PUBLIC LANDS LAW

Laws 1909, Chap. 50.

AN ACT relating to the public lands, constituting chapter forty-six of the consolidated laws.

Became a law February 17, 1909, with the approval of the Governor. Passed by a two-thirds vote.

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

CHAPTER 46 OF THE CONSOLIDATED LAWS

PUBLIC LANDS LAW

ARTICLE 1

SHORT TITLE

Section 1. Short title. This chapter shall be known as the "Public Lands Law."

ARTICLE 2

OFFICE OF GENERAL SERVICES

preserve lands.

25. Sale or exchange of real property owned by the state and devoted to the use of the organized militia.
26. Refunds when sales cannot be completed.
27. Acquisition of real property by purchase or appropriation.
28. Transfer of state lands or watershed conservation easements to the city of New York for water supply protection purposes.
29. Watershed conservation easements and watershed agricultural easements.

§ 2. State-owned real property inventory and management program. 1. Definitions. As used in this section, unless the context otherwise requires:

a. "State agency" shall mean any department, division, board, commission, bureau, office or other agency of the state other than a public authority or public benefit corporation, except that for the purpose of subdivision two hereof, the term shall include any public authority or public benefit corporation any member or director of which is appointed by the governor and having jurisdiction, custody or control of any state-owned real property.

b. "State-owned real property" shall include all lands and buildings, structures, facilities, and improvements thereon, title to which is vested in the people of the state of New York.

2. State-owned real property inventory. The commissioner of general services shall establish, maintain and have the custody of an inventory of all state-owned real property, as an aid in the utilization and management of the land resources of the state. The inventory shall include any state-owned real property under the jurisdiction, custody or management of any state agency, whether acquired by appropriation, purchase, gift or otherwise. In order to provide an accurate and current inventory for use by the commissioner of general services, state agencies and the legislature, the commissioner may by rule or regulation

prescribe the elements, extent and format of the information to be included and the procedures for collection, presentation and verification of the information to be contained in the inventory. The commissioner shall by rule or regulation, and upon the advice of the comptroller, prescribe the elements, extent and format of the information to be included and the procedures for collection, presentation, and verification of such information necessary to establish and maintain a set of general fixed asset accounts that comply with generally accepted accounting principles. Each state agency shall deliver to the commissioner of general services such information at the times and in the manner as determined by him to be necessary for the establishment and maintenance of the inventory and shall permit the commissioner and his agents to make such physical and records inspections as deemed necessary by the commissioner for the purposes of the inventory program.

3. State-owned real property management program. The commissioner of general services is authorized and directed to study, evaluate and coordinate state agency management practices, plans and procedures for the acquisition, utilization and disposition of state-owned real property, and to advise and assist state agencies in the improvement of such management practices, plans and procedures.

§ 2-a. Certain transfers of jurisdiction over state-owned lands and declarations of abandonment by the commissioner of general services. 1. When the commissioner of general services proposes to transfer jurisdiction over state lands pursuant to subdivision four of section three without the application or consent therein provided or when the commissioner proposes to declare real property as abandoned pursuant to subdivision two of section thirty-a, he shall give written notice of such intention to the agency having jurisdiction over such land, and in the case of a transfer of jurisdiction pursuant to subdivision four of section three, to the state agency to which jurisdiction is proposed to be transferred.

2. Unless within thirty days from the date such notice is given, an

agency entitled to notice pursuant to subdivision one hereof objects to such proposed action, the commissioner of general services may effect such transfer of jurisdiction or declaration of abandonment.

3. If within thirty days of the giving of such notice, any state agency entitled to notice pursuant to subdivision one hereof objects to the action proposed by the commissioner by filing notice to such effect with the commissioner of general services, such proposed action shall be reviewed by the director of the budget, and the secretary of state. They shall affirm or reverse the proposed action by the commissioner and that decision shall be final. If they affirm the proposed action or fail to render a determination within six months of the date of the notice referred to in subdivision one, the commissioner may thereupon effect such transfer or declaration of abandonment.

§ 2-b. Transfers of certain funds. Subject to the approval of the director of the budget, any funds which have been appropriated and/or allocated for the operation or maintenance of state-owned real property abandoned under section thirty-a shall be transferred to the office of general services for the continued operation and maintenance of such real property and any funds which have been allocated to or transferred to any state agency for the operation or maintenance of state-owned real property jurisdiction over which has been transferred pursuant to subdivision four of section three shall be transferred to the agency receiving such jurisdiction for the continued operation and maintenance of such real property. As herein used, operation and maintenance shall include, without limitation, fuel, utilities, repairs and upkeep, supervision and security, and any local taxes or assessments.

§ 3. Powers and duties; leases. 1. The office of general services shall have the general care and superintendence of all state lands, the superintendence whereof is not vested in some officer or in a state department or a division, bureau or agency thereof.

2. The commissioner of general services may, subject to such rules as

he may promulgate with the approval of the state director of the budget, from time to time, lease for terms not exceeding five years, and until disposed of as required by law, all such state lands which are not appropriated to any immediate use. Such leases shall contain proper covenants to guard against trespass and waste. The use to which such leased property shall be put shall be consistent with local land use regulations. The commissioner also may grant rights and easements in perpetuity or otherwise in and to all state lands, including lands under water, at a price to be determined by the commissioner, and in case of a subsequent sale of such lands, the same may be sold subject to any rights and easements previously granted. The commissioner may, with or without consideration as determined by him, release and relinquish to the owner of the fee title therein, any rights or easements in perpetuity or otherwise, as may have been previously granted to the state. Provided, however, that where the superintendence of state lands is vested in some officer or in a state department or a division, bureau or agency thereof or in a public authority created or continued under the public authorities law the commissioner may grant, release or relinquish such rights and easements upon the written request of such officer or the head of such department, division, bureau, agency or public authority or of an employee thereof designated for such purpose by such officer or head of the department, division, bureau, agency or public authority.

3. The commissioner of general services may repair, demolish or remove the whole or a portion of any structure on such state lands, provided he has filed in his office a writing specifying the structure and certifying to the necessity of such repair, demolition or removal. The expense of such work may be paid from any contingent funds available to the commissioner, or from moneys specially appropriated for such purposes. If such work be done by contract, the commissioner may dispense with advertising and bids, or either, or may cause such work to be done by direct employment of labor and purchase of material in the open market, or partly by contract and partly by such direct employment and purchase.

4. Notwithstanding any other provision of this chapter or other

statute, the commissioner of general services, upon the application of any state department, or a division, bureau or agency thereof, or upon the application of any state agency, may transfer to such state department, division, bureau, or agency, or state agency, the jurisdiction over any lands, including lands under water, abandoned canal lands and salt springs reservation land, upon such terms and conditions as the commissioner may deem just and proper and upon the consent of the department, or a division, bureau or agency thereof, or any state agency, already having jurisdiction over such lands and notwithstanding any other provision of this chapter or other statute, authority to give such consent is hereby conferred upon the head of any such state department, or a division, bureau or agency thereof, or any state agency; provided, however, that if the commissioner of general services determines that any such land under the jurisdiction of any state department, or a division, bureau or agency thereof, or any state agency other than a public authority or public benefit corporation is under utilized or is not being utilized in a manner consistent with the best interests of the state, such commissioner may on his own initiative, and without the application or consent referred to above but subject to the procedure and review provided in section two-a of this article, transfer the jurisdiction over such land to any other state department, or a division, bureau or agency thereof, or any other state agency other than a public authority or public benefit corporation. Should such land be under the jurisdiction of the office of mental health or the office for people with developmental disabilities upon which a community residential facility for the disabled as defined in section 41.34 of the mental hygiene law exists, the commissioner of general services shall, prior to transferring the jurisdiction over such land to any other state department, or a division, bureau or agency thereof, or any other state agency other than a public authority or public benefit corporation offer such land for sale at public auction pursuant to section thirty-three of this chapter; provided, however, that the provisions of section four hundred six of the eminent domain procedure law shall apply to such property.

4-a. Notwithstanding any other provision of this chapter or other statute, the commissioner of general services, upon the application of any person or corporation, may lease to the highest responsible bidder furnishing the required security after advertisement for sealed bids has been published in a newspaper or newspapers designated for such purpose, for a term not to exceed ninety-nine years, to such applicant interests in real property including but not limited to air rights, subterranean rights and others, when such are not needed for present public use.

Such lease shall contain proper covenants to assure the payment of adequate consideration for the interests leased, and to further protect the state as is deemed necessary by said commissioner.

Where the superintendence of the interest leased is vested in some officer or in a state department or a division, bureau or agency thereof, or in a public authority created or continued under the public authorities law, the commissioner may grant such rights only upon written request and conconsent of such officer or head of such department, division, bureau or public authority.

Said lease shall not be effective until approved as to form by the attorney general of the state.

The development of any leasehold granted pursuant to this subdivision shall be subject to the zoning regulations and ordinances of the municipality in which said property is located.

5. The commissioner of general services may, in accordance with the provisions of section twenty-seven of this article, acquire any real property deemed by him to be necessary for the implementation or accomplishment of any statutory purpose, function, operation or responsibility of the commissioner or the office of general services.

6. The commissioner of general services may, subject to the prior approval of the attorney general, accept unconditional grants, gifts, devises, bequests or conveyances of title to or interest in real property to the people of the state of New York as he deems proper for the purposes of the state.

7. Notwithstanding any other provision of this article, the facilities development corporation may, subject to prior notice to the commissioner of general services by filing a copy of the proposed instrument of conveyance, convey an easement in or over state-owned lands under the jurisdiction of the facilities development corporation for the use of the department of mental hygiene for the connecting of a water main, sewer line or other public services facility with a facility of any of the offices of the department of mental hygiene, to the public corporation or the public services corporation having ownership or control of such utility facility, as provided in subdivision eight of section five of the facilities development corporation act.

§ 4. Vesting of crown lands in the people of the state. The absolute property of all messuages, lands, tenements and hereditaments, and of all rents, royalties, franchises, prerogatives, privileges, escheats, forfeitures, debts, dues, duties and services by whatsoever names respectively the same are called and known in the law, and all right and title to the same, which next and immediately before the ninth day of July, in the year of our Lord one thousand seven hundred and seventy-six, did vest in, or belong, or was, or were due to the crown of Great Britain be, and the same and each and every of them hereby are declared to be, and ever since the said ninth day of July, in the year of our Lord one thousand seven hundred and seventy-six, to have been, and forever after shall be vested in the people of this state, in whom the sovereignty and seigniory thereof, are and were united and vested, on and from the said ninth day of July, in the year of our Lord one thousand seven hundred and seventy-six.

§ 5. Letters patent, form and contents; to be recorded in the office of the secretary of state. All letters patent shall be in such form as the commissioner of general services directs. All letters patent granting unappropriated state lands, as defined by this chapter, shall contain an exception and reservation of all gold and silver mines. All letters patent shall be recorded in a book or books to be kept for that purpose in the office of the department of state, and the record thereof in any such book or a copy of any letters patent duly certified by the secretary of state to be a copy of such record thereof, whether heretofore or hereafter recorded, shall be received in evidence in any court in this state with the same force and effect as the original of such letters patent.

§ 6. Determination of claims based on alleged failure of title. Whenever a legal claim is made for a refund of purchase-money because of the alleged failure of the title of the state to lands sold or granted under its authority including any right, title or interest of the state in and to lands under water, the commissioner of general services, if satisfied that such claim is just and is made by a person entitled thereto, may certify such facts to the court of claims, whereupon such court is empowered to determine the amount of compensation, if any, which should be awarded on account thereof, which in no event shall exceed the amount of the purchase price originally paid for such land.

§ 7. Partition of lands held by the state in joint tenancy or tenancy in common. Whenever the commissioner of general services directs, the attorney-general shall cause partition to be made of any real property held in joint tenancy or tenancy in common, in which the people of the state are interested, and for that purpose he may, in the name of the people, do all such acts as any joint tenant or tenant in common is authorized by law to do.

§ 8. Trespasses upon state lands. Where, in the judgment of the commissioner of general services, sufficient information has been provided to her or him that a possible trespass upon state-owned lands has occurred then the commissioner may investigate such allegations of trespass upon state-owned lands. The commissioner of general services may report to the attorney general instances of trespass committed upon Indian lands, or lands and lands underwater belonging to the state, and under the general care and superintendence of the commissioner. The attorney general, on receiving such report and whenever directed by the commissioner, shall commence and prosecute appropriate actions or proceedings in the name of the people of the state, against the person or entity committing such trespass.

§ 9. Penalty for trespasses. Every person who shall trespass upon Indian lands or any lands belonging to the state and under the general care and superintendence of the commissioner of general services, any lands belonging to the state which are under the jurisdiction of any other state agency, department, board, officer, commission, institution, public authority, public benefit corporation, or bi-state agency, by cutting, removing, injuring or destroying trees growing thereupon, shall, for every such offense, forfeit to the people of the state the sum of two hundred fifty dollars per tree or treble damages or both, based on the stumpage value, as defined in paragraph (c) of subdivision six of section 71-0703 of the environmental conservation law, of such tree or trees, and shall be liable for any permanent and substantial damage caused to the land or the improvements thereon as a result of such violation. Such reparations shall be of such kind, nature and extent as will reasonably restore the lands affected by the violation to their condition immediately before the violation and may be made by physical restoration of such lands and/or by the assessment of monetary payment to make such restoration.

§ 10. Power to investigate before grant. Before granting any lands or any interest therein, including lands under water, the commissioner of general services may summarily inquire into the rights of the person applying for such grant, on such proof as, by regulation, the commissioner may prescribe. The commissioner may take testimony and proofs in any matter or application before him, and the fees of witnesses and the expense of procuring their attendance shall be paid from the state treasury out of any funds available therefor by appropriation, on the audit and warrant of the comptroller, on the certificate of the commissioner. The commissioner shall establish reasonable rules to guard against false or fraudulent applications and for such other purposes as he may deem proper. At any such inquiry or hearing, the commissioner may be represented by a deputy or other representative designated by him.

§ 11. Power to confirm defective grant. Whenever a sale is lawfully made, or directed to be made by the commissioner of general services, or has been made by his predecessor, the board of commissioners of the land office, including a sale of land under water, if, at the time of the making of the grant, the necessary jurisdictional facts existed to authorize the grant, and by reason of accidental omission or manifest error, the patent is not acutally issued, or has been issued to the applicant deficient or manifestly erroneous in description or otherwise, the commissioner may, in his discretion, and on such terms as seem to him proper, cause to be issued to such applicant, or to persons deriving claim or title from him subsequently to the making of the grant, a release or confirmatory grant of such lands or any parts thereof, which release or confirmatory grant shall vest in the grantee therein named such right and estate, to the extent of the right or title of the state in such lands, or parts thereof, as is therein named.

