

CHAPTER 497

AN ACT to provide a uniform jurisdiction, practice and procedure for courts in and for cities other than the city of New York and to implement the integration of such courts into the unified court system for the state as contemplated by section one and subdivision b of section seventeen of article six of the constitution of the state of New York, approved by the people on the seventh day of November, nineteen hundred sixty-one

Became a law April 10, 1964, with the approval of the Governor.

Passed, by a majority vote, three-fifths being present

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

UNIFORM CITY COURT ACT

- Article 1. Organization.
2. Jurisdiction.
4. Summons.
7. Mandates.
8. Provisional remedies.
9. Pleadings.
10. Motions.
11. Disclosure.
12. Subpoenas.
13. Trial.
14. Judgment.
15. Execution.
17. Appeals.
18. Small claims.
- 18-A. Commercial claims.
19. Costs and fees.
20. Criminal jurisdiction and procedure.
21. General.
22. Transition.
23. Application.

ARTICLE 1

ORGANIZATION

Section 101. Short title.

102. Application of UCCA.

105. Powers and duties of non-judicial personnel.

107. Temporary assignments of judges and justices.

Section 101. Short title.

This act shall be known as the uniform city court act, and may be cited as "UCCA".

§ 102. Application of UCCA.

The jurisdiction of and practice and procedure in each court governed by the UCCA shall be as prescribed herein, and each such court shall be a part of the unified court system for the state. Such court in each city shall have an official seal to be furnished by the city upon which shall be engraved the words "(insert name of court) Court of (insert name of city), New York, Seal".

§ 105. Powers and duties of non-judicial personnel.

(a) Clerks. The chief clerk and such other non-judicial personnel as shall be authorized by law, rule or order shall each have the power to administer oaths, take acknowledgments and sign the process or mandate of the court.

(b) Enforcement officers; police officers. The enforcement officer of a city court shall be the sheriff of the county in which such court is located; provided, however, in each city where, on June thirtieth, nineteen hundred eighty-eight, public officers thereof were authorized to designate the enforcement officer of the city court established therein, such public officers may continue to exercise such authority and to designate another person or officer as enforcement officer in lieu of the sheriff. The enforcement officers of the court shall perform the same duties as are performed by sheriffs in the supreme court and shall have, within their territorial jurisdiction and subject to any

limitations imposed by this act or by other provision of law, such power to serve and execute the processes and mandates of the court as a sheriff has with regard to the processes and mandates of the supreme court. They shall also have, within their territorial jurisdiction, all of the powers in criminal matters of a constable of a town in the state of New York. It shall also be the duty of the police officers of the city to execute all criminal processes and mandates of the court. Neither an enforcement officer nor a police officer shall receive any fee or compensation for the service or execution of any criminal process or mandate issued out of the court.

(c) Records of enforcement officers. Each of the court's enforcement officers shall keep a record of official acts performed by him upon or in conjunction with the court's process or mandate. The rules may prescribe the manner in which such records shall be maintained.

§ 107. Temporary assignments of judges and justices.

The chief administrator of the courts may temporarily assign any judge or justice of a city, town or village court to a city court within the county of such judge's or justice's residence, or any adjoining county within the same judicial district; provided, however, no town or village justice may be temporarily assigned hereunder unless he or she is an attorney admitted to practice law in this state for at least five years. While temporarily assigned hereunder, any such judge or justice shall have the powers, duties and jurisdiction of a judge of the court to which the assignment is made. After the expiration of any temporary assignment hereunder, the judge or justice assigned shall have all the powers, duties and jurisdiction of a judge or justice of the court to which the assignment was made with respect to all matters pending during the term of such temporary assignment. Such judge or justice shall be entitled to such compensation and travel expenses as the chief administrator shall prescribe by rule. For purposes of this section, the temporary assignment of a judge to a city court may include the assignment of a part-time judge of such court to serve in the stead of a full-time judge of such court during the latter's absence or a vacancy in his or her position that has not been filled in accordance with law;

provided, however, that such assignment must be for a continuous period of not less than two weeks nor more than three months.

ARTICLE 2

JURISDICTION

- Section 201. Jurisdiction; in general.
- 202. Money actions and actions involving chattels.
 - 203. Actions involving real property.
 - 204. Summary proceedings.
 - 205. Interpleader.
 - 206. Arbitration.
 - 207. Small claims.
 - 208. Counterclaims.
 - 209. Provisional remedies.
 - 210. Contempt.
 - 211. Joinder of causes of action in complaint; effect on jurisdiction.
 - 212. Additional jurisdiction and powers.
 - 212-a. Declaratory judgments involving de novo review under part 137 of the rules of the chief administrator of the courts (22 NYCRR Part 137).
 - 213. Residence or business within city.

§ 201. Jurisdiction; in general.

The court shall have jurisdiction as set forth in this article and as elsewhere provided by law. Whenever a sum of money is set forth in this article, or reference is made in this article to a sum, it shall be construed as such sum exclusive of interest and costs.

§ 202. Money actions and actions involving chattels.

The court shall have jurisdiction of actions and proceedings for the recovery of money, actions and proceedings for the recovery of chattels

and actions and proceedings for the foreclosure of liens on personal property where the amount sought to be recovered or the value of the property does not exceed fifteen thousand dollars exclusive of interest and costs.

§ 203. Actions involving real property.

(a) The court shall have jurisdiction of the following actions provided that the real property involved is located in whole or in part within the city:

(1) An action for the establishment of a mechanic's lien on real property to recover a personal judgment for the amount due, where the lien asserted does not, at the time the action is commenced, exceed \$15,000.

(2) An action brought to impose and collect a civil penalty for a violation of state or local laws for the establishment and maintenance of housing standards, including, but not limited to, the multiple dwelling law, the multiple residence law, and any applicable local housing maintenance codes, building codes and health codes.

(3) An action to recover costs, expenses and disbursements incurred by any political subdivision of the state in the elimination or correction of a nuisance or other violation of any law described in paragraph (2) of this subdivision, or in the removal or demolition of any building pursuant to such law or laws.

(4) An action or proceeding to establish, enforce or foreclose a lien upon real property and the rents therefrom, for civil penalties or for costs, expenses and disbursements incurred by any political subdivision of the state in the elimination of a nuisance or other violation of any law described in paragraph (2) of this subdivision, or in the removal or demolition of any building pursuant to such law or laws.

(5) Actions or proceedings for the removal of housing violations recorded pursuant to any law described in paragraph (2) of this subdivision, or for the imposition of such violation or for the stay of any penalty thereunder.

(6) An action or proceeding for the issuance of an injunction, restraining orders or other orders for the enforcement of housing standards under any law described in paragraph (2) of this subdivision.

(7) Special proceedings to vest title in any political subdivision of the state to abandoned multiple dwellings.

(8) Actions and proceedings under article 7-A of the real property actions and proceedings law, and all summary proceedings to recover possession of residential premises to remove tenants therefrom, and to render judgment for rent due, including without limitation those cases in which a tenant alleges a defense under § 755 of the real property actions and proceedings law, relating to stay of proceedings or action for rent upon failure to make repairs and § 302-a of the multiple dwelling law, as applicable, relating to the abatement of rent in case of certain violations of local housing codes.

(9) Proceedings for the appointment of a receiver of rents, issues and profits of buildings in order to remove or remedy a nuisance or to make repairs required to be made under such laws.

The department of any political subdivision of the state charged with enforcing the multiple dwelling law, multiple residence law, housing maintenance code, and other state and local laws applicable to the enforcement of proper housing standards may commence any action or proceeding described in paragraphs (2), (3), (4), (5), (6), and (9) of this subdivision by an order to show cause, returnable within five days, or within any other time in the discretion of the court. Upon the signing of such order, the clerk of the city court shall issue an index number.

(b) On the application of a department of any political subdivision of the state, any party, or on its own motion, the city court, shall, unless good cause is shown to the contrary, consolidate all actions and proceedings pending in such part as to any building.

