental disability, mental illness, developmental disability, addictive disorder and addiction disorder shall have the same meaning as they are defined pursuant to section 1.03 of the mental hygiene law.

§ 28-a. Mandate. "Mandate" includes a writ, process or other written direction, issued pursuant to law, out of a court, or made pursuant to law, by a court, a judge or person acting as a judicial officer, and commanding a court, board or other body, or an officer or other person, named or otherwise designated therein, to do or to refrain from doing an act therein specified.

§ 28-b. Magistrate. A magistrate is a judge of any court of this state.

§ 28-c. Down's syndrome. 1. On and after the effective date of this

section, the term "mongolism" or "mongoloid" used as a synonym for the genetic disorder known as Down's syndrome shall not be utilized in any statute, local law, ordinance, charter, or rule or regulation promulgated or any publication published by the state or any political subdivision thereof, and the term, Down's syndrome, shall be used in place of "mongolism" or "mongoloid" when referring to such genetic disorder.

2. Wherever the term "mongolism" or "mongoloid" appears in any such statute, local law, ordinance, charter or rule or regulation or publication enacted, promulgated or published prior to the effective date of this section such term shall be deemed to refer to the genetic disorder known as Down's syndrome.

3. Whenever the term "mongolism" or "mongoloid" appears in any publication of the state or any political subdivision thereof published prior to the effective date of this section which is to be republished on or after January first, nineteen hundred eighty-one such republication shall be made only after such terms are deleted.

§ 29. Men. The term men includes boys.

§ 30. Month, computation. A number of months after or before a certain day shall be computed by counting such number of calendar months from such day, exclusive of the calendar month in which such day occurs, and shall include the day of the month in the last month so counted having the same numerical order in days of the month as the day from which the computation is made, unless there be not so many days in the last month so counted, in which case the period computed shall expire with the last day of the month so counted.

§ 31. Month in statute, contract and public or private instrument. In a statute, contract or public or private instrument, unless otherwise provided in such contract or instrument or by law, the term month means

a calendar month and not a lunar month.

§ 32. Municipal officers. A reference to several officers of a municipal corporation holding the same office, or to a board of such officers, shall be deemed to refer to the single officer holding such office, when but one person is chosen to fill such office in pursuance of law.

§ 33. Notice. When a notice is required to be given to a board or body, service of such notice upon the clerk or chairman thereof shall be sufficient.

§ 33-a. Notify. "Notify" is used with respect to procuring the attendance of a juror, is equivalent to the word "summon" as used in the like connection, in the constitution and laws of the state.

§ 34. Now. The term now in any provision of a statute referring to other laws in force, or to persons in office, or to any facts or circumstances as existing, relates to the laws in force, or to the person in office, or to the facts or circumstances existing, respectively, immediately before the taking effect of such provision.

§ 35. Number, singular and plural. Words in the singular number include the plural, and in the plural number include the singular.

§ 36. Oath, affidavit and swear. The terms oath and affidavit include every mode authorized by law of attesting the truth of that which is stated. The term swear includes every mode authorized by law for administering an oath.

§ 37. Person. The term person includes a corporation and a joint-stock association. When used to designate a party whose property may be the subject of any offense, the term person also includes the state, or any other state, government or country which may lawfully own property in the state.

§ 37-a. Personal injury. "Personal injury" includes libel, slander and malicious prosecution; also an assault, battery, false imprisonment, or other actionable injury to the person either of the plaintiff, or of another.

§ 37-b. Population. 1. The term population when used in relation to this state, or a municipality or other subdivision thereof, or a portion of such a municipality or subdivision, shall, unless otherwise provided in relation to such use, mean population as shown by the latest federal census published as a final population count by the United States bureau of the census.

2. Unless otherwise specifically provided, the term population when used in relation to payments of aid or assistance by the state to a municipality or other subdivision thereof shall mean population as shown by the latest federal census of such municipality or subdivision published as a final population count by the United States bureau of the census prior to the commencement of the state fiscal year during which such aid or assistance is payable.