§ 12. Certain patents and grants ratified. All patents of lands issued before July eleventh, eighteen hundred and eighty-one, pursuant to resolutions of the commissioners of the land office, and sold by them at private sale to purchasers in good faith, purporting to convey the right, title and interest of the people of this state in and to any state lands, except lands under water in the bay or harbor of New York or adjacent thereto, have been ratified and confirmed, to as full an extent as though the same had been sold at public auction, according to law, but not so as to affect any action pending July eleventh, eighteen hundred and eighty-one, or to impair, release or discharge any right, claim or interest of any person in and to such lands. All grants made by the commissioners of the land office prior to March twenty-fifth, eighteen hundred and forty-one, of parts of lots for which payments were made and certified in the manner prescribed by law, have been confirmed.

§ 12-a. Certain patents ratified and confirmed. Patents of real property escheated to the state, granted before the sixteenth day of May, eighteen hundred and ninety-two, pursuant to resolutions of the commissioners of the land office, adopted under or in pursuance of chapter two hundred and seventy-nine of the laws of eighteen hundred and ninety, have been ratified and confirmed unto the patentees therein, their heirs and assigns.

§ 13. Grants to heirs, devisees or successors in interest. Where an application for a grant of land, including land under water, is made by any person who dies before a grant is ordered or issued, the heirs or devisees of such person shall be entitled to such grant as if the application had been made by such heirs or devisees. Where an application for a grant of land under water is made by any person who conveys the land adjacent to the land under water applied for, before a grant is ordered or issued, the grantee of such adjacent land shall be entitled to such grant as if the application had been made by such grantee.

§ 14. Time of performing conditions of grant. 1. The commissioner of general services may, unless otherwise provided, fix a reasonable time, not less than one year, for the performance of conditions by the grantees of lands, including lands under water, directed to be granted on the performance of conditions. If such conditions are not performed within the time limited, the persons entitled to any benefit under such grant shall forfeit all right to and title in the premises. If the commissioner, after having caused an inspection to be made of the lands granted, determines that the conditions contained in the letters-patent have been complied with, he may issue a certificate to that effect. If complete compliance has not been had, the commissioner, in his discretion, may make an order to the effect that compliance had been had with the conditions in such definitely described portion of lands granted as have been improved. Such order shall be conclusive evidence of the performance of the conditions contained in such letters-patent to the extent stated in such order and as to lands described therein. When the time within which any condition contained in any grant of land is fixed by the terms of the grant, the commissioner may, for good cause shown before the expiration of such time, extend the time within which such condition is to be performed, not exceeding three years.

2. The commissioner may, in his discretion, upon application of the grantee or his successor in interest, by order, alter, amend or cancel any condition or conditions contained in letters-patent for land, including lands under water, if satisfied by the reason or proof submitted that such alteration, amendment or cancellation of condition or conditions is just and is not detrimental to the interests of the state.

§ 15. Prohibitions as to grants in Lake George. 1. No grant or lease of any of the islands in Lake George, or of any land upon any of such islands, shall be made by the commissioner of general services.

2. No grant or lease of any lands under water in Lake George shall be made by the commissioner unless the conservation department of the state of New York shall, prior to the issuance of any such grant or lease, advise the commissioner, in writing, that such grant or lease, if made, will not result in a hazard to navigation, impair the scenic beauty of Lake George or otherwise interfere with the use and enjoyment of Lake George and its facilities by the people of the state. To assist the department in making its determination, the department may hold a public hearing at such time and place as it shall determine for the purpose of receiving testimony and evidence.

§ 15-a. Filling in the state owned bed of Lake George prohibited. 1. No person or corporation shall fill in or cause to be filled in any land of the state of New York lying below the mean low water line of Lake George by dumping or placing rock, stone, concrete, dirt or other similar material on said land without first obtaining a grant or lease of the land to be filled in or an easement, license or permit to fill in such land from the commissioner of general services.

2. This section shall not apply to a person or corporation placing wooden or precast concrete timbers, logs or beams or cribs of wooden or precast concrete timbers, logs or beams filled with rocks or stones on the bed of Lake George for the sole purpose of constructing, reconstructing or repairing the foundation, cribs or supports of a private dock or a private one-story boat house legally erected or maintained on the bed of said lake.

3. Any person or corporation violating the provisions of this section on or after September first, nineteen hundred sixty-three shall be guilty of a misdemeanor punishable by a fine of not more than five hundred dollars and by an additional fine of not more than twenty-five dollars for each day that such fill is left on land of the state lying below the mean low water line of Lake George after a written notice to remove the same has been personally served on the person who or corporation which made said fill or caused said fill to be made by the commissioner of general services or pursuant to his direction.

4. For the purposes of this section mean low water line of Lake George shall mean the water level of Lake George at one and eighty-one hundredths feet on the gage of the United States Geological Survey at Rogers Rock on Lake George known as Rogers Rock gage.

§ 16. Reservation of Esopus island. Esopus island, in Dutchess county, is reserved from settlement, occupancy, lease or sale, and dedicated and set apart as a public park. The commissioner of general services shall have the same powers to protect such island from trespass as he has over other public lands.

§ 17. Payment of incumbrances on public lands; adverse claims; costs. The commissioner of general services, whenever he deems it for the best interest of the state may cause to be paid off and canceled any charges, assessments, or incumbrances, other than the lien of a tax under article ten of the tax law, existing on any lands belonging to the state or in which the state has an interest, or may acquire any outstanding undivided interest in such lands adverse to the title of the state, to perfect in the state a title to any such lands, or to protect the state's interest therein. Payments for any such purpose shall be made from the state treasury, on the certificate of the commissioner and the audit and warrant of the comptroller, out of moneys available therefor by appropriation. Where the claim of title of the state to any land within the Adirondack or Catskill parks or adjacent thereto is based on a tax sale, the conservation department, with the consent of the commissioner and subject to the approval of the governor and the attorney-general, may, pursuant to the provisions of chapter five hundred and sixty-nine of the laws of nineteen hundred and sixteen and acts supplemental thereto and amendatory thereof, and chapter sixteen of the laws of nineteen hundred twenty-six, whenever there is an adverse claim or claims of title to such lands, acquire by purchase a deed or conveyance of such lands from the person or persons so claiming adversely on such terms and conditions as such state officials may deem for the best interests of the state and to avoid litigation. In an action for partition of or to foreclose a mortgage on such lands wherein the commissioner is so empowered, the plaintiffs shall not be entitled to costs if the people of the state are made a party defendant, unless the commissioner after a full presentation of the facts to him shall have determined before such action is brought against the state that the interests of the state did not warrant his making an order for the payment or cancellation of such mortgage, lien or incumbrance, or any amount due thereon, or for the acquisition of any outstanding undivided interest adverse to the state, or pursuant to this section, or unless the commissioner shall have failed to make such determination within three months after such full presentation of facts shall have been made to him by a verified statement in writing, and filed with the commissioner at his office in the city of Albany, nor unless a certified copy of the designated commissioners' report of partition, and of the referee's or sheriff's report of sale, in case of a sale, filed in the action shall have been duly served upon the attorney-general; and in no such case wherein the people are made a party defendant because of an interest other than the lien of a tax under article ten of the tax law, shall any additional allowance under sections fourteen hundred and seventy-four or fourteen hundred and seventy-five of the civil practice act be made to the plaintiff.

§ 17-a. Abandonment of claims under defective tax sales; recovery of taxes paid thereon by state. Where the claim of title of the state to any land is based on a tax sale, which title in the opinion of the attorney-general would be declared void by the courts, the commissioner of general services, on the filing with him of such opinion and the evidence upon which such opinion was based, may, by order, abandon any claim of title to such land, but, notwithstanding such abandonment, the people of the state shall have a lien upon the real property affected by the abandonment, prior and superior to all other liens, for the amount of all taxes, fees and charges admitted or paid by the people upon such real property to the date of the abandonment of the state's claim of title, together with interest thereon from the dates of payment. Provided such lien remains unpaid after the expiration of one year from the date of the abandonment, the people of the state may foreclose such lien as a mortgage on real property is foreclosed; but in any such action establishment of payments of taxes on said land or any part thereof by the adjudged or admitted owner of the property during any of the same years in which payments were also made by the people of the state shall reduce the lien of the people by the larger of the two tax payments for each of the years affected by duplicate payments, and in the event that wholly identical areas are not affected by the duplicate payments the court shall have power to apportion and adjust the amount of the lien as equity may require. This remedy for recovery of tax payments shall be in addition to any other remedy now or hereafter available in law or in equity, and shall be without prejudice to any defense or offset available to an adverse claimant in law or in equity.

§ 18. Expenses chargeable to special funds. All expenses of surveys, appraisements or other expenses attendant on the sale of any lands belonging to any of the special funds of the state, shall be chargeable on and paid out of the funds, respectively, to which such lands belong.

§ 19. Taxes and assessments for local improvements on state lands. A person, body or board authorized to assess lands for local improvements or purposes, shall submit to the comptroller of the state an invoice of assessment on state lands, showing the purpose for which the assessment is made, the state lands assessed and the amounts for which they are assessed, and referring to the law authorizing the assessment. No fee, interest, penalty or expense shall be added to or accrue on any assessment against state lands, nor shall such lands be sold therefor; but such assessments shall, if confirmed and uncontested, be paid and discharged out of any moneys appropriated therefor. All sales of state lands for unpaid taxes or assessments for local improvements or purposes are void. All taxes and assessments legally made on state lands, and all legal rents or charges thereon, shall be audited by the comptroller and paid out of the treasury. On or before January fifteenth the comptroller, in consultation with the board of real property tax services and other agencies as may be appropriate, shall submit to the governor and the legislature an annual accounting of taxes and assessments paid pursuant to this section during the preceding and current fiscal years. Such accounting shall include, but not be limited to the number, type and amount of such payments, as well as an estimate of payments to be made during the remainder of the current fiscal year and during the following fiscal year. If any provision of this section conflict with any provision of any other general, special or local law, this section shall prevail; and no other general, special or local law shall be deemed to repeal, alter or abridge any provision of this section, unless this section or this article or this chapter be expressly and specifically referred to therein. This section shall extend, in its operation and effect, so as to include all actions and proceedings, whether judicial or administrative, heretofore commenced under any general, special or local law and now pending.

§ 19-a. State aid; certain state-leased or state-owned lands. 1. State aid shall be payable to any city having a population of seventy-five thousand or more inhabitants, according to the most recent federal decennial census, when on any assessment roll the taxable assessed valuation in such city is decreased in any year by reason of the acquisition of lands and improvements thereon by the state or an agency of the state for use thereof or for the construction of facilities for any purpose other than highway purposes, and the sum of the amount of such decrease in taxable assessed valuation and the amount of the assessed valuation of other property owned by the state or agency of the state, excluding any such property owned or used by a state public authority, which is exempt from taxation, is equal to or exceeds twenty-five percent of the total taxable assessed valuation of such roll.

2. The state aid payable to a city pursuant to this section shall be computed and paid as follows:

(1) Commencing with the first fiscal year of such city subsequent to the taxable status date of the assessment roll of such city occurring after the acquisition of such land and improvements thereon by the state or agency of the state and for each fiscal year thereafter to and not including the first fiscal year of such city subsequent to the taxable status date of such roll occurring after the final completion of construction of such facilities on such land, an amount shall be paid equal to the amount of taxes levied by or in behalf of the city against such lands and the improvements thereon on the last assessment roll finally completed prior to the acquisition by the state or agency of the state;

(2) Commencing with the first fiscal year of such city subsequent to the taxable status date of the assessment roll of such city occurring after the final completion of the construction of such facilities and for each fiscal year thereafter for the period of probable usefulness as set forth in section sixty-one of the state finance law of such facilities or of such lands on which the facilities are constructed whichever is longer but in no event to exceed a period of thirty years, an amount equal to one percent of the sum of the actual acquisition cost of the land and the improvements thereon and the actual cost of the construction of facilities thereon, provided, however, that the state director of the budget and the mayor of a city with the approval of the legislative body of such city may agree in writing that such state aid may be an amount less than herein provided or that such city shall not

make application for any such aid under this section; and

(3) The aggregate amount of state aid paid pursuant to this section, exclusive of the amount of state aid paid pursuant to subdivision two-a of this section, shall in no event exceed the aggregate amount of state aid provided in paragraph two of this subdivision.

2-a. (1) Notwithstanding any provision of this section to the contrary, in addition to state aid otherwise payable pursuant to this section, there shall be payable to any city located in a county in which there has been constructed a state office building project in accordance with the provisions of chapter one hundred fifty-two of the laws of nineteen hundred sixty-four, as amended, and pursuant to an agreement entitled the "South Mall contract" dated May eleventh, nineteen hundred sixty-five, state aid in accordance with the following schedule:

State Fiscal Year	Amount
2000-2001	$4,500,000
2001-2002	$4,500,000
2002-2003	$4,500,000
2003-2004	$9,850,000
2004-2005	$16,850,000
2005-2006	$22,850,000
2006-2007	$22,850,000
2007-2008	$22,850,000
2008-2009	$22,850,000
2009-2010	$22,850,000
2010-2011	$22,850,000
2011-2012	$15,000,000
2012-2013	$22,850,000
2013-2014	$22,850,000
2014-2015	$15,000,000
2015-2016	$15,000,000
2016-2017	$27,500,000
2017-2018	$15,000,000
2018-2019	$15,000,000
2019-2020	$15,000,000
2020-2021	$15,000,000

2021-2022	$15,000,000
2022-2023	$15,000,000
2023-2024	$15,000,000
2024-2025	$15,000,000
2025-2026	$15,000,000
2026-2027	$15,000,000
2027-2028	$15,000,000
2028-2029	$15,000,000
2029-2030	$15,000,000
2030-2031	$15,000,000
2031-2032	$1,800,000

(2) The state aid payable to any such city pursuant to this subdivision shall be the sole and exclusive state aid payable pursuant to this section to any such city with respect to the state-leased or state-owned lands referenced in this subdivision. Any such city shall continue to be eligible for the payment of state aid pursuant to the other provisions of this section but not with respect to the state-leased or state-owned lands referenced in this subdivision.

(3) State aid otherwise payable on account of the real property described in this subdivision shall no longer be paid if title to such real property is conveyed to a person or entity other than the state or an agency of the state.