(c) Regardless of the relief originally sought by a party the court may recommend or employ any remedy, program, procedure or sanction authorized by law for the enforcement of housing standards, if it believes said remedy, program, procedure or sanction will be more effective to accomplish compliance or to protect and promote the public interest; provided in the event any such proposed remedy, program or procedure entails the expenditure of monies appropriated by any political subdivision of the state, other than for the utilization and deployment of personnel and services incidental thereto, the court shall

give notice of such proposed remedy, program or procedure to the department of such political subdivision that is charged with the enforcement of local laws relating to housing maintenance and shall not employ such proposed remedy, program or procedure, as the case may be, if such department shall advise the court in writing within the time fixed by the court, which shall not be less than fifteen days after such notice has been given, of the reasons such order should not be issued, which advice shall become part of the record. The court may retain continuing jurisdiction of any action or proceeding relating to a building until all violations of law have been removed.

(d) In any of the actions or proceedings specified in subdivision (a) of this section and on the application of any party, a department of any political subdivision of the state or the city court, on its own motion, may join any other person or department of any political subdivision of the state as a party in order to effectuate proper housing maintenance standards and to promote the public interest.

§ 204. Summary proceedings.

The court shall have jurisdiction of summary proceedings to recover possession of real property located in whole or in part within the city, to remove tenants therefrom, and to render judgment for rent due without regard to amount. Except as otherwise prohibited pursuant to subdivision three of section seven hundred ninety-seven of the real property actions and proceedings law, the court shall have jurisdiction of summary proceedings commenced under article seven-D of the real property actions and proceedings law relating to real property located in whole or in part within the city, and render relief authorized therein.

§ 205. Interpleader.

The court shall have jurisdiction of an action of interpleader as and defensive interpleader as defined and governed by the CPLR, provided that the amount in controversy or the value of the property does not exceed the sum referred to in § 202.

§ 206. Arbitration.

(a) Threshold questions under article seventy-five of the civil practice law and rules. If an action of which the court has jurisdiction has been duly commenced therein, and there arise in such action any questions relating to the arbitrability of the controversy, the court shall have jurisdiction completely to dispose of such questions and article seventy-five of the civil practice law and rules shall be applicable thereto. But the court shall not have jurisdiction of the special proceeding, as set forth in subdivision (a) of section seventy-five hundred two of the civil practice law and rules, used to bring before a court the first application arising out of an arbitrable controversy, except as provided in subdivision (b) of this section.

(b) Proceedings on award under article seventy-five of the civil practice law and rules. Where a controversy has been duly arbitrated and an award made therein is for relief which is within the court's jurisdiction, the court shall have jurisdiction of proceedings under sections seventy-five hundred ten through seventy-five hundred fourteen of the civil practice law and rules, relating to judicial recognition of such awards, which provisions shall be applicable thereto.

(c) Arbitration distinct from article seventy-five of the civil practice law and rules. The rules may provide systems of arbitration and conciliation of claims within the court's jurisdiction without reference to article seventy-five of the civil practice law and rules.

§ 207. Small claims.

The court shall have jurisdiction of small claims as defined in article 18 of this act.

§ 208. Counterclaims.

The court shall have jurisdiction of counterclaims as follows:

(a) Of any counterclaim the subject matter of which would be within

the jurisdiction of the court if sued upon separately.

(b) Of any counterclaim for money only, without regard to amount.

(c) Of any counterclaim for the rescission or reformation of the transaction upon which the plaintiff's cause of action is founded, if the amount in controversy on such counterclaim does not exceed the sum referred to in § 202.

§ 209. Provisional remedies.

(a) Attachment, arrest, seizure of chattel. An order of attachment or of arrest, a warrant to seize a chattel as provided in § 207 of the lien law, and an order of seizure of a chattel may issue out of this court if such remedy might issue out of supreme court in a like case.

(b) Injunction or restraining order. No injunction or restraining order or notice shall issue out of or by this court unless:

(1) pursuant to §§ 7102(d), 7103(c) and 7109 of the CPLR, in conjunction with the recovery of a chattel; or

(2) pursuant to § 211 of the Real Property Actions and Proceedings Law, in conjunction with the prevention of waste; or

(2-a) the activity complained of has as its basis a violation of local law or ordinance relating to land use, building regulation or fire prevention in which case, upon the motion of the prosecuting attorney in accordance with CPLR article 63, the court may issue a preliminary injunction or a temporary restraining order restraining such activity; or.

(3) pursuant to § 1508 of this act, in conjunction with an enforcement proceeding; or

(4) pursuant to § 306 of the multiple dwelling law, as applicable, or pursuant to the multiple residence law, as applicable, or pursuant to applicable provisions of local housing maintenance codes, in conjunction with enforcement of housing standards.

(c) Receivers. No receiver shall be appointed by this court except pursuant to § 1508 of this act, relative to an enforcement proceeding, or in an action brought pursuant to subdivision 5 of § 309 of the multiple dwelling law, as applicable, relative to the appointment of a receiver for the recovery of costs, expenses and disbursements incurred by any political subdivision of the state in the elimination or

correction of a nuisance or in the removal or demolition of a building pursuant thereto.

(d) Notice of pendency. A notice of pendency may be filed with the county clerk, as provided in article 65 of the CPLR, in any action within the court's jurisdiction in which the same might be filed in a like action in the supreme court.

§ 210. Contempt.

All of the provisions of law governing civil and criminal contempts in like instances in supreme court shall apply in this court, except that this court shall have no power to punish for contempt a judge or justice of any court.

§ 211. Joinder of causes of action in complaint; effect on jurisdiction.

Where several causes of action are asserted in the complaint, and each of them would be within the jurisdiction of the court if sued upon separately, the court shall have jurisdiction of the action. In such case judgment may be rendered by the court in excess of its monetary jurisdiction as referred to in § 202 if such excess result solely because of such joinder.

§ 212. Additional jurisdiction and powers.

In the exercise of its jurisdiction the court shall have all of the powers that the supreme court would have in like actions and proceedings.

§ 212-a. Declaratory judgments involving de novo review under part 137 of the rules of the chief administrator of the courts (22 NYCRR Part 137).

The court shall have the jurisdiction defined in section 3001 of the CPLR to make a declaratory judgment with respect to actions commenced by a party aggrieved by an arbitration award rendered pursuant to part 137 of the rules of the chief administrator in which the amount in dispute does not exceed \$15,000.

§ 213. Residence or business within city.

(a) In an action described in § 202, either a plaintiff or a defendant must:

1. be a resident of the city or of a town contiguous to such city, provided that such town is

(i) within the same county, and

(ii) contiguous to the city by land, and

(iii) not within either Nassau or Westchester counties; or

2. have a regular employment within the city; or

3. have a place for the regular transaction of business within the city.

(b) A corporation, association or partnership shall, for the purposes of this section, be deemed a resident of the city if it has an office or agency or regularly transacts business in the city.

(c) The requirements of subdivision (a) shall not apply:

1. in an action described in § 404 (a), relative to a cause of action arising within the city; or

2. in an action described in § 405, relative to actions in rem or quasi in rem; or

3. in an action wherein service of summons is made pursuant to § 407, relative to service upon an attorney or clerk as agent of his client; or

4. to a counterclaim, cross-claim, third-party claim, interpleader claim, or claim asserted by or against a party who has intervened in the

action.

(d) The requirements of this section shall not be deemed jurisdictional; they shall be deemed waived by the plaintiff upon his commencing an action in the court, and they shall be deemed waived by the defendant unless he raises the objection by motion or in his responsive pleading as prescribed in § 1002 of this act. Notwithstanding waiver by the parties, the court may, on its own initiative at any time, dismiss an action which does not satisfy the requirements of this section. Any dismissal under this section shall entitle the parties to the benefit of CPLR § 205, relating to an extension of time to commence a new action.

ARTICLE 4

SUMMONS

Section 400. Method of commencing action or special proceeding.