§ 38. Property. The term property includes real and personal property.

§ 39. Property, personal. The term personal property includes chattels, money, things in action, and all written instruments themselves, as distinguished from the rights or interests to which they relate, by which any right, interest, lien or incumbrance in, to or upon property, or any debt or financial obligation is created, acknowledged,

evidenced, transferred, discharged or defeated, wholly or in part, and everything, except real property, which may be the subject of ownership.

Oil wells and all fixtures connected therewith, situate on lands leased for oil purposes and oil interests, and rights held under and by virtue of any lease or contract or other right or license to operate for or produce petroleum oil, shall be deemed personal property for all purposes except taxation.

§ 40. Property, real. The term real property includes real estate, lands, tenements and hereditaments, corporeal and incorporeal.

§ 41. Quorum and majority. Whenever three or more public officers are given any power or authority, or three or more persons are charged with any public duty to be performed or exercised by them jointly or as a board or similar body, a majority of the whole number of such persons or officers, gathered together in the presence of each other or through the use of videoconferencing, at a meeting duly held at a time fixed by law, or by any by-law duly adopted by such board or body, or at any duly adjourned meeting of such meeting, or at any meeting duly held upon reasonable notice to all of them, shall constitute a quorum and not less than a majority of the whole number may perform and exercise such power, authority or duty. For the purpose of this provision the words "whole number" shall be construed to mean the total number which the board, commission, body or other group of persons or officers would have were there no vacancies and were none of the persons or officers disqualified from acting.

§ 41-a. Recital in record of meeting as evidence. A recital in any order, resolution or other record of any proceeding of a meeting referred to in section forty-one of this chapter that such meeting had been held or adjourned as provided in said section, or that it had been held upon notice to the members, as therein provided, is prima facie evidence thereof.

§ 42. Register of county. Any act done in pursuance of law by the register of a county shall be deemed to be a compliance with any provision of law authorizing or requiring such act to be done by the county clerk of such county, and any instrument or writing filed, entered or recorded in pursuance of law in the office of a register of a county, shall be deemed to be a compliance with any provision of law authorizing or requiring such paper to be filed, entered or recorded, as the case may be, in the office of the clerk of such county. The term county clerk when used in relation to conveyances of real property or the filing or recording of instruments which are or may be filed in the office of the register of a county, shall include the register of each county in which there is a register.

§ 43. Seal of court, public officer or corporation. A seal of a court, public officer or corporation may be impressed directly upon the instrument or writing to be sealed, or upon wafer, wax or other adhesive substance affixed thereto, or upon paper, or other similar substance affixed thereto by mucilage or other adhesive substance, or may appear as a facsimile, or be engraved or printed or reproduced in any other manner. A seal of a corporation upon a corporate bond or other corporate obligation for the payment of money may be a facsimile, engraved or printed.

§ 44. Seal, private. The private seal of a person, other than a corporation, to any instrument or writing shall consist of a wafer, wax or other similar adhesive substance affixed thereto, or of paper or other similar substance affixed thereto, by mucilage or other adhesive substance, or of the word "seal," or the letters "L.S.," opposite the signature.

§ 44-a. Seal on written instrument. Except as otherwise expressly provided by statute, the presence or absence of a seal upon a written

instrument executed after August thirty-first, nineteen hundred forty-one shall be without legal effect.

§ 45. Seal, private as corporate seal. An instrument or writing duly executed, in the corporate name of a corporation, which shall not have adopted a corporate seal, by the proper officers of the corporation under their private seals, shall be deemed to have been executed under the corporate seal.

§ 46. Signature. The term signature includes any memorandum, mark or sign, written, printed, stamped, photographed, engraved or otherwise placed upon any instrument or writing with intent to execute or authenticate such instrument or writing.

§ 47. State. The term state, when used generally to include every state of the United States, includes also every territory of the United States and the District of Columbia.