(4) The state aid payable under paragraph one of this subdivision shall be payable upon application to the state comptroller by the chief fiscal officer of a city which qualifies for aid pursuant to this subdivision. The application shall be made on a form prescribed by such comptroller and shall contain such information as such comptroller shall require. Upon approval of the application and determination by such comptroller of the amount of state aid payable under this subdivision, such state aid shall be paid upon the warrant of such comptroller. Annual payment shall be made to a qualified city not later than December first in each year commencing with the year two thousand and ending in the year two thousand ten. Thereafter, payment shall be made to a qualified city in two equal installments, the first occurring no earlier than April first and no later than May first, the second occurring no earlier than October first and no later than November first. Such payments shall conclude in the year two thousand thirty-two. Provided

however, that any such payment shall be reduced by any amount necessary to meet eligible obligations of the Albany convention center authority, as created by section twenty-six hundred seventy-five-d of the public authorities law and as certified by the chairperson of said authority, provided that such certification in such form as the authority deems desirable, but including at a minimum the exact amount of payment required to satisfy the authority's obligations pursuant to section twenty-six hundred seventy-five-ii of the public authorities law is delivered to the state comptroller no later than March first and September first, respectively. The state comptroller, upon receipt of such certificate from the authority, shall withhold from the qualified city state aid payable to such qualified city, to the extent necessary to meet the required amount of payments pursuant to such certificate. The state comptroller shall pay over to the authority the amount so withheld on or before March fifteenth and September fifteenth, respectively, and shall remit any remaining amount of such installment payment to the qualified city, as otherwise provided by this subdivision.

3. Such state aid shall be payable upon application to the state comptroller by the chief fiscal officer of a city which qualifies for aid pursuant to this section. The application shall be made on a form prescribed by such comptroller and shall contain such information as such comptroller shall require. The state comptroller is hereby authorized to determine and certify the actual acquisition cost of lands and the improvements thereon and the actual cost of construction of facilities for the purposes of this section. The state comptroller is hereby authorized and empowered to adjust from time to time the annual payments of state aid made pursuant to paragraph two of subdivision two of this section so that to the extent practicable such payments shall be in equal annual amounts and so that the limitation set forth in paragraph three of subdivision two of this section shall not be exceeded. In the event that title to any such land and improvements thereon or facilities constructed thereon shall cease to be in the state or agency of the state, no further state aid shall be paid pursuant to this section for any fiscal year of the city subsequent to the fiscal year of the city in which title to such land, improvements thereon and

facilities constructed thereon shall have ceased to be in the state or agency of the state. Upon approval of the application and determination of such costs by the state comptroller, such state aid shall be paid upon his warrant. On or before January fifteenth the comptroller, in consultation with the commissioner of taxation and finance and other agencies as may be appropriate, shall submit to the governor and the legislature an annual accounting of state aid paid pursuant to this section during the preceding and current fiscal years. Such accounting shall include, but not be limited to the number, type and amount of such payments, as well as an estimate of payments to be paid during the remainder of the current fiscal year and during the following fiscal year. Provided, however, where title to such land and improvements is held by the New York state teachers' retirement system, the New York state and local employees' retirement system, or the New York state and local police and fire retirement system, the state shall have no liability whatsoever for any amounts payable pursuant to this section. Upon approval of the application and determination of such costs, as provided herein, such retirement systems shall directly pay such city the amount which would have been due as state aid hereunder had title been held by the state.

4. State aid payable pursuant to this section, exclusive of the state aid paid pursuant to subdivision two-a of this section, shall apply only to such lands and improvements thereon acquired by the state or agency of the state subsequent to the effective date of this act and to facilities owned by the state or agency of the state which were constructed on such lands subsequent to the effective date of this act.

5. The taxable assessed valuation of land acquired by the state or agency of the state for any purpose other than highway purposes shall be determined from the second assessment roll preceding the first assessment roll affected by the acquisition and shall include the assessed valuation of any improvement on such land at the time of acquisition. The assessed valuation of property owned by the state or agency of the state exempt from taxation shall be determined from the assessment roll immediately preceding the last assessment roll finally completed prior to the effective date of this act.

6. In making computations and determinations, other than those made pursuant to subdivision two-a of this section, pursuant to this section there shall be taken into account changes in levels of assessment as defined in paragraph g of subdivision one of section fifty-four-b of the state finance law as determined by the commissioner of taxation and finance and certified to the state comptroller.

7. The term "facilities" shall have the same meaning as the term "real property" as defined in subdivision twelve of section one hundred two of the real property tax law except it shall not include the land on which such facilities are located.

8. The term "agency of the state" shall include but shall not be limited to state public authorities.

9. The term "state public authority" means a public benefit corporation, either declared to be such under the law by which the same was created or as defined in subdivision four of section three of the general corporation law, whose membership is required by law to consist entirely of members who are appointed by the governor or other state officer or who serve as members as ex officio state officers.

10. The term "legislative body" shall have the same meaning as defined in section two of the municipal home rule law.

§ 19-b. State aid; certain state-owned or reacquired lands. 1. State aid shall be payable to any municipal corporation or special district as such terms are defined by section one hundred two of the real property tax law and hereinafter collectively referred to in this section as "taxing authority", when on any assessment roll the taxable assessed valuation in such taxing authority is decreased in any year by reason of the transfer of title or possession of land or improvements thereon to the state or an agency of the state located at West Valley, Cattaraugus county and theretofore utilized by the corporation known as "Nuclear Fuel Services, Inc.".

2. The state aid payable to a taxing authority pursuant to this section shall be computed and paid during the first fiscal year of any such taxing authority commencing on or after January first, nineteen hundred eighty-one, and during each fiscal year thereafter. Such state aid shall in each year be equal to the amount of taxes levied or which would have been levied by or in behalf of the taxing authority against such lands and the improvements thereon on the last assessment roll finally completed in nineteen hundred eighty.

3. Such state aid shall be payable upon application to the state comptroller by the chief fiscal officer of the taxing authority which qualifies for aid pursuant to this section. The application shall be made on a form prescribed by such comptroller and shall contain such information as such comptroller shall require. On or before January fifteenth the comptroller, in consultation with the board of real property services and other agencies as may be appropriate, shall submit to the governor and the legislature an annual accounting of state aid paid pursuant to this section during the preceding and current fiscal years. Such accounting shall include, but not be limited to the number, type and amount of such payments, as well as an estimate of payments to be made during the remainder of the current fiscal year and during the following fiscal year.

§ 20. Grants of lands in Onondaga salt springs reservation designated on certain map. All grants of lands made by the people of this state of any lands in the Onondaga salt springs reservation prior to March twenty-eight, in the year eighteen hundred forty-three, shall be deemed and considered as having been granted according to the designations upon the map of said reservation made by John Randel, junior, formerly on file in the office of the state engineer and surveyor and now on file in the office of the department of transportation, and not as designated upon the map of said reservation made by said Randel, formerly on file in the office of the secretary of state and now on file in the office of his department.

§ 21. Conveyance of strips of abandoned canal lands and Onondaga salt springs reservation land. a. The commissioner of general services is authorized, in his discretion, to sell and convey at public or private sale, upon such terms and conditions as he may deem proper, all the right, title and interest of the state in and to certain strips of abandoned canal lands or Onondaga salt springs reservation land, which strips adjoin the old beds of the Erie canal and Oswego canal and side-cut canals, which beds were heretofore conveyed by the people of the state of New York and in which said strips of land there remains a right, title or interest in the people of the state of New York. Any such private sale, if made, shall be to the state's grantee or to the successor to the title or interest of the beds so previously granted by the state and shall be for a consideration not less than the appraised value of the said right, title or interest.

b. The commissioner of general services is authorized, in his discretion, to sell and convey at private sale, upon such terms and conditions as he may deem proper, all the right, title and interest of the state in and to any parcel of land of the Onondaga salt springs reservation to the person or persons having a deed of record of such land, or their successors in interest, since the first day of January, eighteen hundred ninety-nine, or to any person or persons who have been in continuous, open, notorious and adverse possession of such land since the first day of January, eighteen hundred ninety-nine.

§ 22. Management of sand and gravel resources. 1. The commissioner of general services is authorized to manage, license and regulate the removal of sand, gravel or other material by dredging or otherwise from state owned land now or formerly under water, except such lands specified in subdivision two of this section, and to collect rents, royalties or other fees in connection therewith. The commissioner is also authorized to manage the use of such lands under water, including but not limited to the filling in thereof, in any way and to collect rents and fees in connection therewith, subject to applicable regulatory statutes.

2. There are excluded from the commissioner's authorization by subdivision one of this section the following functions and actions:

a. The taking of sand, gravel or other materials from lands of the state under the waters of Lake Erie bordering upon Chautauqua county, except that the commissioner may license and regulate the taking of sand, gravel and other materials from lands of the state under the waters of Lake Erie at the mouths of Walnut creek, Silver creek and Cattaraugus creek, in the town of Hanover, Chautauqua county, and may prescribe the terms and conditions under which the same may be taken, including the amount of license fees.

b. The taking of sand, gravel or other materials from the lands in, on or bordering upon Long Island, except that when in the opinion of the United States government, as evidenced by the recommendation of the corps of engineers of the United States army and authorized by the secretary of the army, removal of such sand, gravel or other materials becomes necessary for the improvement of navigation, the commissioner may license and regulate the removal of such materials upon such terms and conditions as he may deem advisable, including the amount of license fees therefor.

c. The management and use of any such lands under water appropriated to any department or agency except upon written consent of the head of that department or agency.

3. License fees shall not be discriminatory, but this provision shall not require the fixing of a uniform license fee throughout the state. After the adoption of regulations by the commissioner, it shall be unlawful to take or remove from lands of the state under water any sand, gravel or other material without license issued pursuant to this section.

4. The commissioner may, in his discretion and upon such terms and conditions, including consideration, as to him shall seem just and proper, authorize the taking of soil from state land under water where

such soil is to be taken by an upland owner bordering on state land under water for the improvement or the protection of his upland from the action of the water, or for the restoration, in whole or in part, of his upland where there has been sudden washing away and loss of soil thereof by violent storm and consequent avulsion, but where the title to his land has not been lost, the boundary line remaining the same. The preceding provisions of this section, respecting the management, regulation, licensing or taking of sand, gravel or other material from state land under water, are not affected by the provisions hereof respecting the taking of soil by the upland owner.

§ 23. Disposition of moneys received from sale of certain state lands and sand and gravel thereon. All moneys received by the commissioner of general services from the sale of sand and gravel on, or from the sale of, any land of the state, or from the grant of rights or easements therein or thereover, not including land under water provision with respect to which is made in section seventy-five of this chapter, and not including abandoned canal lands provision with respect to which is made under article four of this chapter and not including certain detached parcels of forest preserve lands with respect to which provision is made in section twenty-four of this chapter, shall be paid, less any refunds made pursuant to section twenty-six of this law, and less any sum required to be deposited to the credit of the environmental protection fund provision with respect to which is made by chapter six hundred ten of the laws of nineteen hundred ninety-three, into the state treasury through the office of general services to the credit of the capital construction fund established by section ninety-three of the state finance law. All such moneys received during a month, less any refunds, shall be so paid on or before the fifteenth day of the succeeding month.

§ 24. Sale or exchange of certain detached parcels of forest preserve lands. Any state department or agency, at the time having jurisdiction over any of the lands hereinafter specified, may consent to a sale or exchange by the commissioner of general services of any lands of the state, now owned or hereafter acquired, constituting the forest preserve, but outside of the Adirondack and Catskill parks as now fixed by law and not acquired or dedicated for the practice of forest or wild life conservation, and consisting in any case of not more than one hundred contiguous acres entirely separated from any other portion of the forest preserve. Upon such consent being filed with the commissioner in writing, accompanied by a description of such lands, the commissioner may in his discretion sell or exchange any of such lands in accordance with the consent.

All sales shall be subject to and governed by the provisions of sections thirty-three, thirty-five, thirty-seven, thirty-seven-a, thirty-eight, thirty-eight-a and thirty-nine of this chapter, being general provisions governing the sale of unappropriated state lands. All moneys derived by the commissioner from such sales, not including any refunds made pursuant to section twenty-six of this law, shall be paid first to repay any expenditures made by the office of general services with relation to forest preserve lands from moneys appropriated to said office in the first instance for the administration, management, utilization and disposition of real property of the state and any rights or interests therein, and any balance of such moneys remaining after repayment of the first instance expenditures shall be paid through the office of general services into a special fund of the state treasury, provided for that purpose by the state finance law and known as the forest preserve expansion fund, and shall be expended only as provided in that law. All of such moneys received during any month shall be so paid on or before the fifteenth day of the succeeding month.

All exchanges shall be only for additional lands for the forest preserve within either the Adirondack or Catskill park as now fixed by law and shall be subject to approval by the attorney general of the title to the lands thus to be acquired by the state.

§ 25. Sale or exchange of real property owned by the state and devoted to the use of the organized militia. Upon the filing with the commissioner of general services by the adjutant general of his certificate in writing of his determination that certain real property owned by the state and devoted to the use of the organized militia of the state is no longer needed or adapted for such use and consenting that the same be sold or exchanged by the commissioner pursuant to the provisions of this section, the commission, if such certificate and consent be approved by the director of the budget and be accompanied by, annexed to, or endorsed upon an accurate map and description of such real property, may sell or exchange such real property in accordance with and subject to the terms, if any, of such consent. All sales of any such property shall be in accordance with the procedure specified in article three of this chapter for the sale of unappropriated state lands. Upon compliance by the purchaser with the terms of sale, or, in the case of an exchange of lands, with the terms of the order of the commissioner authorizing such exchange, the sale or exchange shall be consummated by the issuance of letters patent granting the state-owned real property. All moneys constituting the proceeds of any such disposition of such state-owned real property shall be paid, less any refunds made pursuant to the provisions of section twenty-six of this law, first to repay any expenditures made by the office of general services from moneys appropriated to said office in the first instance for the administration, management, utilization and disposition of real property of the state and any rights or interests therein, and any balance of such moneys remaining after repayment of the first instance expenditures shall be paid into the state treasury through the office of general services to the credit of the capital projects fund established by section ninety-three of the state finance law.

§ 26. Refunds when sales cannot be completed. Within three years after the receipt thereof, moneys heretofore received by the division of the land office in the department of state and transferred to the office of general services or heretofore or hereafter received by the office of general services on account of sales of interests in real property ordered by the office of general services or its predecessor, the board of commissioners of the land office, may be refunded to the person or party for whose account same were received, upon satisfactory proof being submitted to the commissioner of general services that the sale or sales so ordered cannot be completed by the issuance of letters patent or an instrument of conveyance.