401. Summons; issuance; form.

402. Summons; time to appear and answer.

403. Summons; method and place of service.

404. Summons; personal jurisdiction by acts of non-residents.

405. Summons; service without the county permissible but not giving personal jurisdiction in certain actions.

406. Summons; service by publication authorized.

407. Summons; action commenced pursuant to CPLR § 303.

408. Summons; service outside county to bring in certain additional parties.

409. Summons; filing proof of service.

410. Summons; when service complete.

411. Service of summons and complaint, third-party complaint, petition with a notice of petition or order to show cause and petition upon defendant.

412. Accrual of interest.

§ 400. Method of commencing action or special proceeding.

1. An action is commenced in this court by filing a summons and

complaint. A special proceeding is commenced by filing a notice of petition and petition or order to show cause and petition. For purposes of this section, and for purposes of section two hundred three of the civil practice law and rules, filing shall mean the delivery of the summons and complaint, the notice of petition and petition or order to show cause and petition to the clerk of the court in which the action or special proceeding is brought together with any fee required by section nineteen hundred eleven of this act. At the time of filing, the original and a copy of the papers shall be date stamped by the court clerk who shall file the original and maintain a record of the filing and shall return the copy to the party who brought the filing. The clerk shall accept the fee and file the papers as soon as reasonably practicable.

2. Jurisdiction is acquired over a party to an action or special proceeding by service upon such party of a copy of the summons and complaint or the notice of petition and petition or the order to show cause and petition.

3. The actual index number shall be on the summons, notice of petition or order to show cause as served. Failure to include the index number on the papers as served shall be cured by stipulation between the parties or by leave of court, which shall not be unreasonably withheld.

§ 401. Summons; issuance; form.

(a) The summons may be issued by the plaintiff's attorney or, if the plaintiff appears without attorney, by the clerk.

(b) The summons shall be in such form as may be provided by rule. It shall contain the residence address of the plaintiff and, if it is issued by the plaintiff's attorney, the latter's office address.

§ 402. Summons; time to appear and answer.

(a) If the summons is personally delivered to the defendant within the county, it shall require him to appear and answer within ten days after its service.

(b) If the summons is served:

(1) by delivery to a person, including an actual or statutory designee, other than the defendant; or
(2) outside the county; or
(3) by publication; or
(4) by any means other than personal delivery to the defendant within the county,
it shall provide that the defendant must appear and answer within thirty days after service is complete.

§ 403. Summons; method and place of service.

Service of summons shall be made in the manner prescribed in supreme court practice, including the optional method of service by mail authorized by CPLR 312-a, but it shall be made only within the county unless service beyond the county be authorized by law in this act or elsewhere.

§ 404. Summons; personal jurisdiction by acts of non-residents.

(a) Acts which are the basis of jurisdiction. The court may exercise personal jurisdiction over any non-resident of the county, or his executor or administrator, as to a cause of action arising from any of the acts enumerated in this section, in the same manner as if he were a domiciliary of the state and a resident of the county, if, in person or through an agent, he:

1. transacts any business within the city; or
2. commits a tortious act within the city, except as to a cause of action for defamation of character arising from the act; or
3. owns, uses or possesses any real property situated within the city.

(b) Service of summons. Service of summons under this section may be made in any part of the county or any adjoining county and shall be made in such manner as would confer jurisdiction on supreme court in a like case.

(c) Effect of appearance. Where personal jurisdiction is based solely upon this section, an appearance does not confer such jurisdiction with respect to causes of action not arising from an act enumerated in this section.

(d) Corporation or association. If service of the summons cannot be effected by personal delivery thereof within the county so as to acquire in personam jurisdiction of a corporation or unincorporated association, such corporation or association shall be deemed a non-resident of the county for purposes of this section.

§ 405. Summons; service without the county permissible but not giving personal jurisdiction in certain actions.

Service may be made in any part of the county or any adjoining county by any person authorized to make service in a like instance in supreme court and in the same manner as service in such court may be made:

(a) in an action involving real property as defined in § 203 of this act; or

(b) in an action to foreclose a lien on, or to recover, a chattel seized within the county; or

(c) where a levy upon property of the person to be served has been made within the county pursuant to an order of attachment.

§ 406. Summons; service by publication authorized.

The court, upon motion without notice, shall order service of a summons by publication in an action described in § 405 if service cannot be made by another method with due diligence. Practice and procedure on service by publication shall be governed by the CPLR, except insofar as this act otherwise provides.

§ 407. Summons; action commenced pursuant to CPLR § 303.

In any action in this court commenced by service of summons upon an

attorney or a clerk as agent, as authorized by CPLR § 303, such service may be made in any part of the county or any adjoining county and shall otherwise be made in such manner as would confer jurisdiction on the supreme court in a like case.

§ 408. Summons; service outside county to bring in certain additional parties.

A summons may be served in any part of the county or any adjoining county, in such manner as would confer jurisdiction on supreme court in a like instance, upon:

(a) a third-party defendant as set forth in CPLR § 1007;

(b) a person not a party against whom a counterclaim is asserted pursuant to CPLR § 3019(a);

(c) a person not a party against whom a cross-claim is asserted pursuant to CPLR § 3019(b);

(d) a claimant whom a defendant stakeholder seeks to bring into the action pursuant to CPLR § 1006(b); and

(e) a person whom the court has ordered joined as a party pursuant to CPLR § 1001.

§ 409. Summons; filing proof of service.

(a) Proof of service of the summons and complaint, notice of petition and petition or order to show cause and petition shall be filed with the clerk of the court.

(b) If service has been made by the court's enforcement officer, his or her certificate shall be the equivalent of an affidavit of service.

§ 410. Summons; when service complete.

The service of summons is complete when it would be complete in a like instance in an action in the supreme court.

§ 411. Service of summons and complaint, third-party complaint, petition with a notice of petition or order to show cause and petition upon defendant.

Service of the summons and complaint, third-party summons and complaint, petition with a notice of petition or order to show cause and petition shall be made within one hundred twenty days after the filing of the summons and complaint, third-party summons and complaint, petition with a notice of petition or order to show cause and petition, provided that if service is not made upon a defendant within the time provided in this section, the court, upon motion, shall dismiss the action without prejudice as to that defendant, or upon good cause shown or in the interest of justice, extend the time for service.

§ 412. Accrual of interest.

In any action, petition, order to show cause or other proceeding wherein interest accrues from the date of the inception of the action, petition, order or proceeding, said entitlement to interest shall not accrue until service is completed by the actual index number being properly depicted on the summons and provided to the party to be charged with payment of interest.

ARTICLE 7

MANDATES

Section 701. Direction and execution of mandates.

§ 701. Direction and execution of mandates.

(a) In an action or proceeding brought in the court, all civil processes and mandates, except as otherwise provided in this act, may be served or executed only within the county. They shall be executed by the court's enforcement officer within such area as is within his territorial jurisdiction as elsewhere provided by law. Where this act empowers the court's process or mandate to be served or executed without

the county, or where it is to be served or executed within the county but at such place therein as is beyond the territorial jurisdiction of the court's enforcement officer, the process or mandate may be served or executed by such officer as could serve or execute the process or mandate of the supreme court of the county in a like instance.

(b) The provisions of law applicable in supreme court practice, relating to the execution of mandates by a sheriff and the power and control of the court over the sheriff executing the same, shall apply to this court's enforcement officers.

(c) In any instance where a return by the enforcement officer is required by law to be made to the court or the clerk thereof, such provision shall be deemed to refer to this court, or the clerk of this court, as the case may be; except that where this court has issued its transcript the sheriff shall return executions to the county clerk with whom such transcript is filed.

(d) Nothing herein contained shall be construed to prevent the service of a summons, petition, notice of petition, subpoena or other paper by any person who might serve the same in a like instance in the supreme court.

ARTICLE 8

PROVISIONAL REMEDIES

Section 801. Provisional remedies; procedure.

§ 801. Provisional remedies; procedure.

Whenever the remedies set forth in § 209 of this act may issue out of this court under the terms of said section, practice and procedure thereon shall be governed, insofar as consistent with this act, by the CPLR and such other provisions of law governing practice and procedure thereon in the supreme court, subject to the following:

(a) The remedy may be executed only within the county against persons or property within the county.