§ 47-a. Superintendent of schools. The term "superintendent of schools" shall mean the chief school officer of a school district other than the city school district of the city of New York or a community school district therein. Except for purposes of section one thousand seven hundred eleven of the education law, any reference in any law, ordinance, resolution, rule or regulation, proceeding, process, notice, order, decree, judgement, record or other public document or paper to the terms "district principal", "supervising principal" or "principal of the district" shall be deemed to mean "superintendent of schools".

§ 48. Tense, present. Words in the present tense include the future.

§ 49. Territory. The term territory when used generally to include

every territory of the United States, includes also the District of Columbia.

§ 50. Time, computation. Time shall continue to be computed in this state according to the Gregorian or new style. The first day of each year after the year seventeen hundred and fifty-two is the first day of January, according to such style.

§ 51. Time, night. Night time includes the time from sunset to sunrise.

§ 52. Time, standard. 1. The standard time throughout this state is that of the seventy-fifth meridian of longitude west from Greenwich, except as hereinafter provided, and all courts and public officers, and legal and official proceedings, shall be regulated thereby.

2. At two o'clock ante meridian on the last Sunday in April of each year the standard time throughout this state shall be advanced one hour from that of the seventy-fifth meridian of longitude west from Greenwich, and the time so advanced shall continue to be standard time throughout this state until the last Sunday in October of the same year, when such standard time, as so advanced, shall be retarded to that of the seventy-fifth meridian west from Greenwich; and during such period in each year all courts and public officers, and legal and official proceedings, shall be regulated in accordance therewith.

§ 53. Time, use of standard. Any act required by or in pursuance of law to be performed at or within a prescribed time, shall be performed according to the standard time.

§ 53-a. Trial juror; trial jury. The terms "trial juror" and "trial jury", are respectively equivalent to the terms "petit juror", and

"petit jury", as used in the constitution and laws of the state.

§ 54. Village. The term village means an incorporated village.

§ 55. Women. The term women includes girls.

§ 56. Writing and written. The terms writing and written include every legible representation of letters upon a material substance, except when applied to the signature of an instrument.

§ 57. Year, common and leap. For the purpose of computing and reckoning the days of the year in the same regular course in the future, every year, the number of which in the Christian era is a multiple of four, is a bissextile or leap year consisting of three hundred and sixty-six days, unless such number of the year is a multiple of one hundred and the first two figures thereof treated as a separate number is not a multiple of four, and every year which is not a leap year is a common year consisting of three hundred and sixty-five days.

§ 58. Year in statute, contract and public or private instrument. The term year in a statute, contract, or any public or private instrument, means three hundred and sixty-five days, but the added day of a leap year and the day immediately preceding shall for the purpose of such computation be counted as one day. In a statute, contract or public or private instrument, the term year means twelve months, the term half year, six months, and the term a quarter of a year, three months.

§ 59. Bastard; illegitimate child. The term "bastard" or "illegitimate child" in a statute means a child born out of wedlock. Hereafter in any local law, ordinance or resolution or in any public or judicial proceeding or in any process, notice, order, decree, judgment, record or

other public document or paper, the term "bastard" or "illegitimate child" shall not be used, but the term "child born out of wedlock" shall be used in substitution therefor and with the same force and effect.

§ 60. Newspapers. a. In any case in which notice of any fact is required by law to be published or advertised in a newspaper, the term "newspaper" shall mean a paper of general circulation which is printed and distributed ordinarily not less frequently than once a week, and has been so for at least one year immediately preceding such publication or advertisement, and which contains news, articles of opinion (as editorials), features, advertising, or other matter regarded as of current interest, has a paid circulation and (except for such a paper which has been printed and distributed not less frequently than once a week for a period of ten years prior to January one, nineteen hundred seventy-five) has been entered at United States post-office as second-class matter. A publication which is distributed or made available primarily for advertising purposes to the public generally without consideration being paid therefor shall not be deemed to be a "newspaper" for the purpose of publication or advertisement of such notice required by law. Notwithstanding any provision of this subdivision to the contrary, a publication which was designated and publishing notice as an official newspaper prior to the year nineteen hundred forty and continued to be so designated and publishing for at least thirty years after such year shall be deemed to be a newspaper within the meaning of this subdivision.