Notwithstanding the provisions of section one hundred twenty-one of the state finance law, such refunds shall, upon approval by the commissioner of general services and after audit by the comptroller, be paid from any moneys in the custody of the office of general services or heretofore transferred or received from the division of the land office as proceeds of sale of real property, except that moneys derived from the sale of detached parcels of forest preserve lands as provided in section twenty-four of the public lands law shall not be used to make refunds with respect to inability to complete sales affecting other lands and such moneys shall be the sole fund from which to make refunds in cases of inability on the part of the state to complete sales, as aforesaid, of such detached parcels of forest preserve lands.

§ 27. Acquisition of real property by purchase or appropriation. 1. The commissioner of general services when moneys therefor have been appropriated by the legislature or are otherwise available, may acquire any real property which he deems necessary for the implementation or accomplishment of any statutory purpose, function, operation or responsibility of the commissioner of general services or the office of general services, by purchase or as provided in the eminent domain procedure law. Title to such real property shall be taken in the name of and be vested in the people of the state of New York. No real property shall be so acquired by purchase unless the title thereto is approved by the attorney general. The terms "property" or "real property" as used in this section shall mean "real property" as defined by section one hundred three of the eminent domain procedure law.

2. Whenever real property is to be so acquired pursuant to the provisions of the eminent domain procedure law the commissioner of general services shall cause to be made an accurate acquisition map as so provided in said law.

3. On the approval of such map by the commissioner of general

services, the original tracing of the map shall, pursuant to the eminent domain procedure law, be filed in the main office of the office of general services.

4. If the commissioner of general services shall determine, prior to the filing of a copy of such acquisition map in the office of the county clerk, that changes, alterations or modifications of such map as filed in the main offices of the office of general services should be made, he or she shall, subject to the provisions of article two of the eminent domain procedure law, if applicable, direct the preparation of an amended map. On the approval of such amended map by the commissioner, it shall be filed in his or her office and he or she shall cause a certified copy of such amended map to be filed in the office in the same manner as the original map was filed and the amended map shall thereupon in all respects and for all purposes supersede the map previously filed.

5. If the commissioner of general services shall determine, prior to the filing of a copy of an acquisition map in the office of the county clerk, as provided in section four hundred two of the eminent domain procedure law, that such map should be withdrawn, he or she shall file a certificate of withdrawal in the offices of the office of general services and of the department of law. Upon the filing of such certificate of withdrawal, the map to which it refers shall be cancelled and all rights thereunder shall cease and terminate.

6. The commissioner of general services shall deliver to the attorney general a copy of such acquisition map, whereupon it shall be the duty of the attorney general to advise and certify to the commissioner the names of the owners of the real property described in the said acquisition map, including the owners of any right, title or interest therein, pursuant to the requirements of section four hundred three of the eminent domain procedure law.

7. If, at or after the vesting of title to such property in the people of the state of New York in the manner provided for in the eminent domain procedure law, the commissioner of general services shall deem it necessary to cause the removal of an owner or other occupant from such

property, he may cause such owner or occupant to be removed therefrom by proceeding in accordance with section four hundred five of such law. The proceeding shall be brought in the name of the commissioner as agent of the state and the attorney general shall represent the petitioner in the proceedings. No execution shall issue for costs, if any, awarded against the state or the commissioner, but they shall be part of the costs of the acquisition of the real property and be paid in like manner. Proceedings may be brought separately against one or more of the owners or occupants of any such property, or one proceeding may be brought against all or several of the owners or occupants of any or all such property within the territorial jurisdiction of the same court, justice or judge; judgment shall be given for immediate removal of persons defaulting in appearance or in answering, or withdrawing their answers, if any, without awaiting the trial or decision of issues raised by contestants, if any.

8. Upon making any agreement provided for in section three hundred four of the eminent domain procedure law, the commissioner of general services shall deliver to the comptroller such agreement and a certificate stating the amount due such owner or owners thereunder on account of such appropriation of his or their property and the amount so fixed shall be paid out of the state treasury after audit by the comptroller from moneys appropriated for the acquisition of such real property, but not until there shall have been filed with the comptroller a certificate of the attorney general showing the person or persons claiming the amount so agreed upon to be legally entitled thereto.

9. Application for reimbursement as provided in section seven hundred two of the eminent domain procedure law shall be made to the commissioner of general services upon forms prescribed by him and shall be accompanied by such information and evidence as the commissioner may require. Upon approval of such application, the commissioner shall deliver a copy thereof to the comptroller together with a certificate stating the amount due thereof, and the amounts so fixed shall be paid out of the state treasury after audit by the comptroller from moneys appropriated for the acquisition of property under this section.

10. The commissioner of general services, with the approval of the director of the budget, shall establish and may from time to time amend rules and regulations authorizing the payment of actual reasonable and necessary moving expenses of occupants of property acquired pursuant to this section; of actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not exceeding an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the commissioner; of actual reasonable expenses in searching for a replacement business or farm; and of actual reasonable expenses necessary to reestablish a displaced farm, not-for-profit organization or small business at its new site, but not to exceed ten thousand dollars, or in hardship cases for the advance payment of such expenses and losses. In lieu of such actual reasonable and necessary moving expenses, any such displaced owner or tenant of residential property may elect to accept a moving expense allowance, plus a dislocation allowance, determined in accordance with a schedule prepared by the commissioner and made a part of such rules and regulations. In lieu of such actual reasonable and necessary moving expenses and actual reasonable reestablishment expenses, any such displaced owner or tenant of commercial property who meets eligibility criteria and relocates or discontinues his business or farm operation may elect to accept a fixed relocation payment in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall be not less than one thousand dollars nor more than twenty thousand dollars. A displaced not-for-profit organization may choose a fixed payment of one thousand to twenty thousand dollars in lieu of the payment for actual moving and related expenses and actual reasonable reestablishment expenses if eligibility criteria are met. Application for payment under this subdivision shall be made to the commissioner upon forms prescribed by him and shall be accompanied by such information and evidence as the commissioner may require. Upon approval of such application, the commissioner shall deliver a copy thereof to the comptroller together with a certificate stating the amount due thereunder, and the amount so fixed shall be paid out of the state treasury after audit by the comptroller from moneys appropriated for the acquisition of property under this section. As used in this subdivision the term "commercial

property" shall include property owned by an individual, family, partnership, corporation, association or a not-for-profit organization and includes a farm operation. As used in this subdivision the term "business" means any lawful activity, except a farm operation, conducted primarily for the purchase, sale, lease and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property; for the sale of services to the public; or by a not-for-profit organization. The term "small business" means a business having not more than five hundred employees working at the site being acquired or permanently displaced. As used in this subdivision the term "farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities including timber for sale or home use, and customarily producing such products or commodities in sufficient quantities to be capable of contributing materially to the operator's support.

11. The commissioner of general services pursuant to section three hundred five of the eminent domain procedure law, may make agreements on such terms, conditions and consideration as he deems beneficial to the state with respect to any property heretofore or hereafter acquired, whereby such property may be used and occupied by the former owner, tenant or by any other party from a date specified in said agreement, until such time as the state requires and obtains actual physical possession. The agreements for the use and occupancy of such property may be managed, supervised and enforced (a) by the staff, forces and equipment of the office of general services; or (b) by the commissioner of general services contracting for the management, supervision and enforcement thereof with any person, firm or corporation; or (c) by a combination of such methods.

The use and occupancy of such property under the provisions of this section and the right of the state or its duly authorized agent to recover possession thereof shall not be subject to the emergency housing rent control law.

Expenses which are determined by the commissioner to have been incurred in connection with the use and occupancy of such property may be paid out of the state treasury after audit by the comptroller from moneys appropriated for the duly authorized project for which the property was acquired. However, such expenses incurred under a contract for management and supervision of such property may be paid out of the gross revenue therefrom. All moneys received by the commissioner for such use or occupancy shall be paid into the treasury of the state to the credit of the capital projects fund.

12. Authorization is hereby given to the commissioner of general services to make supplemental relocation payments, separately computed and stated, to displaced owners and tenants of residential property acquired pursuant to this section who are entitled thereto, as determined by him. The commissioner, with the approval of the director of the budget, may establish and from time to time amend rules and regulations providing for such supplemental relocation payments or replacement housing. Such rules and regulations may further define the terms used in this subdivision. In the case of property acquired pursuant to this section which is improved by a dwelling actually owned and occupied by the displaced owner for not less than one hundred eighty days immediately prior to initiation of negotiations for the acquisition of such property, such payment to such owner shall not exceed twenty-two thousand five hundred dollars. Such payment shall be the amount, if any, which, when added to the acquisition payment equals the average price, established by the commissioner on a class, group or individual basis, required to obtain a comparable replacement dwelling that is decent, safe and sanitary to accommodate the displaced owner, reasonably accessible to public services and places of employment and available on the private market, but in no event shall such payment exceed the difference between acquisition payment and the actual purchase price of a replacement dwelling which is decent, safe and sanitary. Such payment shall include an amount which will compensate such displaced owner for any increased interest costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount shall be paid only if the dwelling acquired pursuant to this section was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than one hundred eighty days prior to the

initiation of negotiations for the acquisition of such dwelling. Any such mortgage interest differential payment shall, notwithstanding the provisions of section twenty-six-b of the general construction law, be in lieu of and in full satisfaction of the requirements of such section. Such payment shall include reasonable expenses incurred by such displaced owner for evidence of title, recording fees and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses. Such payment shall be made only to a displaced owner who purchases and occupies a replacement dwelling which is decent, safe and sanitary within one year subsequent to the date on which he is required to move from the dwelling acquired pursuant to this section or the date the commissioner identifies, for the displaced owner, replacement housing actually available within the limits of the offer extended for replacement housing, whichever occurs later, except advance payment of such amount may be made in hardship cases. In the case of property acquired pursuant to this section from which an individual or family, not otherwise eligible to receive a payment pursuant to the above provisions of this subdivision, is displaced from any dwelling thereon which has been actually and lawfully occupied by such individual or family for not less than ninety days immediately prior to the initiation of negotiations for the acquisition of such property, such payment to such individual or family shall not exceed five thousand two hundred fifty dollars. Such payment shall be the amount which is necessary to enable such individual or family to lease or rent for a period not to exceed forty-two months, a decent, safe, and sanitary dwelling of standards adequate to accommodate such individual or family in areas not generally less desirable in regard to public utilities and public and commercial facilities and reasonably accessible to his place of employment. Such payment may be used as a down payment, including reasonable expenses incurred by such individual or family for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses, on the purchase of a decent, safe and sanitary dwelling of standards adequate to accommodate such individual or family in areas not generally less desirable in regard to public utilities and public and commercial facilities. Such payments may be made in installments as determined by the commissioner. However, notwithstanding the provisions of this subdivision, if it is determined by the commissioner that replacement housing cannot be obtained for the supplemental relocation payments specified herein, he may, subject to the approval of the director of the budget, take such action as is necessary or appropriate to provide last resort housing with the use of funds authorized for the project. Application for payment under this subdivision shall be made to the commissioner upon forms prescribed by him and shall be accompanied by such information and evidence as the commissioner may require. Upon approval of such application, the commissioner shall deliver a copy thereof to the comptroller, together with a certificate stating the amount due thereunder, and the amount so fixed shall be paid out of the state treasury after audit by the comptroller from moneys appropriated for the acquisition of property under this section.

13. Any owner of real property acquired pursuant to this section may present to the court of claims, pursuant to section five hundred three of the eminent domain procedure law, a claim for the value of such property appropriated and for legal damages, as provided by law for the filing of claims with the court of claims. Awards and judgments of the court of claims shall be paid in the same manner as awards and judgments of that court for the acquisition of lands generally and shall be paid out of the state treasury after audit by the comptroller from moneys appropriated for the acquisition of such real property.

14. Expenses incurred in the acquisition of the real property, including the cost of making surveys, and preparing descriptions and maps of property to be acquired, and of administrative duties in connection therewith, serving notices, making appraisals and agreements and of searches ordered and examinations and readings of title made by the attorney general, and expenses incurred by the commissioner of general services or attorney general in proceedings for removal of owners and occupants, shall be deemed to be part of the cost of the acquisition of such real property.

15. If the commissioner of general services shall determine subsequent to the acquisition of a temporary easement in any real property that the purposes for which such easement right was acquired have been

accomplished and that the exercise of such easement is no longer necessary, he shall make his certificate that the exercise of such easement is no longer necessary and that such easement right is therefore terminated, released and extinguished. The commissioner shall cause such certificate to be filed in the office of the department of state and upon such filing all rights acquired by the state in such real property shall cease and determine. The commissioner shall cause a certified copy of such certificate as so filed in the office of the department of state to be mailed to the owner of the property affected, as certified by the attorney general, if the place of residence of such owner is known or can be ascertained by a reasonable effort and the commissioner shall cause a further certified copy of such certificate to be filed in the office of the recording officer of each county in which the property affected or any part thereof is situated. On the filing of such certified copy of such certificate with such recording officer, it shall be his duty to record the same in his office in the books used for recording deeds and to index the same against the name of the people of the state of New York as grantor.

16. If any clause, sentence, paragraph, or part of this section or the application thereof to any person, firm or corporation, project or circumstance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part of the application thereof to the person, firm or corporation, project or circumstance directly involved in the controversy in which such judgment shall have been rendered.

§ 28. Transfer of state lands or watershed conservation easements to the city of New York for water supply protection purposes. The commissioner of general services may, with the concurrence of the mayor of the city of New York, transfer and convey to the city of New York, in consideration of one dollar to be paid to the state of New York and upon such other terms and conditions as agreed upon by such commissioner and the mayor of the city of New York, parcels of land or watershed conservation easements owned by the state and located within the counties of Dutchess, Putnam, or Westchester and within the watershed of the water supply of the city of New York, whether or not such parcels or watershed conservation easements are unappropriated state lands, for the purpose of protecting the water supply of the city of New York. The city of New York may, with the prior agreement of the commissioner of the department of health, transfer and convey any such parcels for the sole purpose of purchasing lands in areas of higher priority for water supply protection purposes, provided that the city of New York shall either (1) transfer and convey to the state of New York, in consideration of one dollar paid to the city of New York, any such parcels provided that the city of New York continues to pay real property taxes on any such parcels and upon such other terms and conditions as agreed upon by the commissioner of general services and the mayor of the city of New York; or (2) sell any such parcels to an entity other than the state of New York and provide to the state of New York monies equal to the original purchase price paid by the state of New York for such parcels. For purposes of this section, the term "watershed conservation easement" shall have the same meaning as defined in section five hundred eighty-three of the real property tax law.