(b) When a return is required, the return shall be made to the clerk of this court.

(c) 1. Where a notice of pendency may be filed with the county clerk, pursuant to § 209(d) of this act, the original complaint shall be filed simultaneously with such county clerk; service of summons shall thereafter be made within the time provided in CPLR § 6512. A copy of the complaint shall be sufficient for the purpose of filing the same, after service thereof, with the clerk of this court.

2. Where a notice of pendency is filed with the county clerk after the action has been commenced in this court, a copy of the complaint may be filed therewith in lieu of the original complaint.

ARTICLE 9

PLEADINGS

Section 901. Pleadings; in general.

902. Pleadings; form.

903. Pleadings; requirements of formal pleading inapplicable to indorsement pleading.

905. Pleadings; defenses.

907. Pleadings; subsequent pleading containing cause of action.

908. Pleadings; verification.

909. Pleadings; amended and supplemental.

910. Simplified procedure for court determination of disputes; action without pleadings.

§ 901. Pleadings; in general.

Pleadings between plaintiff and defendant shall consist of complaint and answer and, when ordered, a reply. Such order may be made by motion on notice or by the court of its own motion.

§ 902. Pleadings; form.

(a) All pleadings shall be formal pleadings, as in supreme court practice, except that:

1. If the plaintiff's cause of action is for money only and the summons is served by personal delivery to the defendant within the county, the cause of action may be set forth by indorsement upon the summons. The indorsement shall consist of a statement of the nature and substance of the cause of action, and the summons in such instance shall set forth the amount in which the plaintiff will take judgment in the event of default. Unless the rules of the court provide otherwise, the clerk shall make such indorsement for a plaintiff appearing without attorney.

2. Where such indorsement method has been used, or where the plaintiff's cause of action is for money only in the amount of \$300 or less, the defendant, if he appears without attorney, may answer by indorsement of the nature and substance of the answer on, or by annexation of it to, the summons. Unless the rules of the court provide otherwise, the clerk shall make such indorsement.

(b) If a formal complaint must be or is used, it shall be served with the summons, except that if service is made by publication the CPLR shall govern.

(c) The address of the defendant, and that of his attorney if he shall appear by attorney, shall be stated with or in the answer.

(d) The rules may provide, in actions for money only in designated categories in which the plaintiff might otherwise proceed by indorsement as above provided, that a formal complaint, or a formal answer, or both, shall be required.

(e) The court in any case may, at any time before judgment, on its own motion or on the motion on notice of a party, direct the service and filing of a formal pleading.

§ 903. Pleadings; requirements of formal pleading inapplicable to indorsement pleading.

The requirements of this act or of the CPLR applicable to a formal pleading shall not be applicable to an indorsement pleading.

§ 905. Pleadings; defenses.

The court may consider any defense to a cause of action or claim asserted by any party, whether such defense be denominated or deemed legal or equitable in nature.

§ 907. Pleadings; subsequent pleading containing cause of action.

(a) Counterclaim. The plaintiff may reply to a counterclaim but shall not be required to do so except by court order. If the plaintiff elects voluntarily to reply, he shall do so within ten days after service of the answer containing the counterclaim. In the absence of a reply the allegations of the counterclaim shall be deemed denied by the plaintiff. An answer containing a counterclaim against the plaintiff and another person shall be replied to by such other person, as required by CPLR § 3019(d), within the time provided in § 402 of this act, based upon the time and method of service.

(b) Cross-claim. A cross-claim shall be answered within ten days after the answer containing it is served.

(c) Third-party claim and claim by defendant stakeholder. A third-party complaint, and an interpleader complaint served by a defendant stakeholder under CPLR § 1006 (b), shall be answered within the time provided in § 402 of this act, based upon the time and method of service.

§ 908. Pleadings; verification.

Verification of pleadings shall be governed by the CPLR, except that if a pleading be not formal it need not be verified. The court in such instance may require a formal pleading as provided in subdivision (e) of § 902, and order its verification.

§ 909. Pleadings; amended and supplemental.

(a) A party may amend his pleading once without leave of court at any time before the period for responding to it expires, or within ten days

after its service or the service of a pleading responding to it. An amended pleading which requires a responsive pleading shall be responded to within ten days after it is served, or within ten days after the expiration of the period during which the original pleading could have been responded to, whichever is later.

(b) Except as provided in subdivision (a), the CPLR shall govern amended and supplemental pleadings in this court.

§ 910. Simplified procedure for court determination of disputes; action without pleadings.

The simplified procedure for court determination of disputes set forth in CPLR §§ 3031, 3035 and 3037, and rules 3032 and 3036, shall apply in this court insofar as they may be applicable and the relief demanded is within the jurisdiction of this court.

ARTICLE 10

MOTIONS

Section 1001. Motion practice.

1002. Motion to dismiss.

1003. Motion to correct pleadings.

1004. CPLR § 3213 applicable; return time varied.

§ 1001. Motion practice.

Motion practice in the court, including time provisions for the making and decision of motions, practice relating to show cause orders, and practice relating to motions before, during and after trial, shall be governed by the CPLR, except as this act otherwise provides.

§ 1002. Motion to dismiss.

(a) CPLR rule 3211, relating to a motion to dismiss, shall apply in this court, except that, with reference to subdivision (e) of said rule,

a party's time to move to dismiss a cause of action contained in a pleading to which no response is required shall be within ten days after the service of such pleading. A motion based on paragraphs two, seven or ten of subdivision (a) of said rule may, as provided in its subdivision (e), be made at any time.

(b) An objection based upon § 213(a) of this act, relative to residence or business within the city, shall be treated, for purposes of this section and CPLR rule 3211, as if it were an objection under CPLR rule 3211(a)(8), relative to the court's jurisdiction of the person of the defendant.

§ 1003. Motion to correct pleadings.

Rule 3024 of the CPLR shall apply to motions to correct formal pleadings in this court, except that the notice of motion shall be served within the time allowed for responding to the challenge pleading or, in the case of a pleading requiring no response, within ten days after the service of such pleading.

§ 1004. CPLR § 3213 applicable; return time varied.

CPLR § 3213, relating to a motion for summary judgment in lieu of complaint, shall be applicable in this court, except that the minimum period for return of the motion shall be as provided by § 402 of this act for answering a summons, based upon the time and method of service. The summons served with such motion papers shall instruct the defendant to answer as provided in the accompanying notice of motion. If the plaintiff adds days to the period for return provided herein, he may require the defendant to serve a copy of his answering papers upon plaintiff an equal number of days prior to such return day.

ARTICLE 11 DISCLOSURE

Section 1101. Disclosure.

1102. Implied admissions.

§ 1101. Disclosure.

(a) CPLR applicable. The procedures set forth in the CPLR relative to disclosure, bill of particulars and the procuring of a copy of the items of an account, shall govern in this court, subject to paragraph (b).

(b) Parties and non-parties. All notices, orders, subpoenas and other papers relating to disclosure:

1. by a party, may be served in any part of the county or any adjoining county and shall be served by such means as would be permissible in the supreme court in a like instance;

2. by a person not a party, may be served and executed only within the county, unless the court shall find that the interests of justice require that service not be so limited, in which case the court may permit service as in paragraph one. Such permission may be granted only after motion on notice to all adverse parties.

(c) Protective order. The protective order provided for in CPLR § 3103 shall be available in this court with regard to all of the foregoing, and shall not be limited to the disclosure devices provided in article 31 of the CPLR.

(d) Extra-territorial disclosure. In any case where disclosure would be available in the supreme court in a like case, but is unavailable in this court by virtue of any territorial limitation upon its jurisdiction, the court may, upon motion on notice to all adverse parties, make an order to obtain disclosure from a source without the city, county or state by the use of any device to which the supreme court might resort to obtain disclosure from a source without the state.

§ 1102. Implied admissions.