b. The terms "daily newspaper" and "newspaper published each business day" in a statute, contract, or any public or private instrument, mean, respectively, a newspaper customarily published on each business day of the year, whether or not such newspaper is published on any other day. The term "business day" when used herein does not include Saturdays, Sundays or legal holidays.

c. The term "newspaper of a county, city, town or village" when used in a statute shall mean a newspaper published, circulated, printed or distributed in the county, city, town or village.

§ 61. Date for determining last completed assessment rolls. In computing the amount which may be raised by tax on real estate by a county, city, village or school district within the limitation prescribed by article eight of the constitution, the determinations as to the last completed assessment roll, as defined in subdivision seven-a of section 2.00 of the local finance law, shall be made on or before the date upon which the amount to be raised by tax on real estate by or for such county, city, village or school district is actually determined. For the purposes of this section an assessment roll shall mean such assessment roll as finally completed by the assessors or other officer or body authorized to prepare such roll.

§ 62. Size of type. Whenever a requirement of law relating to size of type is stated in point size, the type size requirement shall be deemed met if the x-height of the type is a minimum of forty-five percent of the specified point size. Each point shall be measured as .351 millimeter. The x-height size shall be measured as it appears on the page. The x-height is the height of the lower case letters, exclusive of ascenders or descenders.

ARTICLE 2-A

CLASSIFICATION OF CORPORATIONS AND DEFINITIONS

Section 65. Classification of corporations.

66. Definitions.

67. Names of corporation laws.

§ 65. Classification of corporations. a. A corporation shall be either,

1. A public corporation,
2. A corporation formed other than for profit, or

3. A corporation formed for profit.

b. A public corporation shall be either,

1. A municipal corporation,

2. A district corporation,

3. A public benefit corporation.

c. A corporation formed other than for profit shall be either,

1. A religious corporation,

2. An education corporation,

3. A cooperative corporation,

4. A not-for-profit corporation, or

5. Any other corporation formed other than for profit which is not a public corporation. A reference in a general law to a class of corporations described in accordance with this classification shall include all corporations belonging to such class.

d. A corporation formed for profit shall be either,

1. A business corporation,

2. A moneyed corporation,

3. A railroad corporation,

4. A transportation corporation, or

5. A benefit corporation.

§ 66. Definitions. 1. A "public corporation" includes a municipal corporation, a district corporation, or a public benefit corporation.

2. A "municipal corporation" includes a county, city, town, village and school district.

3. A "district corporation" includes any territorial division of the state, other than a municipal corporation, heretofore or hereafter established by law which possesses the power to contract indebtedness and levy taxes or benefit assessments upon real estate or to require the levy of such taxes or assessments, whether or not such territorial division is expressly declared to be a body corporate and politic by the statute creating or authorizing the creation of such territorial division.

4. A "public benefit corporation" is a corporation organized to construct or operate a public improvement wholly or partly within the state, the profits from which inure to the benefit of this or other states, or to the people thereof.

4-a. A "benefit corporation" means a business corporation incorporated under article seventeen of the business corporation law and whose status as a benefit corporation has not been terminated as provided in article seventeen of the business corporation law.

5. A "religious corporation" is either (a) a Religious Corporations Law corporation as defined in section two of such law or (b) a corporation formed under any other general law or by a special act of this state which is organized and operated principally for religious purposes.

6. An "education corporation" is a corporation as defined in subdivision one of section two hundred sixteen-a of the education law.

7. A "not-for-profit corporation", if a domestic corporation, is a

corporation as defined in subparagraph five of paragraph (a) of section one hundred two of the not-for-profit corporation law. A "not-for-profit corporation", if formed under laws other than the statutes of this state, is a foreign not-for-profit corporation as defined in subparagraph seven of paragraph (a) of such section.