§ 29. Watershed conservation easements and watershed agricultural easements. Restriction on alienation. A watershed conservation easement or watershed agricultural easement held by the city of New York shall not be transferred or conveyed by the city of New York unless the written consent of the record owner of the real property burdened by such easement is affixed to the instrument transferring or conveying such easement. For purposes of this section, the terms "watershed conservation easement" and "watershed agricultural easement" shall have the same meanings as defined in section five hundred eighty-three of the real property tax law.

ARTICLE 3

UNAPPROPRIATED STATE LANDS

§ 30. Unappropriated state lands defined. The term "unappropriated state lands," as used in this chapter, includes all escheated lands; all lands conveyed to the state for the benefit of the canal fund and not devoted in pursuance of law to any public use; all lands purchased by or for the state on the foreclosure of any mortgage given on the loan of any United States deposit funds or on any loan of money for the state; all state lands lying within the limits of any city or village not devoted to any public use; and all other lands belonging to this state which are not directed by law to be kept for or applied to any specific purpose, except lands under water the disposition of which is governed by article six of this chapter and except the lands the disposition of which is governed by the salt springs law and except abandoned canal lands the disposition of which is governed by article four of this chapter, and chapters eight hundred and ninety-three and eight hundred and ninety-four of the laws of nineteen hundred and eleven.

§ 30-a. Abandonment of state real property. 1. Except as to lands under water, salt springs lands and abandoned canal lands, the head of any state agency having custody or jurisdiction over any state-owned lands may determine that such lands are no longer necessary or useful to the purposes of such agency, and he or she is hereby authorized to declare the same abandoned. Upon the filing of a declaration of abandonment of such lands with an approval thereof by the commissioner of general services such lands shall become unappropriated state lands provided, however, that no state lands, the sale or transfer of which is prohibited by the constitution, shall be thus affected. Within thirty days of approving the abandonment, the commissioner of general services shall publish a notice of the approval in the state register and the environmental notice bulletin, and send such a notice to the chief elected official of each county and municipality where the affected lands are located.

2. The commissioner of general services is authorized and empowered to determine that any state-owned real property under the jurisdiction of any state agency other than any real property owned by or under the jurisdiction of any public authority or public benefit corporation, is under-utilized or not being utilized in a manner consistent with the best interests of the state and thereupon, subject to the procedure and review provided in section two-a, to declare such real property abandoned.

3. Upon the filing of a declaration of abandonment by the commissioner of the office of mental health or by the commissioner of the office for people with developmental disabilities of state-owned lands upon which a community residential facility for the disabled as defined in section 41.34 of the mental hygiene law exists, and with an approval thereof by the commissioner of general services, such lands shall become unappropriated state lands; and prior to being transferred to the jurisdiction of another state agency shall be offered for sale at public auction pursuant to section thirty-three of this article; provided, however, that the provisions of section four hundred six of the eminent domain procedure law shall apply to such property.

4. Should state-owned real property under the jurisdiction of the office of mental health or the office for people with developmental disabilities and upon which a community residential facility for the disabled as defined in section 41.34 of the mental hygiene law exists, be declared abandoned by the commissioner of general services pursuant to subdivision two of this section, such real property shall become unappropriated state lands; and prior to being transferred to the jurisdiction of another state agency, shall be offered for sale at public auction pursuant to section thirty-three of this article; provided, however, that the provisions of section four hundred six of the eminent domain procedure law shall apply to such property.

5. As used in this section, the term "state agency" shall include any department, division, board, commission, bureau, office or other agency of the state.

§ 31. Surveys by commissioner of general services. The commissioner of general services may, whenever he deems it necessary, cause actual surveys to be made of any state lands.

§ 32. Maps. The commissioner of general services shall make or cause to be made a map of each tract so surveyed, distinguishing upon such maps the towns and county in which the lots are situated, and deposit the same in his office. Such maps shall be open to the inspection of every person, during the office hours of business, until the lands described thereupon be sold.

§ 33. Sale of unappropriated state lands; notice and place of public sales. 1. The commissioner of general services may, from time to time, sell unappropriated state lands at public auction or by sealed bids in such parcels as he deems for the best interests of the state. Previous to every sale, he shall fix the lowest sum at which each lot may be sold, and shall designate at least one newspaper in the county where the lands to be sold are situated, in which the commissioner shall cause notice of the time, place and description of sale to be published, at least once a week for four weeks, successively, before the sale. Such notice need not be published in any other paper or papers, and any statute requiring additional publication of notices or advertisements by state officers or a department, board, bureau or commission of the state shall not apply to such notice. The commissioner may designate a representative of his office to conduct such sale. All such sales shall be held at the county seat of the county where the property is situated, unless otherwise directed by the commissioner.

Upon such sales of unappropriated state land to a purchaser procured by any licensed real estate broker and the payment of the purchase price in the amount offered by such broker in behalf of the purchaser, the commissioner of general services is authorized to pay, subject to such terms and conditions as the commissioner may prescribe, a commission to such broker out of monies available therefor. Uniform rates of commission shall, from time to time, be fixed by the commissioner but shall not exceed six percentum of the purchase price. No commission shall be paid for the procuring of any sale unless (1) written authority of the broker to make such offer on a form acceptable to the commissioner, signed by the person for whom he is acting, shall be filed with the commissioner before the day of the sale and unless (2) the broker shall furnish to the commissioner evidence in such form and extent as he may require establishing that the purchaser was procured as the result of the broker's services. In no event shall a broker who is paid a commission by the commissioner as herein provided accept any other commission or fee from any person or source for brokerage services relating to the sale of such unappropriated state land.

2. (a) Whenever a street or highway, including any adjacent land acquired or held by the state in connection with such street or highway, the title to the bed of which is in the state, shall have been legally abandoned or closed, in whole or in part, the commissioner of general services may sell and convey at public auction or by sealed bids at not less than the appraised value, in such parcels as he directs, all the right, title and interest of the state in such abandoned or closed

street or highway, or the part so abandoned or closed, and in any adjacent land acquired or held by the state in connection with such street or highway; and where, in the judgment of such commissioner, a public auction is not for the best interests of the state the commissioner, in his discretion, may sell and convey such parcels of said lands at private sale to the owners of adjacent lands for a price not less than the appraised value and on such terms and conditions as the commissioner may impose.

(b) The commissioner of general services may sell and convey parcels of unappropriated state land which (i) do not constitute legal building lots in the municipality in which they are located and (ii) have an appraised value of less than fifty thousand dollars each at private sale to any owner of adjacent lands. Consideration for such sales shall be for a price not less than the appraised value and such additional terms and conditions as the commissioner may deem necessary.

3. The commissioner of general services is authorized in his discretion to sell and convey at private sale upon such terms and conditions as he may deem proper, and to remise and quitclaim all the right, title and interest of the state in and to any unappropriated state lands acquired by or through tax sale where it shall appear that such lands are and have been privately occupied under color of title continuously for ten years or where the applicant has, in good faith, a continuous chain of title going back more than ten years from the date of application. Any such sale, if made, shall be to the person or persons claiming title because of such occupation or under such chain of title, and shall be for a consideration not less than the fair market value of the state's interest as determined by the commissioner.

4. Where a petition is presented to a surrogate's court of this state for an order directing the sale of a decedent's real property for any of the purposes provided for in section one thousand nine hundred two of the surrogate's court procedure act or otherwise, and there is reason to believe that such real property may have escheated to the people of the state of New York, and a final judgment in an action by reason of such escheat, as provided for in section two hundred and one of the abandoned property law, has not been entered, the commissioner of general services

may, if it is deemed to be in the best interests of the state, authorize the attorney general to consent to such order for the sale of such real property, either at public auction or by sealed bids or private sale. A deed thereupon executed and delivered pursuant to the terms and provisions of such order, upon such consent of the attorney general, shall be deemed a bar to any claim of title of the people of the state of New York, by virtue of such escheat, in the property so sold, but shall not be deemed to affect any rights that the people of the state of New York may have in or to the proceeds of such sale. Consent, however, to such an order shall not be given in the event the price offered on a proposed private sale of such real property is less than the appraised value thereof as determined by the commissioner of general services.

5. (a) The commissioner of general services may sell and convey improved, unappropriated state lands by competitive solicitation of offers through a request for proposals or similar method where in his or her judgment, a public auction is not in the best interests of the state. Such solicitation shall document the minimum qualitative and quantitative factors in addition to sale price to be used as criteria in the evaluation of offers and the general manner in which the evaluation process and selection of the most responsive and responsible offeror is to be conducted. Clarifications may be sought from offerors for purposes of assuring a full understanding of responsiveness to the solicitation requirements. Where provided for in the solicitation, revisions may be permitted from all offerors determined to be eligible for award. Disclosure of the content of competing offers, other than statistical tabulations of offers received or of any clarifications or revisions thereto, shall be prohibited prior to award. All offers or separable parts thereof may be rejected.

(b) Establishment of the minimum sale price for the competitive solicitation shall be based upon a certified appraisal or certified appraisal report as defined in article six-E of the executive law.

(c) The commissioner of general services shall designate at least one newspaper in the county where the lands to be offered are situate, in which he or she shall cause a notice of the solicitation to be published at least once a week for four weeks successively before the date set forth for receipt of offers.

§ 34. Transfer of unappropriated state lands for mental health, developmental disabilities, park, recreation, playground, reforestation, street or highway purposes. 1. Such commissioner of general services may, from time to time, transfer and convey to a city, incorporated village, town or county, in consideration of one dollar to be paid to the state of New York, and on such terms and conditions as such commissioner may impose, a part or all of any parcel or parcels of unappropriated state lands upon certification that such parcel or parcels are useful for local mental health facilities, developmental disabilities facilities, park, recreation, playground, reforestation, street or highway purposes, and that they will be properly improved and maintained for one or more of such purposes and provided that this disposition of such parcel or parcels is not otherwise prohibited. Certification shall be evidenced by a formal request from the board of estimate, common council, village board, town board or county board of supervisors, setting forth in detail the parcel or parcels to be released, transferred and conveyed and the availability and usefulness of such parcel or parcels for one or more of such purposes. In the city of New York however, certification shall be evidenced by a formal request from the mayor. In the event that lands transferred under the provisions of this section are not properly improved and maintained for one or more of the purposes contemplated by this section by the city, village, town or county to which they were transferred, the title thereto shall revert to the people of the state of New York, and the attorney-general may institute an action in the supreme court for a judgment declaring a revesting of such title in the state. Such commissioner may also transfer any unappropriated state lands to the office of parks, recreation and historic preservation or the department of environmental conservation, upon the application of the commissioner thereof indicating that such unappropriated state lands are required for state park purposes within the area of jurisdiction of such office or department.

2. The commissioner of general services may, in his or her discretion, and upon such terms and conditions as such commissioner may impose, upon

application of the mayor of the city of New York, grant to the city of New York, for public streets, parks, parkways, playgrounds, recreation and conservation purposes, all of the right, title and interest of the people of the state of New York, of, in and to any portion of the lands and lands under water in Jamaica bay and Rockaway inlets and the tributaries thereto.

§ 34-a. Leasing and granting of unappropriated state lands to the United States or any instrumentality thereof. The commissioner of general services may grant and convey in fee title or such lesser interest than fee title or, notwithstanding any other provision of law to the contrary, lease without bid, for such periods of time as he may deem appropriate to the United States of America, its departments, agencies and other instrumentalities, including the United States Postal Service, authorized by law to take such fee title, lesser interest than fee title or leasehold interest in real property, upon application by an authorized officer or employee thereof, and upon such terms and conditions as the commissioner deems proper, any parcel or parcels of unappropriated state land which are needed to carry out the functions of such department, agency or instrumentality. The use of any property conveyed under this section shall be subject to local land use regulation.

§ 34-b. Acquisition of air space and air and subsurface rights. 1. Notwithstanding any other provision of law to the contrary, the governing board of a municipal corporation as defined in the general municipal law in which land or real property had previously been acquired by the state or any of its duly constituted agencies for an appropriate public use may apply to the commissioner of general services in the executive department for conveyance to it of a grant, release, quitclaim or other appropriate instrument of all the right, title and interest of the state of New York in and to the air space and air and subsurface rights, easements therein and lands adjacent thereto which had been appropriated or otherwise acquired by the state within such municipality. The granting of any such application shall be in the discretion of the commissioner and the head of the department or agency having jurisdiction over the property and subject to their determination that such conveyance would be compatible with the existing state needs and uses of the property in question and upon such reasonable consideration, terms and conditions as the commissioner may determine. No such conveyance shall be leased or utilized for private or municipal utility services. No conveyance shall be permitted with respect to existing or proposed state parkways.

2. The commissioner of general services shall include as a part of such conveyance such terms and conditions as he may reasonably deem to be appropriate with respect to the form, manner and provisions under which the municipality may dispose of said air space and air and subsurface rights and adjacent areas in conformity with provisions of the general municipal law.

3. The development of any property interest by the lessee or developer of said air space and air and subsurface rights and adjacent areas from the municipality shall be subject to the zoning regulations, ordinances and planning requirements of the municipality in which said property is located and to the support, protection or relocation of any public utility facilities within the right of way of any highways within said property at the sole cost of the municipality, lessee or developer. No such development shall deprive an abutting landowner of his right of access.

4. The terms of the conveyance to the municipal corporation shall be determined by the commissioner of general services with the approval of the director of the budget as to the adequacy of the consideration therefor and shall be submitted to the commissioner of the agency having jurisdiction over the property involved for his consideration and approval. Each such instrument of conveyance shall be prepared by the commissioner of general services and prior to delivery of possession of the subject property rights in the air, air space, subsurface rights, easements therein and lands adjacent thereto shall be approved by the attorney general as to form and manner of execution.

5. The commissioner of general services shall promulgate reasonable rules and regulations after consultation with the commissioner of transportation and the commissioners or heads of any other affected state agencies strictly consistent with the purposes of and designed to carry out the provisions of this section.

§ 35. Terms of sale. The commissioner of general services shall prescribe the terms and conditions of all sales.

§ 36. Issue of patents. On the production to the commissioner of general services by the purchaser, his representative or assignee of any certificate heretofore issued by the state engineer and a receipt showing payment to the state of the whole of the purchase-money, the purchaser's bond on such sale shall be cancelled by the state department having custody of such bond and such commissioner shall deliver letters patent for the lands sold to the person entitled thereto. If such certificate be lost or wrongfully withheld by any person from the owner thereof, such commissioner may receive evidence of such loss or wrongful detention, and issue a patent to the person who, on satisfactory proof, appears to him to be entitled thereto.