The following provisions governing matters deemed admitted and the imposition of additional costs for unreasonable denials shall be applicable in this court.

(a) Ownership, operation or control of:

1. Vehicle. In an action for negligence arising from the ownership, operation or control of a vehicle required to be registered or licensed, where the pleading containing the cause of action states the registration or license number of such vehicle, the pleader need not prove upon the trial the ownership, operation or control of such vehicle by the other party and the same shall be deemed admitted, unless specifically denied in the responsive pleading.

2. Streetcar or bus. In an action for negligence arising from the ownership, operation or control of any streetcar or omnibus in the state of New York, where the pleading containing the cause of action states the avenue or street upon which the said streetcar or omnibus was operated, the place where the accident occurred, and the number of the streetcar or omnibus or the name or number of any of the employees operating the said streetcar or omnibus at the time in question, the pleader need not prove upon the trial the ownership, operation or control of the particular streetcar or omnibus by the other party and the same shall be deemed admitted, unless specifically denied in the responsive pleading.

3. Building. In an action for negligence arising from the ownership, operation or control of any building, dwelling or tenement house, where the pleading containing the cause of action states the full address of the building, dwelling or tenement house and the date when the acts complained of took place, the pleader need not prove upon the trial the ownership, operation or control of such building, dwelling or tenement house by the other party and the same shall be deemed admitted, unless specifically denied in the responsive pleading.

(b) Signature. A signature to a written instrument which is pleaded shall be deemed genuine unless the other party, in his responsive pleading, specifically denies its genuineness and makes demand that it be proved.

(c) Corporate existence. In an action by or against a corporation organized or authorized to do business pursuant to the laws of the state of New York, the existence of such corporation shall be deemed admitted

unless specifically denied in the responsive pleading.

(d) In the event of the unreasonable or unjustifiable denial of any of the matters contained in subdivisions (a), (b) or (c), and the satisfactory proof thereof, upon trial, by the party who pleaded them, the court may allow such party, if he prevails in the action, additional costs not to exceed twenty-five dollars for each such denial.

ARTICLE 12

SUBPOENAS

Section 1201. Subpoenas.

§ 1201. Subpoenas.

A subpoena and a subpoena duces tecum, and the powers of the court with reference to them, shall be governed by the CPLR, except that they shall be served only within the county. But the court, upon motion of a party which need not be on notice, may issue either kind of subpoena and permit its service in any part of any adjoining county if satisfied that the interests of justice would be served thereby.

ARTICLE 13

TRIAL

Section 1301. How cause brought on for trial; notice of trial.

1302. Adjournment of trial.

1303. Jury trial; how obtained; jury fee.

1304. Time for rendering judgment or decision.

1305. Number of jurymen.

1306. Jury terms.

1307. Jurors; challenges.

§ 1301. How cause brought on for trial; notice of trial.

Upon joinder of issue the clerk shall place the case upon a general

calendar. Where any party appears in person, the clerk shall fix a date for trial not less than five nor more than fifteen days after joinder of issue, and shall immediately notify all the parties by mail of such date. If any of the parties has appeared by attorney, the clerk shall notify the attorney. Where all parties appear by attorney any party may serve a notice on the others fixing a date for trial not less than five nor more than eight days after the service of such notice, and shall file such notice, with proof of service thereof, with the clerk, who shall thereupon place the case on the calendar for trial. The case shall be set down for trial as provided for by the rules.

§ 1302. Adjournment of trial.

The trial of an action may be adjourned:

(a) By the court for good cause shown and upon such terms and conditions as the court may deem just.

(b) By stipulation of the parties with the approval of the court, such stipulation to be filed with the clerk; or upon request of the plaintiff where the defendant has made default; or, if the court approve, upon consent of the parties in open court.

§ 1303. Jury trial; how obtained; jury fee.

(a) Either party after joinder of issue may demand a trial by jury. The demand must be made in writing and must be filed with the clerk with the notice of trial set forth in § 1301. Any other party to the action within ten days after the service of a copy of the notice of trial upon him unaccompanied by a written notice demanding a trial by jury, may serve upon the attorneys for all the other parties to the action a written notice demanding a jury trial and file a copy of such notice with the clerk within three days after service thereof. In a summary proceeding to recover possession of real property, the demand may be made by the tenant at the time of answering or by the landlord at any time before the day of trial.

(b) Unless a demand is made and the jury fee paid as provided in section nineteen hundred eleven of this act, a jury trial is waived.

(c) The court may relieve a party from the effect of failing to comply with this section if no undue prejudice to the rights of another party would result.

§ 1304 Time for rendering judgment or decision.

If a jury trial is not demanded or directed as provided in § 1303, the court must render judgment within thirty days from the time when the case is submitted for that purpose, except when further time is given by the consent of the parties. If no decision is rendered within the time thus limited, the case shall be placed upon such calendar as may be provided by rule.

§ 1305. Number of jurymen.

A jury shall be composed of six persons.

§ 1306. Jury terms.

Jury terms shall be held as may from time to time be directed by statute, rule or order. All provisions of law applicable to trial jurors in supreme court, insofar as such provisions are not inconsistent with this act, or with such other provisions of law governing the particular court as concern the system for impaneling and the fees of trial jurors, shall apply as nearly as may be in this court.

§ 1307. Jurors; challenges.

Challenges to jurors shall be as provided in the CPLR.

ARTICLE 14
JUDGMENT

Section 1401. Judgments; in general.
1402. Default judgment.
1403. Confession of judgment.

§ 1401. Judgments; in general.

Within the limits of its jurisdiction as defined in this act, the court shall have power to render any judgment that the supreme court might render in a like case. The judgment shall be prepared by the attorney for the successful party, except that if such party does not appear by attorney the judgment shall be prepared by the clerk. If the judgment is not prepared within thirty days after it is rendered, the attorney for the unsuccessful party may prepare the judgment, except that if such party does not appear by attorney, the judgment shall be prepared by the clerk upon request of such party.

§ 1402. Default judgment.

A judgment by default may be entered as provided in CPLR § 3215. A summons stating the amount for which the plaintiff will take judgment if the defendant fails to appear and answer, and containing a statement of the nature and substance of the cause of action, or a summons accompanied by a formal complaint, shall be deemed "the summons and the complaints" referred to in subdivision (e) of said section.

§ 1403. Confession of judgment.

The provisions of CPLR § 3218, relating to judgment by confession, shall be applicable in this court where the relief for which the judgment is confessed is within the jurisdiction of this court, provided, with reference to paragraph one of subdivision (a) of said section, that the affidavit specify that the defendant is a resident of the city or, if he is not such a resident, that entry is authorized in this court. If such additional requirements are fulfilled, the words

"clerk of the county" as used in subdivision (b) of said section shall be deemed a reference to the clerk of this court, and the judgment confessed shall be entered in this court and shall be enforceable in the same manner and with the same effect as a judgment in an action in this court.

ARTICLE 15

EXECUTION

Section 1501. Execution; when and how issued.

1502. Transcript of judgment.

1503. Execution against enforcement officer.

1504. Execution issued out of this court; requisites.

1505. Execution to be levied against real property.

1506. Execution where order of attachment issued.

1507. Limitation on execution against property of tenant.

1508. Enforcement proceeding; injunction; receivership.

1509. Contempt; extension of court's process.

§ 1501. Execution; when and how issued.

An execution upon a judgment may be issued by the judgment-creditor's attorney or, if he does not appear by attorney, by the clerk of the court. It shall be issued within the time prescribed by law applicable in the supreme court. But no execution shall issue out of this court after a transcript has been issued.

A "judgment", as used in this article, shall be deemed to include an order directing the payment of money.

§ 1502. Transcript of judgment.

(a) Upon application of a judgment-creditor the clerk must deliver to him a transcript of the judgment. If the judgment is for other than money only, the clerk shall insert in the transcript a brief statement of the nature of the action and the relief awarded by the judgment; such

statement may be inserted under "remarks" as contained in the form set forth in § 255-c of the judiciary law.