8. A "business corporation", if a domestic corporation, is a corporation as defined in subparagraph four of paragraph (a) of section one hundred two of the business corporation law. A "business corporation", if formed under laws other than the statutes of this state, is a foreign business corporation as defined in subparagraph seven of paragraph (a) of such section.

9. A "moneyed corporation" is a corporation to which the banking law or the insurance law is made applicable by the provisions of such laws.

10. A "railroad corporation" is a corporation to which the railroad law is made applicable by a provision of such law.

11. A "transportation corporation" is a corporation to which the transportation corporations law is made applicable by a provision of such law.

12. A "cooperative corporation" is a corporation to which the cooperative corporations law is made applicable by a provision of such law.

13. The term "corporation formed other than for profit" includes every corporation other than a corporation formed for profit or a public corporation.

14. A "domestic corporation" is a corporation incorporated by or under the laws of the state or colony of New York. Every corporation which is not a domestic corporation is a foreign corporation, except as provided by the civil practice law and rules with respect to the construction of such law and rules.

15. The term "director", when used in relation to corporations, means any member of the governing board of such corporation, whether designated as director, trustee, manager, governor, or by any other title, designated to manage the affairs of a corporation.

16. The term "certificate of incorporation" includes (a) the original certificate of incorporation or any other instrument filed or issued under any statute to form a domestic or foreign corporation, as amended, supplemented or restated by certificates of amendment, merger or consolidation or other certificates or instruments filed or issued under any statute; or (b) a special act or charter creating a domestic or foreign corporation, as amended, supplemented or restated.

17. The term "member of a corporation" means one having membership rights in a corporation in accordance with the provisions of its certificate of incorporation or by-laws.

18. The term "office of a corporation" means the office the location of which is stated in the certificate of incorporation of a domestic corporation, or in the application for authority of a foreign corporation or an amendment thereof. Such office need not be a place where business or activities are conducted by such corporation.

19. The term "business of a corporation" when used with reference to a corporation formed for profit means the operations for the conduct of which the corporation is formed and may constitute "doing of business" or "transaction of business" as those terms are used in the statutes of this state.

20. The term "conducting of activities" when used with reference to a corporation formed not for profit means the operations for the conduct of which the corporation is formed and may constitute "doing of business" or "transaction of business" as those terms are used in the statutes of this state.

21. The term "corporate law" when used in any law means the general statutes relating to corporations included in the consolidated laws of

which this chapter is a part.

§ 67. Names of corporation laws. The cooperative corporations law, religious corporations law and transportation corporations law may be cited or referred to as, respectively, the cooperative corporation law, religious corporation law and transportation corporation law.

ARTICLE 3

ANCIENT STATUTES AND RESOLUTIONS

Section 70. Statutes of England and Great Britain inoperative in this state.

71. Acts of the legislature of the colony of New York inoperative.

72. Resolutions of the congress of the colony and the convention of New York inoperative.

§ 70. Statutes of England and Great Britain inoperative in this state. A statute of England or Great Britain shall not be deemed to have had any force or effect in this state since May first, seventeen hundred and eighty-eight.

§ 71. Acts of the legislature of the colony of New York inoperative. Acts of the legislature of the colony of New York shall not be deemed to have had any force or effect in this state since December twenty-ninth, eighteen hundred and twenty-eight.

§ 72. Resolutions of the congress of the colony and the convention of New York inoperative. The resolutions of the congress of the colony of New York and of the convention of the state of New York, shall not be deemed to be the laws of this state hereafter.

ARTICLE 4

REFERENCES, TITLES AND HEAD NOTES

Section 80. References to repealed provisions.

81. Titles and head notes.

§ 80. References to repealed provisions. If any provision of a law be repealed and, in substance, re-enacted, a reference in any law to such repealed provision shall be deemed a reference to such re-enacted provision.