§ 37. Collection, forfeiture and cancellation of purchase-money bonds. The commissioner of general services may direct the comptroller to sue upon any bond heretofore received by the office of general services or its predecessors including the state engineer, the commissioner of transportation or the secretary of state on the sale of unappropriated state lands, if any payment stipulated in such bond shall remain due one year, or the commissioner may direct the sale of the land for the payment of which such bond was given, and in case of such sale, all previous payments made on account of such land shall be forfeited to the people of the state, and the bonds may be delivered up and cancelled on the surrender of the certificates of sale.

§ 37-a. Resale of lands. The commissioner of general services, whenever he resells any such lot, shall include in the amount for which such lot is offered for sale, the sum unpaid at the time of such sale for principal and interest on the purchase-moneys thereof, the amount due on the books in the comptroller's office for taxes and the interest and charges thereon and the costs of such sale. If the total amount of such charges be not bid therefor, he shall purchase the same for the state at such amount. If on any such sale, the commissioner becomes the purchaser in behalf of the state, in case such lands are not within the forest preserve, the commissioner shall direct, whether the land purchased be offered for sale by him at the price for which it was purchased, or a new appraisement made thereof under his direction. He may sell such lots to any person applying to purchase the same, for the amount at which the same was purchased for the state, on the like terms and conditions as he is authorized to sell the unappropriated state lands. If the commissioner directs a new appraisal of such lands, the commissioner may sell the same as prescribed in this section for the prices at which the lots are respectively appraised.

§ 38. Payment on resale. The purchaser shall complete the sale, immediately, by paying into the treasury the amount due on the land and receiving a patent, or by executing a proper bond and receiving a new certificate of the sale.

§ 38-a. Removal of occupants of land resold. When a resale of land is directed, the commissioner of general services shall cause notice to be given to every occupant of such land to remove therefrom, and if he does not comply with such notice, he shall direct the district attorney of the county in which such lands may be situated to commence proceedings for his removal before the county judge of such county. On proof, by the production of a certificate from the commissioner that a resale of such land has been duly ordered for default of payment, such judge shall issue his warrant to the sheriff of the county, commanding him within ten days after the receipt thereof, to remove such occupant from such lands; and the sheriff shall remove such person within such time, and, for that purpose, shall possess the same powers as in the execution of criminal process. The sheriff shall retain such warrant in his hands, and if any person so removed shall return to occupy such lands without the consent of the commissioner, he shall be forthwith removed by the sheriff pursuant to such warrant. The sheriff, for executing a warrant under this section, shall be allowed such compensation, to be paid out of the treasury, as the comptroller shall certify to be reasonable.

§ 39. Application for grant under special law. The commissioner of general services shall not grant any of the unappropriated state lands to any person applying therefor by virtue of a special law, unless such application be made within one year after the passage of such law, unless otherwise provided therein, but such land shall be sold in the manner directed for the sale of unappropriated state lands.

§ 40. Exchange of unappropriated state lands. The commissioner of general services may, from time to time, exchange a part or all of any parcel or parcels of unappropriated state lands for real property required by or of benefit to the state of New York and in which title is held by the United States of America or a city, incorporated village, town or county when the combined value of such unappropriated state lands and required real property does not exceed five hundred thousand dollars. An appraisal of the value of the real property to be acquired by the state and of the property to be conveyed by the state shall be completed by a qualified professional real estate appraiser. If the value of either property is in excess of one hundred thousand dollars, two appraisals of that property shall be required prior to the exchange. The terms and conditions of such exchange, including any monetary consideration to be paid to equalize the value of such exchange properties, shall be subject to the prior approval of the state comptroller. The attorney general shall approve the title to the lands to be thus acquired by the state.

ARTICLE 4

ABANDONED CANAL LANDS AND STRUCTURES

§ 50. Sale of abandoned canal lands. The commissioner of general services may sell and convey at public or private sale the right, title and interest of the state in and to any real property, acquired for canal purposes, which the commissioner of transportation may determine to have been abandoned for such purposes, or as to which a determination of abandonment shall have been heretofore made pursuant to law. The commissioner of general services may sell and convey such abandoned lands in the same manner and with the same discretion as he may sell and convey unappropriated state land pursuant to article three of this chapter. The commissioner may sell such abandoned canal lands for not less than the appraised value thereof to occupants of such abandoned canal lands or owners of adjacent land who have used or improved such abandoned canal lands either under a permit issued pursuant to section one hundred of the canal law or in good faith without knowledge that such canal lands were owned by the state; provided that such appraised value shall be exclusive of the value of improvements made on the property by the purchaser.

§ 51. Maintenance and repair of highway crossings on abandoned canal lands. The maintenance and repair of highways on any parcel of such canal lands which have heretofore been abandoned pursuant to law and which have been converted into crossings at grade or which may hereafter be abandoned pursuant to law and so converted shall be the responsibility of the municipality within which such parcel of abandoned canal lands is situated. The provisions of this subdivision shall not supersede any of the provisions of the highway law.

§ 59-a. Disposition of proceeds. The proceeds from a sale or grant of such lands shall be applied first to repay any expenditures made by the office of general services from moneys appropriated to said office in the first instance for the administration, management, utilization and disposal of real property of the state and any rights or interests therein and any balance of such moneys remaining after repayment of the first instance expenditures shall be applied to the cost of the improvement which renders such lands no longer necessary, and the expenses incurred by the attorney general for searches and examination of the title to such lands shall be deemed an item of the cost of improvement. Any surplus from the sale of abandoned lands above the cost of the entire improvement shall be applied to the sinking fund for the payment of the improvement bonds.

ARTICLE 6
GRANTS OF LANDS UNDER WATER

§ 75. Grants of land under water. This section authorizes grants, leases, easements, and lesser interests, including permits, for the use of state-owned land underwater and the cession of jurisdiction thereof consistent with the public interest in the use of state-owned lands underwater for purposes of navigation, commerce, fishing, bathing, and recreation; environmental protection; and access to the navigable waters of the state; with due regard for the need of affected owners of private property to safeguard their property.

1. Of navigable rivers and lakes.

2. Of the Hudson river adjacent to the state of New Jersey.

3. Of the former bed of Onondaga creek in Onondaga county and of Tibbetts brook in Bronx county, whether or not now under water, and

regardless of upland ownership.

4. Adjacent to and surrounding Great Barn island in the city and county of New York, and between high and low water mark on such island, but not so as to affect the navigation of the waters surrounding such island.

5. Adjacent to and surrounding Staten Island, but not so as to extend more than five hundred feet into the water from low water mark on said island, except where the legally established pier and bulkhead lines extend more than five hundred feet beyond low water mark, in which case grants may be made to such lines.

6. Adjacent to and surrounding Long Island, and all that part of the former or present county of Westchester lying on the East river or Long Island sound, but not beyond any permanent exterior water line established by law.

7. (a) The commissioner of general services may grant in perpetuity or otherwise, to the owners of the land adjacent to the land underwater specified in this section, to promote the commerce of this state or for the purpose of beneficial enjoyment thereof by such owners, or for agricultural purposes, or for public park, beach, street, highway, parkway, playground, recreation or conservation purposes, so much of said land underwater as the commissioner deems necessary for that purpose. No such grant shall be made to any person other than the proprietor of the adjacent land. Any such grant made to any other person shall be void, except that, subject to the other provisions of this section, the commissioner of general services may transfer jurisdiction over state-owned lands underwater to a state agency for the purpose of protecting environmentally sensitive lands underwater even if the state agency is not the proprietor of the adjacent upland. The commissioner may also lease such land underwater to such owner of the adjacent upland or, with the consent of such owner of the adjacent upland, to others, for terms up to forty years. No such grant or lease shall be made of any lands belonging to the city of New York, or so as to interfere with the rights of that city or of the Hudson River Railroad Company, or of its

successor the New York Central and Hudson River Railroad Company. In making any grant, lease, permit or other conveyance, the commissioner of general services shall, upon administrative findings, and to the extent practicable, reserve such interests or attach such conditions to preserve the public interest in use of state-owned lands underwater and waterways for navigation, commerce, fishing, bathing, recreation, environmental protection and access to the navigable waters of the state, with due regard for the need of affected owners of private property to safeguard their property. The commissioner shall by official rules establish criteria and guidelines for determinations with respect to the leasing or selling of such lands underwater.

Where the boundary line between land underwater and the adjacent land lies within a public road or street, and the name of the owner or owners of such adjacent land or the place of residence cannot be ascertained to the satisfaction of the commissioner, grants or leases may be made by the commissioner in his or her discretion to the owner or owners of the land adjoining the road or street inshore of such land underwater in the manner herein provided, but a grant or lease so made shall not be regarded as depriving any other person of the exercise of his or her riparian rights.

Where the title to such public road or street is in a county, city, town or village, grants or leases may be made by the commissioner in the manner herein provided to the owner of the land adjoining the road or street inshore of such land underwater, but no such grant shall be made unless the consent thereto of such county, city, town or village shall first be filed with the commissioner, or unless, having been duly personally served with a notice of application of such grant, the county, city, town or village fails to file an objection with the commissioner or, having filed such objection, fails to present to the commissioner sufficient proof or other reasons satisfactory to the commissioner why the grant should not be made.

(b) No wharf, dock, pier, jetty, platform, breakwater, mooring or other structure shall be constructed, erected, anchored, suspended, placed or substantially replaced, altered, modified, enlarged, or expanded in, on or above state-owned lands underwater, nor shall any fill be placed on such lands underwater, unless a lease, easement, permit, or other interest is obtained from the commissioner, which authorizes the use and occupancy of those state-owned lands underwater to be affected by such act or acts, provided however, that there shall be excepted in the uniform regulations issued pursuant to paragraph (f) of this subdivision any existing structure for non-commercial use constructed prior to June seventeenth, nineteen hundred ninety-two, by or on behalf of the owner of adjacent upland who owned prior to June seventeenth, nineteen hundred ninety-two, which has a surface area, as measured at the outermost perimeter, including surface waters between or encompassed within the structure of less than five thousand square feet in area, and with respect to docking facilities, has a capacity of no more than seven boats thirty feet in length. For the purposes of this subdivision, the term "structure" shall not include discharge or intake pipes, pipelines, cables, or conduits. Thereafter there shall be so excepted any structure constructed by or on behalf of the owner of adjacent uplands that:

(i) has a surface area, as measured at the outermost perimeter, including surface waters directly between or encompassed within the structure, of less than four thousand square feet in area and not exceeding fifteen feet in height, as measured at the uppermost point, above the mean high water line and, with respect to docking facilities, has a capacity of five or fewer boats thirty feet in length and, with respect to mooring facilities, has a capacity of fewer than ten boats thirty feet in length; provided that the commissioner may by rule promulgated pursuant to paragraph (f) of this subdivision determine, based on a different surface area or other criteria of size and use, that other types of structure in particular circumstances do not represent significant encroachments on state-owned lands underwater, and

(ii) is water dependent, which shall mean, for purposes of this section, an activity which can only be conducted on, in, over or adjacent to a water body because such activity requires direct access to that water body, and which involves, as an integral part of such activity, the use of the water.

(c) The requirements of obtaining a lease, easement, permit or other interest from the commissioner pursuant to the rules set forth in paragraph (f) of this subdivision shall not apply to the person or entity who was the upland owner on June seventeenth, nineteen hundred ninety-two, of lands adjacent to filled state-owned lands underwater or formerly underwater, in respect of those filled lands, including accompanying seawalls; provided however, that any right, title and interest of the state in and to any such state-owned lands shall in no respect be diminished or impaired by the provisions of this section, nor by any exemption in the uniform regulations authorized by paragraph (f) of this subdivision.

Upon any transfer of such lands, or at the request of the owner of the adjacent upland, the commissioner may convey such lesser interest as may be minimally required to allow a conveyance of marketable title by that owner of the adjacent land. Consideration charged in such instances shall reflect the interest so conveyed.

(d) (i) The commissioner of environmental conservation and the secretary of state shall review any proposed lease, easement, permit or other interest, except for facilities in existence on June seventeenth, nineteen hundred ninety-two, and which are not the subject of an action by the attorney general for unlawful occupation of state lands under water on the effective date of this paragraph. The commissioner of environmental conservation shall recommend conditions to protect the environment and natural resources. The commissioner of general services shall incorporate those conditions in any lease, easement, permit or other interest, giving due regard as well to the recommendations of the secretary of state with respect to coastal issues, or shall deny the proposal if the commissioner of environmental conservation, upon administrative findings, determines that the environment or natural resources cannot be adequately protected. Such lease, easement, permit, or other conveyance of an interest shall state the purpose for which it is made, and shall also be subject to all applicable federal, state and local laws, rules, regulations and codes.

(ii) The owner, occupier or any other person or entity (except those against whom there has been commenced on the effective date of this paragraph an action by the attorney general, for unlawful occupation of state lands under water) with a legal or beneficial interest in any structure not excepted by paragraph (b) of this subdivision and occupying state lands underwater on the effective date of the rules authorized by paragraph (f) of this subdivision, as adopted pursuant to subdivision five of section two hundred two of the state administrative procedure act, shall make application for such lease, easement, permit or other interest within one year from that effective date.

Except where timely application for such an interest has been made within one year pursuant to this subdivision, the commissioner is authorized to require the term of such lease, easement, permit, or other interest to be retroactive to the effective date of the rules so adopted. Any instrument conveying an interest in real property which is made retroactive shall include provision for payment of consideration for the portion of the term which extends retroactively including, where appropriate, interest on such consideration at the same rate then currently in effect and applied to judgments rendered in the court of claims.

(iii) The commissioner shall make reasonable efforts to provide notice to persons affected by the requirements of this section.

(e)(i) The commissioner may impose a fee in connection with the issuance of any such lease, easement, permit, or other interest, which fee shall be established by rule pursuant to paragraph (f) of this subdivision, and which shall take into account other factors affecting value including but not limited to classes of structure, types of use (including whether the use is for public or private purposes), location and region, size, usefulness of the parcel standing alone and such other criteria as the commissioner may determine, but which shall exclude the value of improvements thereon constructed and maintained by the adjoining upland owner. The rules and regulations required by paragraph (f) of this subdivision shall prescribe that in the event an applicant for a lease, easement or other interest in real property shall dispute and request a reduction of the commissioner's determination of the value of the interest to be conveyed, the commissioner shall, upon the applicant's submission of an appraisal of the value of such property interest conducted in accord with standard and accepted appraisal methodology by an independent appraiser qualified as prescribed in this paragraph and which appraisal varies in its conclusion as to value by ten percent or more of the value previously established by the commissioner, and upon the applicant's agreement to be bound thereby, contract with a second independent appraiser, qualified as prescribed in this paragraph, to render an appraisal of the value of the interest proposed to be conveyed, the results of which appraisal shall be binding upon both the applicant and the commissioner of general services. Such appraiser shall be selected by the commissioner of general services from among a group of at least three appraisers identified by the applicant all of whom must be qualified as prescribed in this paragraph and each of whom must agree to employ standard appraisal methodology. For the purposes of this provision a qualified appraiser shall be certified by the secretary of state to transact business as a real estate general appraiser and shall conduct a regular business of the appraisal of real property interests. In the event that the appraisal contracted for in such manner shall conclude that the value of the property interest in question is equal to the value previously determined by the commissioner plus or minus ten percent, the entire cost of such appraisal shall be borne by the applicant, otherwise, the entire cost thereof shall be borne by the commissioner of general services.