(b) The docketing of the judgment with the clerk of the county, and thereafter with other county clerks, shall be governed by the CPLR.

§ 1503. Execution against enforcement officer.

(a) Execution on a judgment against an enforcement officer other than a sheriff shall issue only to the sheriff after transcript filed with the county clerk and must be made returnable to said clerk.

(b) Execution on a judgment against a sheriff shall issue to such person as the same would issue to in supreme court practice on a like judgment, and it shall issue only after transcript filed with the county clerk and must be made returnable to said clerk.

§ 1504. Execution issued out of this court; requisites.

An execution issued out of this court may be levied only against personal property of the judgment-debtor. It must be subscribed by either the clerk of the court or the attorney for the judgment-creditor and must bear, in addition to such other matter as is required by the CPLR, the date of its delivery. It may be levied in any part of the county, and for such purpose it is not necessary that the judgment have been docketed with the county clerk.

§ 1505. Execution to be levied against real property.

An execution out of this court may not be levied against real property. In order for an execution on a judgment of this court to be levied against real property, a transcript of such judgment must be filed with the county clerk of the county pursuant to § 1502 of this act, whereupon the judgment will be enforceable against real or personal property of the judgment-debtor as if the supreme court had rendered such judgment.

§ 1506. Execution where order of attachment issued.

Where the real property of the judgment-debtor has been duly attached under an order of attachment that has not been vacated, the execution may not issue out of this court. In such a case, a transcript of the judgment must be filed and docketed with the county clerk and the execution issued out of supreme court.

§ 1507. Limitation on execution against property of tenant.

No levy shall be made on the property of a tenant dispossessed for nonpayment of rent under any execution within twenty-four hours of the time of eviction or dispossession.

§ 1508. Enforcement proceeding; injunction; receivership.

(a) An injunction or restraining order or notice may issue out of or by, and a receiver may be appointed by, the court if:

1. the court has been granted jurisdiction of an enforcement proceeding by CPLR § 5221; and

2. such remedy is utilized in furtherance of the enforcement of a money judgment.

(b) In any enforcement proceeding of which the court has jurisdiction, all processes, mandates, subpoenas, orders, notices and other papers therein may be served or executed in any part of the county or any adjoining county and shall be served or executed by such means as would be authorized in the supreme court in a like instance; and the powers of a receiver appointed in such proceeding, pursuant to subdivision (a), shall extend throughout the county and every adjoining county.

§ 1509. Contempt; extension of court's process.

In an instance where a contempt of the court has been committed, the court's process or mandate relating to the punishment of the contemptuous person may be served and executed in any part of the county or any adjoining county, and proceedings thereon shall follow supreme court practice.

ARTICLE 17

APPEALS

Section 1701. Appeals; to what court.

1702. Appeals; judgments and orders appealable.

1703. Appeals; practice and procedure in general.

1704. Settlement of case and return on appeal.

1705. Printing; record and briefs.

1706. Appeals from appellate court.

§ 1701. Appeals; to what court.

Appeals in civil causes shall be taken to the county court, unless an appellate term of the supreme court has been established by the appellate division of the department and such appellate division has directed that such appeals be taken to such term, in which case the appeal shall be taken to the appellate term.

§ 1702. Appeals; judgments and orders appealable.

(a) Appeals as of right. An appeal may be taken as of right:

1. from any final or interlocutory judgment except one entered subsequent to an order of an appellate court which disposes of all the issues in the action; or

2. from an order not specified in subdivision (b), where the motion it decided was made upon notice and it:

(i) grants, refuses, continues or modifies a provisional remedy; or

(ii) settles, grants or refuses an application to resettle a

transcript or statement on appeal; or

(iii) grants or refuses a new trial; except where specific questions of fact arising upon the issues in an action triable by the court have been tried by a jury, pursuant to an order for that purpose, and the order grants or refuses a new trial upon the merits; or

(iv) involves some part of the merits; or

(v) affects a substantial right; or

(vi) in effect determines the action and prevents a judgment from which an appeal might be taken; or

(vii) determines a statutory provision of the state to be unconstitutional, and the determination appears from the reasons given for the decision or is necessarily implied in the decision; or

3. from an order, where the motion it decided was made upon notice, refusing to vacate or modify a prior order, if the prior order would have been appealable as of right under paragraph two had it decided a motion made upon notice.

(b) Orders not appealable as of right. An order is not appealable as of right where it:

1. requires or refuses to require a more definite statement in a pleading; or

2. orders or refuses to order that scandalous or prejudicial matter be stricken from a pleading.

(c) Appeals by permission. An appeal may be taken from any order which is not appealable as of right by permission of the judge who made the order granted before application to a judge or justice of the appellate court; or by permission of a judge or justice of the appellate court upon refusal by the judge who made the order or upon direct application.

(d) On any appeal taken hereunder the appellate court shall have full power to review any exercise of discretion by the court or judge below.

§ 1703. Appeals; practice and procedure in general.

(a) Practice and procedure on appeals shall be as provided in article 55 of the CPLR except insofar as this act or the rules of this court

consistent with this act otherwise provide.

(b) An appeal as of right from a judgment entered in a small claim or a commercial claim must be taken within thirty days of the following, whichever first occurs:

1. service by the court of a copy of the judgment appealed from upon the appellant.

2. service by a party of a copy of the judgment appealed from upon the appellant.

3. service by the appellant of a copy of the judgment appealed from upon a party.

Where service as provided in paragraphs one through three of this subdivision is by mail, five days shall be added to the thirty day period prescribed in this section.

§ 1704. Settlement of case and return on appeal.

(a) When an appeal has been taken, the stenographer's original transcript of minutes must be furnished to the clerk within ten days after the fees therefor have been paid. Immediately upon receiving such minutes the clerk shall cause notice of that fact to be sent to the attorney for the appellant, or to the appellant if he or she has not appeared by attorney. Within fifteen days after receiving the transcript from the clerk, or from any other source, the appellant or the appellant's attorney shall make any proposed amendments and cause them to be served, together with a copy of the transcript, on the attorney for the respondent, or on the respondent if he or she has not appeared by attorney. Within fifteen days after such service, the respondent or the respondent's attorney shall make any proposed amendments to the transcript or objections to the proposed amendments of the appellant and cause them to be served on the appellant's attorney or on the appellant if he or she has not appeared by attorney. The appellant or his or her attorney shall then procure the case to be settled on a written notice of at least four days to the clerk and to the attorney for the respondent or to the respondent if he or she has not appeared by

attorney, returnable before the judge who tried the case. The clerk must thereupon make a return to the appellate court, which must contain the summons or notice of petition, pleadings, evidence, judgment and all other necessary papers and proceedings, and have annexed thereto the opinion of the court, if any, and the notice of appeal. The judge before whom the case was tried shall within five days from the date of the submission to the court of the case on appeal, settle the case and indorse his or her settlement on the return. In lieu of the judge settling the case and indorsing his or her settlement on the return, the parties may stipulate that the transcript together with the proposed amendments, if any, and all other elements of the return are correct. The clerk must thereupon cause the return to be filed with the clerk of the appellate court. After a judge is out of office he or she may settle the case in any action or proceeding tried before him or her and may be compelled by the appellate court so to do.

(b) Where no testimony was taken and a settlement of a case is not required, the return shall be made by the clerk forthwith upon filing the notice of appeal. Such return shall contain the judgment or order appealed from and all the original papers upon which the judgment or order was rendered or made, duly authenticated by the certificate of the clerk having the custody thereof, or copies thereof duly certified by such clerk, and shall have annexed thereto the opinion of the court, if any, and the notice of appeal.

(c) Upon an appeal from an order granting or denying a motion for a new trial, upon the ground of fraud or newly discovered evidence, the stenographer's minutes of the trial shall be included in the return of the clerk and the provisions of subdivision (a) of this section shall apply to such an appeal.

§ 1705. Printing; record and briefs.

The printing of neither the record nor the briefs shall be required except as the rules of the court to which the appeal is taken shall provide in designated classes of appeals.