§ 81. Titles and head notes. If the title of any article or other division of a statute, or the head note of a section shall be amended or repealed in the body of the statute, or if a new article or other division having a title, or a new section having a new head note be added to a statute, the corresponding title or head note, if any, in an abstract of contents at the beginning of the statute, article or other division of the statute shall be deemed to be correspondingly amended or repealed, although there be no express reference thereto.

ARTICLE 5

EFFECT OF REPEALS

Section 90. Effect of the repeal of a repealing statute.

91. Effect of the repeal of a statute upon amendments thereof.

92. Effect of the repeal of an amending statute.

93. Effect of repealing statute upon existing rights.

94. Effect of repealing statute upon pending actions and proceedings.

95. Effect of the repeal of a statute by another statute substantially re-enacting the former.

96. Effect of hyphen in schedule of repeals.

§ 90. Effect of the repeal of a repealing statute. The repeal hereafter or by this chapter of any provision of a statute, which

repeals any provision of a prior statute, does not revive such prior provision.

§ 91. Effect of the repeal of a statute upon amendments thereof. The repeal by the Consolidated Laws of a statute includes a statute amendatory of the statute repealed.

§ 92. Effect of the repeal of an amending statute. The repeal hereafter or by this chapter of any provision of a statute, which amends a provision of a prior statute, leaves such prior provision in force unless the amendatory statute be a substantial re-enactment of the statute amended.

§ 93. Effect of repealing statute upon existing rights. The repeal of a statute or part thereof shall not affect or impair any act done, offense committed or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time such repeal takes effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if such repeal had not been effected.

§ 94. Effect of repealing statute upon pending actions and proceedings. Unless otherwise specially provided by law, all actions and proceedings, civil or criminal, commenced under or by virtue of any provision of a statute so repealed, and pending immediately prior to the taking effect of such repeal, may be prosecuted and defended to final effect in the same manner as they might if such provisions were not so repealed.

§ 95. Effect of the repeal of a statute by another statute substantially re-enacting the former. The provisions of a law repealing a prior law, which are substantial re-enactments of provisions of the

prior law, shall be construed as a continuation of such provisions of such prior law, modified or amended according to the language employed, and not as new enactments.

§ 96. Effect of hyphen in schedule of repeals. When two numbers in a schedule of repeals of the consolidated laws are connected by a hyphen both such numbers are included as well as all intermediate numbers.

ARTICLE 6

EFFECT OF CONSOLIDATED LAWS

Section 100. Effect of consolidation upon laws passed at same session or before consolidation takes effect.

101. Effect of consolidated laws on penal law, criminal procedure law and civil practice law and rules.

§ 100. Effect of consolidation upon laws passed at same session or before consolidation takes effect. No provision of any chapter of the consolidation of the general laws, of which this chapter is a part, shall supersede or repeal by implication any law passed at the same session of the legislature at which any such chapter was enacted, or passed after the enactment of any such chapter and before it shall have taken effect; and an amendatory law passed at such session or at any subsequent session begun before any such chapter takes effect, shall not be deemed repealed, unless specifically designated in the repealing schedule of such chapter.

§ 101. Effect of consolidated laws on penal law, criminal procedure law and civil practice law and rules. The consolidated laws shall not be construed to amend, repeal or otherwise affect any provision of the penal law, civil practice law and rules or criminal procedure law unless expressly so stated.

ARTICLE 7

APPLICATION OF CHAPTER

Section 110. Application of chapter.

§ 110. Application of chapter. This chapter is applicable to every statute unless its general object, or the context of the language construed, or other provisions of law indicate that a different meaning or application was intended from that required to be given by this chapter.

ARTICLE 8

LAWS REPEALED; WHEN TO TAKE EFFECT

Section 120. Laws repealed.

121. When to take effect.

§ 120. Laws repealed. Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is hereby repealed.

§ 121. When to take effect. This chapter shall take effect immediately.