(ii) For leases, easements and conveyances of such interests for commercial use of structures on state-owned underwater lands, the annual fee imposed shall not exceed two percent of the user's net annual income for structures not in existence on the effective date of this paragraph. Nor, in connection with a structure in existence and in commercial use on the effective date of this paragraph, shall the fee charged in connection with such a conveyance made after the effective date of this subparagraph exceed annually the following schedule for five years following the effective date of the interest conveyed pursuant to subdivision (b) of this section provided timely application pursuant to that subdivision has been made: .2 (two-tenths) of one percent; second year: .4 (four-tenths) of one percent; third-year: .6 (six-tenths) of one percent; fourth year: .8 (eight-tenths) of one percent; fifth year, and thereafter: one percent; provided that all such percentages in this paragraph shall be that percentage of the net income derived from the structure or structures on state-owned lands, excluding transactions involving sales or repair of boats, and sale of gasoline; and the dollar valuation of the interest conveyed shall not be increased from year to year during that five year period. The fee charged shall be discounted ten percent for annual permits.

(iii) For leases, easements and conveyances of such interests for residential use of non-exempt structures in existence and residential use on the effective date of this paragraph, the annual fee shall not exceed the lesser of twenty dollars per slip or one hundred dollars.

(iv) Nothing in this paragraph shall preclude the commissioner of general services from agreeing, upon the request of and negotiation with the owner or user of adjacent upland, to such other conveyances or agreements consistent with this section providing for different periodic payments, or a more flexible payment structure, than the fee caps and fees, respectively, set forth for commercial and residential facilities herein. Moreover, notwithstanding the fee caps set in this section, the commissioner may exceed those caps if required to cover the yearly pro rata share, over the term of the conveyance or interest, of the administrative costs in connection with that conveyance or interest.

(f) The commissioner, in consultation with the commissioner of environmental conservation, the secretary of state, the office of parks, recreation and historic preservation and other interested state agencies administering state-owned lands underwater, shall promulgate pursuant to article two of the state administrative procedure act such rules with respect to grants, leases, easements and lesser interests for the use of state-owned land underwater, and the cession of jurisdiction thereof, as in his or her judgment are reasonable and necessary to protect the interests of the people in such lands underwater. Such regulations shall include without being limited to: the fees to be charged, consistent with the provisions of this section, including mitigation of such fees in the event of economic hardship on existing commercial enterprises; fee limitations to administrative expenses for municipal uses which are public, non-commercial and offer services free or for nominal fees, and for uses undertaken and operated for public and non-commercial purposes by not-for-profit corporations characterized as charitable corporations as defined in paragraph (a) of section one hundred two (Definitions) of the not-for-profit corporation law, and for uses undertaken and operated for public purposes by a corporation formed pursuant to the religious corporation law or by a corporation formed pursuant to a special act of this state and which has as its principal purpose a religious purpose; such further exemptions for projects as the commissioner determines do not represent significant encroachments; limitations on grants, including conversion grants, with respect to underwater lands consistent with the public purposes of this subdivision and limiting such grants to exceptional circumstances; and factors to be examined in considering an application for a lease, easement or other interest. Those factors shall include without limitation the following: (i) the environmental impact of the project; (ii) the values for natural resource management, recreational uses, and commercial uses of the pertinent underwater land; (iii) the size, character and effects of the project in relation to neighboring uses; (iv) the potential for interference with navigation, public uses of the waterway and rights of other riparian owners; (v) the effect of the project on the natural resource interests of the state in the lands; (vi) the water-dependent nature of the use; (vii) and any adverse economic impact on existing commercial enterprises. The final promulgation of rules establishing fees or fee structures shall be subject to the approval of the director of the budget.

(g) (i) From one year after the effective date of the rules authorized by paragraph (f) of this subdivision and adopted pursuant to subdivision five of section two hundred two of the state administrative procedure act, and thereafter, any person who violates any of the provisions of this subdivision; or who fails to perform any duty imposed by this subdivision; or who violates or fails to comply with any rule, regulation, determination or order of the commissioner promulgated pursuant to this subdivision may be enjoined from continuing such violation, and in any event shall be liable for a civil penalty of not more than five hundred dollars for each such violation and an additional civil penalty of not more than one hundred dollars for each day during which such violation continues; provided, however, that such penalties shall be imposed by the commissioner only after written notice and an opportunity to be heard are given to the owner, occupier or other person or entity having a legal or beneficial interest in a prohibited structure or area of fill which notice shall be transmitted by certified mail, return receipt requested and which shall set forth the provisions of this section, a description of the prohibited structure or area of fill, the amount of the penalty, that the person must comply with the provisions of this section within thirty days, and the specific date thirty days thereafter following which the person shall be subject to such penalty and after which further penalties shall accrue on a daily basis.

(ii) If the commissioner of environmental conservation notifies the commissioner of any failure to comply with conditions of a lease, easement or other interest, the commissioner shall investigate such suspected violation. The commissioner, on his or her own initiative or at the request of the commissioner of environmental conservation, shall thereafter take enforcement action as described herein or request the attorney general to institute an action to enjoin such violation and to recover any damages therefor.

8. The commissioner may authorize the use and occupation by the United States of lands of the state under water, for the purpose of improvement of navigation, including sites for lighthouses, beacons and lighthouse keepers' dwellings and navy yards and naval stations, and may cede jurisdiction over any such land but such jurisdiction so ceded shall be upon the express condition that the state of New York shall retain a concurrent jurisdiction with the United States in and over the property and premises so conveyed, so far as that all civil and criminal process, which may issue under the laws or authority of the state of New York, may be executed thereon in the same way and manner as if such jurisdiction had not been ceded, except so far as such process may affect the real or personal property of the United States. The provisions of section seventy-seven shall not apply to any authorization of use and occupation under the provisions of this subdivision.

9. Private rights or rights of property of individuals, if any, of any nature or description, shall not be taken away nor impaired nor impeded without due process of law.

10. No grant for public park, beach, street, highway, parkway, playground, recreation or conservation purposes shall be made under this section to other than a county, city, town or village. A grant so made may be made with or without consideration and shall be upon such terms and conditions as may be imposed by the commissioner. A grant so made shall be upon the condition that if at any time the land so granted shall not be used for the purpose set forth therein or shall be used for any other purpose, the title so granted shall thereupon revert to and be

in the people of the state of New York. Where a grant has heretofore been made by the commissioner for one or more of the purposes enumerated herein, the commissioner, in his discretion and upon such terms and conditions as he may impose and with or without consideration, upon application by the county board of supervisors, board of estimate, common council, town board or village board, as the case may be, is authorized to alter or amend such grant, in respect to the purposes thereof and with respect to the whole or part of the land under water therein granted and described, so that the grant may thenceforth nevertheless be for one or more of the purposes enumerated herein. The provisions of section seventy-seven of this article shall not apply upon an application to alter or amend a grant so heretofore made.

11. Where a grant of land under water has previously been made by the state under the provisions of this article, for the purposes of commerce, commerce or beneficial enjoyment, restricted beneficial enjoyment, or otherwise, where the purpose of the grant is less than that of beneficial enjoyment, and by reason of the nature of which previous grant there remains in the state a right, title or interest, the commissioner may, in his discretion, grant such right, title or interest in or to the whole of the land under water so granted or part thereof, to the grantee or to one who has succeeded to the title or interest so previously granted, and a grant so made may be made regardless of upland ownership and without publication or posting of notice of application as provided by section seventy-seven of this article, but no such grant shall be made for less than the appraised value of the right, title or interest of the state in the land under water or part thereof, as the case may be, and shall be upon such terms and conditions as shall be imposed by the commissioner to protect the interests of the state.

12. The commissioner, in his discretion, upon such terms and conditions and for such consideration as the commissioner may determine may grant and convey to the owner or owners of the adjacent land the right, title and interest of the people of the state of New York in and to the lands now or formerly under the waters of the arms, branches or tributaries of any navigable waters of the state which arms, branches or

tributaries have become non-navigable, and a grant so made may be made without publication or posting of notice of application as provided by section seventy-seven of this chapter.

13. The powers granted to the commissioner by this section may, notwithstanding any other law to the contrary, continue to be exercised by it in respect to lands under the waters of the Niagara and St. Lawrence rivers except as to those areas thereof that are natural resources of the state of New York for the creation and development of hydroelectric power, but the commissioner shall not make any grant of lands under the water of either of said rivers unless the power authority of the state of New York shall, prior to the issuance of any such grant, advise the commissioner, in writing, that such grant, if made, will not interfere with its St. Lawrence or Niagara project.

14. Proceeds from the sales, leases, grants of easements and lesser interests, including permits for the use of lands under water pursuant to this section shall be deposited in the environmental protection fund established pursuant to section ninety-two-s of the state finance law.

§ 76. Surrender of grant. A grantee or his successor in interest, may at his option surrender to the state, without consideration or for a compensation to be determined by the commissioner, the lands under water theretofore granted to him or any part thereof, by filing with the commissioner a certificate duly executed and acknowledged, declaring his intention of such surrender and containing a description of the lands surrendered, subject to the acceptance of such surrender by the commissioner; and such surrender when so accepted shall be without prejudice to an application for a new grant upon such terms and conditions as the commissioner may determine.

§ 77. Notice of application therefor. Every applicant for a grant of land under water shall, previous to his application, cause notice thereof to be published at least once a week for four weeks, successively, in a newspaper printed in the county in which the land so intended to be applied for is situated, unless the said lands are situated wholly or in part in a city or village where a newspaper is published then such notice shall be published in such newspaper; and a copy of such notice to be posted for the same period upon the door of the court house of such county or at such other place in or at the court house as is generally used for the posting of legal notices, and if there be no court house in the county, at such place as the commissioner directs. The aforementioned four-week period shall be a full period of twenty-eight days. In cities having a population of one million or more inhabitants, the applicant for a grant comprising ten thousand or more square feet shall also serve personally, or by registered or certified mail, a written notice containing a description of such land under water, together with the name and address of the applicant, upon all owners of waterfront land within three hundred feet from the side boundaries of the upland of the applicant. For purposes of identifying such owners of waterfront land, the latest completed assessment roll may be used in lieu of title search. The applicant shall file with the commissioner proof of service of such notice at least twenty days prior to the date of application. However for the purposes of jurisdiction and the validity of any grant issued under this section, the commissioner's finding that the notice requirements of this section have been complied with is final and conclusive.

§ 78. Failure to comply with conditions of grant; annulment. On or before the tenth day of January in each year the commissioner of general services shall examine the records of all grants of land under water for which patents shall have been issued containing conditions to be complied with within fixed period of time after the issue of such patents and make a list of all such grants containing such conditions of which the periods for performance have expired. It shall thereupon be the duty of the commissioner of general services to cause an investigation to be made without delay for the purpose of ascertaining whether or not compliance with the conditions contained in such grants shall have been had, and he shall report thereon to the attorney-general. It shall be the duty of the attorney-general to begin actions against all such patentees or their successors in interest or assigns for the annulment of all patents the conditions of which shall be found not to have been complied with within the period fixed in such grants for compliance.

ARTICLE 7

MINES, MINERALS AND METALS

§ 80. Definitions. As used in this article:

1. "Gold mine" means a mineral deposit in which the total sales value of the gold is more than fifty per centum of the value of all other minerals associated or occurring with the gold in the mine.

2. "Silver mine" means a mineral deposit in which the total sales value of the silver is more than fifty per centum of the value of all other minerals associated or occurring with the silver in the mine.

3. "Minerals" means all minerals and rocks, more particularly any inorganic substance which can be extracted from the earth, excepting gas, oil and water.

4. "State lands" means all lands now or hereafter owned by the state of New York except lands in the forest preserve as defined by section sixty-three of the conservation law.

5. "Filer" means the person filing a notice of discovery, or his heirs, distributees, representatives or successors in interest.

§ 81. Minerals subject to state ownership; exploration of mines on state lands. 1. The following minerals are the property of the people of the state of New York in their right of sovereignty:

(a) All deposits of gold and silver in or upon private lands and lands belonging to the state heretofore or hereafter discovered within this state.

(b) All deposits of minerals and fossils heretofore or hereafter discovered in or upon any lands belonging to the people of the state of New York.

2. The commissioner of general services may, upon written application by any citizen of the United States, issue to such applicant a permit, consent, or lease of such duration as the commissioner may deem advisable, upon such terms and conditions as the commissioner shall determine, to enter upon state lands, for the purpose of exploring for mines and minerals or for the purpose of breaking up such lands and working any mine or extracting any mineral in such lands.

In the case of state lands other than unappropriated state lands, the state department, agency, commission or institution having jurisdiction over such lands shall receive notice from the commissioner of any application to explore, break-up or mine, and shall have a period of not less than thirty days to report thereon in writing to the commissioner, and no permit, consent or lease shall be issued until such report has been received or the thirty day period has expired, and shall not be effective until approved by the governor.

§ 82. Notice of discovery; filing; fee; bounty to discoverer; royalty to state. 1. Any person discovering a mine or deposit of gold or silver in or upon private lands within this state, and any citizen of the United States discovering a mine or deposit of any mineral in or upon state lands may work the same subject to the provisions of this article but not until he files written notice of such discovery with the secretary of state, which notice shall be indexed and registered in a permanent record to be kept by such secretary, describing particularly the nature and situation of such mine or minerals.

2. Notices filed pursuant to this section shall be in such form as the secretary of state shall prescribe and shall contain, among other things, the following information:

(a) The name and address of the filer.

(b) The name of the owner of the land.

(c) An accurate description together with a map made on tracing cloth with india ink of the land against which the notice is filed, in form sufficient for the convenient location of the land, which land shall, so far as practicable, be of equal length and width and shall comprise not more than forty acres.