§ 1706. Appeals from appellate court.

Appeals from the judgment or order of an appellate court, on appeal from this court, shall be governed by the CPLR.

ARTICLE 18

SMALL CLAIMS

Section 1801. Small claims defined.

- 1802. Parts for the determination of small claims established.
- 1803. Commencement of action upon small claims.
- 1804. Informal and simplified procedure on small claims.
- 1805. Remedies available; transfer of small claims.
- 1806. Trial by jury; how obtained; discretionary costs.
- 1807. Review.
- 1808. Judgment obtained to be res judicata in certain cases.
- 1809. Procedures relating to corporations, associations, insurers and assignees.
- 1810. Limitation on right to resort to small claims procedures.
- 1811. Notice of small claims judgments and indexing of unpaid claims.
- 1812. Enforcement of small claims judgments.
- 1813. Duty to pay judgments.
- 1814. Designation of defendant; amendment procedure.
- 1815. Appearance by non-attorney representatives.

§ 1801. Small claims defined.

The term "small claim" or "small claims" as used in this act shall mean and include any cause of action for money only not in excess of five thousand dollars exclusive of interest and costs, or any action commenced by a party aggrieved by an arbitration award rendered pursuant to part 137 of the rules of the chief administrator of the courts (22 NYCRR Part 137) in which the amount in dispute does not exceed \$5,000, provided that the defendant either resides, or has an office for the transaction of business or a regular employment within the county, or

where the claimant is or was a tenant or lessee of real property owned by the defendant and the claim relates to such tenancy or lease, and such real property is situated within the county.

§ 1802. Parts for the determination of small claims established.

The chief administrator shall assign the times and places for holding, and the judges who shall hold, one or more parts of the court for the hearing of small claims as herein defined, and the rules may regulate the practice and procedure controlling the determination of such claims and prescribe and furnish the forms for instituting the same. There shall be at least one evening session of each part every month for the hearing of small claims, provided however, that the chief administrator may provide for exemption from this requirement where there exists no demonstrated need for evening sessions. Such practice, procedure and forms shall differ from the practice, procedure and forms used in the court for other than small claims, notwithstanding any provision of law to the contrary. They shall constitute a simple, informal and inexpensive procedure for the prompt determination of such claims in accordance with the rules and principles of substantive law. The procedure established pursuant to this article shall not be exclusive of but shall be alternative to the procedure now or hereafter established with respect to actions commenced in the court by the service of a summons. No rule to be enacted pursuant to this article shall dispense with or interfere with the taking of stenographic minutes of any hearing of any small claim hereunder, except that in cities with a population of fifty thousand or less hearings may be recorded mechanically.

§ 1803. Commencement of action upon small claims.

(a) Small claims shall be commenced upon the payment by the claimant of a filing fee of fifteen dollars for claims in the amount of one thousand dollars or less and twenty dollars for claims in the amount of more than one thousand dollars, without the service of a summons and, except by special order of the court, without the service of any pleading other than a statement of his cause of action by the claimant

or someone in his behalf to the clerk, who shall reduce the same to a concise, written form and record it in a docket kept especially for such purpose. Such procedure shall provide for the sending of notice of such claim by ordinary first class mail and certified mail with return receipt requested to the party complained against (1) at his residence, if he resides within the county, and his residence is known to the claimant, or (2) at his office or place of regular employment within the county if he does not reside therein or his residence within the county is not known to the claimant, or (3) where the claimant is or was a tenant or lessee of real property owned by the defendant and the claim relates to such tenancy or lease and the notice of claim cannot be sent under paragraph one or two of this subdivision, at any place in the county or an adjoining county where claimant may mail or otherwise deliver rent. If, after the expiration of twenty-one days, such ordinary first class mailing has not been returned as undeliverable, the party complained against shall be presumed to have received notice of such claim. Such notice shall include a clear description of the procedure for filing a counterclaim, pursuant to subdivision (c) of this section.

Such procedure shall further provide for an early hearing upon and determination of such claim. No filing fee, however, shall be demanded or received on small claims of employees who shall comply with § 1912 of this act which is hereby made applicable, except that necessary mailing costs shall be paid.

(b) The clerk shall furnish every claimant, upon commencement of the action, with information written in clear and coherent language which shall be prescribed and furnished by the office of court administration, concerning the small claims court. Such information shall include, but not be limited to, an explanation of the following terms and procedures; adjournments, counterclaims, jury trial requests, subpoenas, arbitration, collection methods and fees, the responsibility of the judgment creditor to collect data on the judgment debtor's assets, the ability of the court prior to entering judgment to order examination of or disclosure by, the defendant and restrain him, the utilization of section eighteen hundred twelve of this article concerning treble damage awards and information subpoenas including, but not limited to, specific

questions to be used on information subpoenas, and the claimant's right to notify the appropriate state or local licensing or certifying authority of an unsatisfied judgment if it arises out of the carrying on, conducting or transaction of a licensed or certified business or if such business appears to be engaged in fraudulent or illegal acts or otherwise demonstrates fraud or illegality in the carrying on, conducting or transaction of its business and a list of at least the most prominent state or local licensing or certifying authorities and a description of the business categories such licensing or certifying authorities oversee. The information shall be available in English. Large signs in English shall be posted in conspicuous locations in each small claims court clerk's office, advising the public of its availability.

(c) A defendant who wishes to file a counterclaim shall do so by filing with the clerk a statement containing such counterclaim within five days of receiving the notice of claim. At the time of such filing the defendant shall pay to the clerk a filing fee of five dollars plus the cost of mailings which are required pursuant to this subdivision. The clerk shall forthwith send notice of the counterclaim by ordinary first class mail to the claimant. If the defendant fails to file the counterclaim in accordance with the provisions of this subdivision, the defendant retains the right to file the counterclaim, however the claimant may, but shall not be required to, request and obtain adjournment of the hearing to a later date. The claimant may reply to the counterclaim but shall not be required to do so.

§ 1804. Informal and simplified procedure on small claims.

The court shall conduct hearings upon small claims in such manner as to do substantial justice between the parties according to the rules of substantive law and shall not be bound by statutory provisions or rules of practice, procedure, pleading or evidence, except statutory provisions relating to privileged communications and personal transactions or communications with a decedent or person with a mental illness. An itemized bill or invoice, receipted or marked paid, or two itemized estimates for services or repairs, are admissible in evidence

and are prima facie evidence of the reasonable value and necessity of such services and repairs. Disclosure shall be unavailable in small claims procedure except upon order of the court on showing of proper circumstances. In every small claims action, where the claim arises out of the conduct of the defendant's business at the hearing on the matter, the judge or arbitrator shall determine the appropriate state or local licensing or certifying authority and any business or professional association of which the defendant is a member. The provisions of this act and the rules of this court, together with the statutes and rules governing supreme court practice, shall apply to claims brought under this article so far as the same can be made applicable and are not in conflict with the provisions of this article; in case of conflict, the provisions of this article shall control.

§ 1805. Remedies available; transfer of small claims.

(a) Upon determination of a small claim, the court shall direct judgment in accordance with its findings, and, when necessary to do substantial justice between the parties, may condition the entry of judgment upon such terms as the court shall deem proper. Pursuant to section fifty-two hundred twenty-nine of the civil practice law and rules, prior to entering a judgment, the court may order the examination of or disclosure by, the defendant and restrain him to the same extent as if a restraining notice had been served upon him after judgment was entered.

(b) The court shall have power to transfer any small claim or claims to any other part of the court upon such terms as the rules may provide, and proceed to hear the same according to the usual practice and procedure applicable to other parts of the court.

(c) No counterclaim shall be permitted in a small claims action, unless the court would have had monetary jurisdiction over the counterclaim if it had been filed as a small claim. Any other claim sought to be maintained against the claimant may be filed in any court of competent jurisdiction.