(d) A statement subscribed by the filer and affirmed by him to be true under the penalties of perjury that he has read or knows the provisions of this article and is familiar with the conditions to be by him performed precedent to the acquisition, continuation and preservation of any rights flowing from his filing of such notice.

3. A fee of fifty dollars shall be paid to the secretary of state with each such notice.

4. The filer shall have the sole benefit of minerals extracted from a mine or deposit on state land on the payment to the state of such annual rental and such royalty as the commissioner shall deem reasonable and proper provided, however, that the minimum royalty shall not be less than two per centum of the market value of all such minerals. The filer shall be exempted from paying a royalty to the people of the state on the market value of all gold and silver extracted from a gold mine or a silver mine on private lands for a term of five years under notices of discovery filed on or after April sixteen, nineteen hundred forty-five, to be computed from the date of filing of the notice of discovery; and after the expiration of such term, the filer shall pay to the people of the state a royalty of one per centum of the market value of such products.

A statement of all minerals extracted from the premises covered by notice of discovery, together with the market value thereof, shall be made within six months from the time such products shall first be extracted, and semi-annually thereafter, under oath, to the commissioner, and payments of such royalty shall be made semi-annually to the commissioner at the time of making of such statement of minerals extracted. Such payments of royalty shall thereafter be transmitted to the state department of taxation and finance by the commissioner. Any wilful falsehood in the contents of such statement made by the filer to the commissioner shall work a forfeiture to the state of the value of the whole amount extracted during the period covered by such statement and he shall be immediately liable to the state for payment of said amount. Upon failure to make the statement of minerals extracted, when due, and the payments of royalty, when due, the commissioner may terminate all rights to explore and mine in the manner hereinafter provided. From time to time the legislature may provide for a different rate of compensation to be paid to the state or for other conditions or standards governing the exercise of the right to explore for or mine minerals on state lands or gold and silver on private lands.

5. The filer shall immediately notify the secretary of state of any change in his address or of his interest in his rights under his notice of discovery, the manner in which such change of interest is effected, and the name and address of any successor or successors to his interest, in whole or in part. Such notice shall be in writing and duly sworn to. In the event no such notice is received by the secretary of state, any notice of default as herein provided for, mailed by the secretary of state to the filer at the last known address, shall be binding upon all parties in interest for all purposes.

§ 83. Entry upon lands to work mines; effect of notice. 1. Nothing contained in this article shall affect any right heretofore granted by special act of the legislature nor affect the terms of any consent heretofore given by the commissioner of general services to persons having discovered deposits of minerals but any such person shall upon the taking effect of this act be otherwise subject to and bound by the provisions of this article; nor give any person a right to enter upon or break up the lands of any other persons, or of the state, or to work any mine in such lands, unless and until there shall have been recorded in the office of the clerk of the county in which such lands are located or of the register, if the recording officer in such county is a register, the written and duly acknowledged consent of the owner thereof, or when the lands belong to the state, a certified copy of the consent given by the commissioner pursuant to subdivision two of section eighty-one of this article, upon such terms and conditions as such owner or said commissioner, as the case may be, may make and specify in such consent. Permission to erect buildings for working mines upon state lands may be given by the commissioner, when such commissioner is satisfied that the erection or occupation of such buildings will not be detrimental to the interests of the state. Nothing in this article shall authorize any person working a mine upon state lands to cut or destroy any timber whatever except such trees as it may be actually necessary to remove in order to uncover or to erect structures upon or make a road to such mine, or to provide space for such buildings and for mine tailings and the like. For each tree measuring four inches or more in diameter at a height of one foot from the ground, which shall be so cut, the party operating the mine shall pay into the state treasury the sum of one dollar.

2. The filing of notice of discovery on lands other than those belonging to the state gives one so filing no right of property in such lands or the mines or minerals therein, nor any lien thereon. All such rights flow solely from the owner of such lands or those holding under him except that, in the event that the mines or minerals thereon consist of gold or silver, all rights to explore, mine or work flow from the state acting by the commissioner as in the case of lands belonging to the state subject to the above said written consent of the owner.

§ 84. Mining rights; regulations; continuation; termination. 1. All rights to explore for or extract minerals from a mine or deposit that have heretofore arisen by reason of the filing of a notice of discovery or by reason of the issuance of a permit or consent by the commissioner of general services under this article or under former article seven or which shall hereafter arise by reason of the filing of a notice of discovery or the issuance of a permit or consent by the commissioner under this article shall expire as to those heretofore filed at the expiration of thirty months from the effective date of this act and as to those hereafter filed at the expiration of thirty months from the date of filing of notice unless the person claiming under any notice so filed and his predecessors, if any, in interest shall have expended in each of the two years first elapsed in the said thirty months' period at least two hundred fifty dollars in respect to each forty acres of the lands as to which notice was filed, in the exploration for mines or minerals or in operations relating to or preliminary to the mining of such lands or in both such explorations and mining, and shall have made statements of the amounts of minerals, if any, extracted from such mines, to the commissioner, and shall have paid a royalty, if due, on the market value of such minerals to the commissioner as prescribed in this article. Where a number of contiguous forty acre parcels, the mining rights in which are owned in common, comprise a group, the total expenditure made for such group, whether or not such group is made up entirely of state land or state land and private land, may be allocated and credited to each such forty acre parcel for the purpose of determining compliance with this section, notwithstanding that such expenditure may have been made on only one or more parcels in such group and not on every forty acre parcel therein, providing however that such total expenditure must be at least equal to the required total expenditure of two hundred fifty dollars for each forty acre parcel in such group.

2. Such right to explore or mine shall continue for successive periods each of thirty months, provided always that the requirements for minimum annual expenditures with respect to the land affected by such notice of discovery as provided in subdivision one of this section have been complied with in each preceding thirty months' period, and the statements of minerals, if any, extracted from such mine have been made to the commissioner and royalty, if due, paid to the commissioner as required in this article.

3. The proof of the making of such expenditures shall be submitted to

the state geologist, in such form as he may require, or, if minerals have been extracted, shall be submitted to the commissioner with the statement of the amounts of minerals so extracted, on or before the thirtieth day after the last day of the first two years of each such thirty months' period.

4. Failure to comply with any or all of the provisions of this article relating to the statements of minerals extracted, the payments of royalty, expenditures and proof of expenditures shall be deemed a default in the performance of the conditions essential to the continuation of the rights of the filer. The commissioner shall, at least ninety days prior to the expiration of the current thirty months' period, as to any filer who is in default, mail to such filer at his last address known to the commissioner, a notice to the effect that there has been default in the performance of the conditions essential to the continuation of the rights of the filer and that such rights will expire at the end of the current thirty months' period, specifying the date. The filer may before the expiration of said thirty-months' period file with the commissioner a petition for the right to appear before him to establish the fact of compliance with this article. Upon the receipt of such petition, the commissioner shall designate a time and place for a hearing thereon and advise the filer and the state geologist. If, after such hearing, the commissioner shall be satisfied that the provisions of this article have been performed by the filer, or shall be satisfied by reasons or proof submitted that there is good cause for failure to comply with the provisions of this article, he shall make proper record or note of such fact in his office; and in his discretion the rights under such filing shall then continue for a succeeding period of thirty months from the expiration of the current period of effectiveness. If such filer shall not file such petition, with the commissioner, or having filed such petition, shall not satisfy the commissioner that he has performed the conditions stated in this article for the continuation of rights under a notice of discovery, then such rights shall be deemed terminated as of the last day of such current thirty months' period. The commissioner shall make proper record or note in his office of the expiration of such rights.

§ 85. Rules and regulations. The commissioner of general services may prescribe the form and contents of all notices provided for by this article and may, from time to time, make, adopt and enforce such rules and regulations, not inconsistent with this article, as he may deem necessary or proper for the administration of this article.

ARTICLE 8

MINERAL SPRINGS

§ 90. Accelerating or impeding flow of mineral waters. Pumping, or by any artificial contrivance whatsoever in any manner accelerating the natural flow, or producing an unnatural flow of that class of mineral waters holding in solution natural mineral salts and an excess of carbonic acid gas from any well made by boring or drilling into the rock, or pumping, or by any artificial contrivance whatsoever in any manner accelerating the natural flow or producing an unnatural flow, of natural carbonic acid gas issuing from or contained in any well made by boring or drilling into the rock, is hereby declared to be unlawful. Pumping, or by any artificial contrivance whatsoever in any manner accelerating the natural flow, or producing an unnatural flow, of that class of mineral waters holding in solution natural mineral salts and an excess of carbonic acid gas from any well made by boring or drilling into the rock, or pumping, or by any artificial contrivance whatsoever in any manner accelerating the natural flow, or producing an unnatural flow of, natural carbonic acid gas issuing from or contained in any well made by boring or drilling into the rock, by reason whereof the natural flow from any mineral spring or any mineral well belonging to any other person or corporation, is impeded, retarded, diminished, diverted or endangered, or the quality of its waters is impaired, or the quantity of its carbonic acid gas or mineral ingredients diminished, is hereby declared to be unlawful. Pumping, or otherwise drawing by artificial appliance from any well made by boring or drilling into the rock, that class of mineral waters holding in solution natural mineral salts and an excess of carbonic acid gas, or pumping, or by any artificial contrivance whatsoever in any manner producing an unnatural flow of, carbonic acid gas issuing from or contained in any well made by boring or drilling into the rock, for the purpose of extracting, collecting, compressing, liquefying or vending such gas as a commodity otherwise than in connection with the mineral water and the other mineral ingredients with which it was associated, is hereby declared to be unlawful. The doing of any act or thing whatsoever whereby the natural flow from any spring or well of that class of mineral waters holding in solution natural mineral salts and an excess of carbonic acid gas, is impeded, retarded, diminished, diverted or endangered, or the quality of its waters is impaired, or the quantity of its carbonic acid gas or mineral ingredients diminished, is hereby declared to be unlawful.

§ 91. Action to restrain. Any citizen of the state may maintain an action to restrain any person or corporation from committing any of the unlawful acts specified in section ninety of this chapter, in any city or town in which said citizen is assessed for and is liable to pay, or within one year before the commencement of the action has paid, a tax.

The attorney-general may at any time, in the exercise of his discretion, bring and maintain an action in the name of the people of the state of New York, to restrain any person or corporation from any of the unlawful acts specified in section ninety of this chapter. It shall be the duty of the attorney-general to institute and prosecute such an action, upon the written request of ten citizens of this state who are assessed for taxes therein and whose aggregate assessments amount to not less than ten thousand dollars, and who shall state, in writing, facts and circumstances showing any such unlawful act or acts and give an undertaking with sureties to be approved by a justice of the supreme court to indemnify the people against the costs of such action.

§ 92. Limitation of article. Nothing in this article contained shall be construed to affect the Onondaga salt springs reservation, located in Onondaga county, or the springs of any county adjacent thereto.

§ 92-a. Waste of mineral waters. 1. The waste of that class of mineral waters holding in solution natural mineral salts and an excess of carbonic acid gas is hereby declared to be unlawful.

2. Waste defined. The permitting of the flow or escape of that class of mineral waters defined in section ninety of this article shall be deemed a waste thereof, unless such flow shall be necessary to the care, protection or preservation of the spring or well, or for the purpose of the actual use of the owner or occupant of the land or others with his consent, including the sale or commercial use of the waters or gases flowing therefrom. The permitting of such flow, except for the immediate use or sale of such waters or gases or the immediate service to the public, for a longer period than twenty-four hours in any one month, shall be presumptive evidence of the waste thereof, unless authorized by the commissioner of parks and recreation as provided in section ninety-two-b of this article.

§ 92-b. Permits authorizing flow of springs. The commissioner of parks and recreation may issue an annual permit permitting the flow of such spring in such amount and at such times as such permit shall specify. No permit shall be issued unless it appears that the flow of such spring will not result in the depletion of the amount of flow, gas or mineral content of the spring for which a permit is asked, or of any other like spring, nor unless it also appears that the flow of said spring is of scenic interest or that the flow of such spring is necessary to regulate or protect the flow of neighboring springs. If at any time it satisfactorily appears to the commissioner of parks and recreation that the required conditions for issuing a permit no longer exist, such permit may be revoked upon ten days notice.

§ 92-c. Actions to restrain violations of law; Saratoga county. In addition to those persons authorized to bring actions pursuant to the provisions of section ninety-one, the commissioner of parks and recreation may maintain an action to restrain any person or corporation from committing any of the unlawful acts specified in sections ninety, ninety-two-a and ninety-two-b herein, provided such acts are committed within the county of Saratoga.

ARTICLE 13

ACTION TO VACATE LETTERS PATENT

§ 138. When attorney-general may maintain action. The attorney-general may maintain an action to vacate or annul letters-patent, granted by the people of the state, in either of the following cases:

1. Where they were obtained by means of a fraudulent suggestion, or concealment of a material fact, made by, or with the knowledge or consent of, the person to whom they were issued.

2. Where they were issued in ignorance of a material fact, or through mistake.

3. Where the patentee, or those claiming under him, have done or admitted an act, in violation of the terms and conditions upon which the letters-patent were granted, or have, by any other means, forfeited the interest acquired under the same.

Whenever the attorney-general has good reason to believe that any act or omission, specified in this section, can be proved, and that the person to be made defendant has no sufficient legal defence, he must commence such an action.

§ 139. Jury trial. All the issues of fact in an action brought under this article are triable of right by a jury.

§ 139-a. Judgment-roll and effect of judgment. Where final judgment, vacating or annulling letters-patent, is rendered in an action, brought as prescribed in the last section, the attorney-general must cause a copy of the judgment-roll to be forthwith filed in the office of the commissioner of general services, who must make an entry in his records stating the substance and effect of the judgment, and the time when the judgment-roll was filed. The real property, granted by those letters-patent, may thereafter be disposed of by the commissioner, as if the letters-patent had not been issued.

§ 139-b. Transcript to be filed in each county where real property is situated. Immediately after making the entry prescribed in the last section, the commissioner of general services must transmit a certified transcript thereof to the clerk, or the register, as the case requires, of each county, in which the real property affected by the judgment is situated. The clerk or register must file it; and, if the letters-patent are recorded in his office, he must note the contents of the transcript in the margin of the record.

ARTICLE 17

CONSTRUCTION; LAWS REPEALED; WHEN TO TAKE EFFECT

§ 160. Construction. This chapter shall not limit or modify the provisions of the railroad law relating to the grant or acquisition, for railroad purposes, of any lands belonging to the people of the state, except that no railroad corporation may condemn any canal lands abandoned pursuant to the provisions of article four of this chapter until after they have been sold and conveyed in the manner provided by this chapter.

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

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