(d) If the defendant appears to be engaged in repeated fraudulent or illegal acts or otherwise demonstrates persistent fraud or illegality in the carrying on, conducting or transaction of business, the court shall

either advise the attorney general in relation to his authority under subdivision twelve of section sixty-three of the executive law, or shall advise the claimant to do same, but shall retain jurisdiction over the small claim.

(e) If the defendant appears to be engaged in fraudulent or illegal acts or otherwise demonstrates fraud or illegality in the carrying on, conducting or transaction of a licensed or certified business, the court shall either advise the appropriate state or local licensing or certifying authority or shall advise the claimant to do same, but shall retain jurisdiction over the small claim.

(f) The court shall have the jurisdiction defined in section 3001 of the CPLR to make a declaratory judgment with respect to actions commenced by a party aggrieved by an arbitration award rendered pursuant to part 137 of the rules of the chief administrator of the courts (22 NYCRR Part 137) in which the amount in dispute does not exceed \$5,000.

§ 1806. Trial by jury; how obtained; discretionary costs.

A person commencing an action upon a small claim under this article shall be deemed to have waived a trial by jury, but if said action shall be removed to a regular part of the court, the plaintiff shall have the same right to demand a trial by jury as if such action had originally been begun in such part. Any party to such action, other than the plaintiff, prior to the day upon which he is notified to appear or answer, may file with the court a demand for a trial by jury and his affidavit that there are issues of fact in the action requiring such a trial, specifying the same and stating that such trial is desired and intended in good faith. Such demand and affidavit shall be accompanied with the jury fee required by law and an undertaking in the sum of fifty dollars in such form as may be approved by the rules, payable to the other party or parties, conditioned upon the payment of any costs which may be entered against him in the said action or any appeal within thirty days after the entry thereof; or, in lieu of said undertaking, the sum of fifty dollars may be deposited with the clerk of the court and thereupon the clerk shall forthwith transmit such original papers or duly attested copies thereof as may be provided by the rules to the part

of the court to which the action shall have been transferred and assigned and such part may require pleadings in such action as though it had been begun by the service of a summons. Such action may be considered a preferred cause of action. In any small claim which may have been transferred to another part of the court, the court may award costs up to twenty-five dollars to the plaintiff if he prevails.

§ 1807. Review.

A person commencing an action upon a small claim under this article shall be deemed to have waived all right to appeal, except that either party may appeal on the sole grounds that substantial justice has not been done between the parties according to the rules and principles of substantive law.

§ 1808. Judgment obtained to be res judicata in certain cases.

A judgment obtained under this article shall not be deemed an adjudication of any fact at issue or found therein in any other action or court; except that a subsequent judgment obtained in another action or court involving the same facts, issues and parties shall be reduced by the amount of a judgment awarded under this article.

§ 1809. Procedures relating to corporations, associations, insurers and assignees.

1. No corporation, except a municipal corporation, public benefit corporation, school district or school district public library wholly or partially within the municipal corporate limit, no partnership, or association and no assignee of any small claim shall institute an action or proceeding under this article, nor shall this article apply to any claim or cause of action brought by an insurer in its own name or in the name of its insured whether before or after payment to the insured on the policy.

2. A corporation may appear in the defense of any small claim action brought pursuant to this article by an attorney as well as by any authorized officer, director or employee of the corporation provided that the appearance by a non-lawyer on behalf of a corporation shall be deemed to constitute the requisite authority to bind the corporation in a settlement or trial. The court or arbitrator may make reasonable inquiry to determine the authority of any person who appears for the corporation in defense of a small claims court case.

§ 1810. Limitation on right to resort to small claims procedures.

If the clerk shall find that the procedures of the small claims part are sought to be utilized by a claimant for purposes of oppression or harassment, as where a claimant has previously resorted to such procedures on the same claim and has been unsuccessful after the hearing thereon, the clerk may in his discretion compel the claimant to make application to the court for leave to prosecute the claim in the small claims part. The court upon such application may inquire into the circumstances and, if it shall find that the claim has already been adjudicated, or that the claim is sought to be brought on solely for purposes of oppression or harassment and not under color of right, it may make an order denying the claimant the use of the small claims part to prosecute the claim.

§ 1811. Notice of small claims judgments and indexing of unpaid claims.

(a) Notice of judgment sent to judgment debtor shall specify that a failure to satisfy a judgment may subject the debtor to any one or combination of the following actions:

1. garnishment of wage;
2. garnishment of bank account;
3. a lien on personal property;

4. seizure and sale of real property;
5. seizure and sale of personal property, including automobiles;
6. suspension of motor vehicle license and registration, if claim is based on defendant's ownership or operation of a motor vehicle;
7. revocation, suspension, or denial of renewal of any applicable business license or permit;
8. investigation and prosecution by the attorney general for fraudulent or illegal business practices; and
9. a penalty equal to three times the amount of the unsatisfied judgment plus attorney's fees, if there are other unpaid claims.

(b) Notice of judgment sent to judgment creditor shall contain but not be limited to the following information:

1. the claimant's right to payment within thirty days following the debtor's receipt of the judgment notice;

2. the procedures for use of section eighteen hundred twelve of this article concerning the identification of assets of the judgment debtor including the use of information subpoenas, access to consumer credit reports and the role of sheriffs and marshals, and actions to collect three times the judgment award and attorney's fees if there are two other unsatisfied claims against the debtor;

3. the claimant's right to initiate actions to recover the unpaid judgment through the sale of the debtor's real property, or personal property;

4. the claimant's right to initiate actions to recover the unpaid judgment through suspension of debtor's motor vehicle license and registration, if claim is based on defendant's ownership or operation of a motor vehicle;

5. the claimant's right to notify the appropriate state or local licensing or certifying authority of an unsatisfied judgment as a basis for possible revocation, suspension, or denial of renewal of business license; and

6. a statement that upon satisfying the judgment, the judgment debtor shall present appropriate proof thereof to the court; and

7. the claimant's right to notify the attorney general if the debtor is a business and appears to be engaged in fraudulent or illegal business practices.

(c) Notice of judgment sent to each party shall include the following statement: "An appeal from this judgment must be taken no later than the earliest of the following dates: (i) thirty days after receipt in court of a copy of the judgment by the appealing party, (ii) thirty days after personal delivery of a copy of the judgment by another party to the action to the appealing party (or by the appealing party to another party), or (iii) thirty-five days after the mailing of a copy of the judgment to the appealing party by the clerk of the court or by another party to the action."

(d) All wholly or partially unsatisfied small claims court judgments shall be indexed alphabetically and chronologically under the name of the judgment debtor. Upon satisfying the judgment, the judgment debtor shall present appropriate proof to the court and the court shall indicate such in the records.

§ 1812. Enforcement of small claims judgments.

(a) The special procedures set forth in subdivision (b) hereof shall be available only where:

1. there is a recorded judgment of a small claims court; and

2. (i) the aforesaid judgment resulted from a transaction in the course of the trade or business of the judgment debtor, or arose out of a repeated course of dealing or conduct of the judgment debtor, and (ii)

there are at least two other unsatisfied recorded judgments of a small claims court arising out of such trade or business or repeated course of dealing or conduct, against that judgment debtor; and

3. the judgment debtor failed to satisfy such judgment within a period of thirty days after receipt of notice of such judgment. Such notice shall be given in the same manner as provided for the service of a summons or by certified mail, return receipt requested, and shall contain a statement that such judgment exists, that at least two other unsatisfied recorded judgments exist, and that failure to pay such judgment may be the basis for an action, for treble the amount of such unsatisfied judgment, pursuant to this section.

(b) Where each of the elements of subdivision (a) of this section are present the judgment creditor shall be entitled to commence an action against said judgment debtor for treble the amount of such unsatisfied judgment, together with reasonable counsel fees, and the costs and disbursements of such action, provided, however, that in any such action it shall be a defense that the judgment debtor did not have resources to satisfy such judgment within a period of thirty days after receipt of notice of such judgment. The failure to pay a judgment obtained in an action pursuant to this section shall not be the basis for another such action pursuant to this section.

(c) Where the judgment is obtained in an action pursuant to subdivision (b), and arises from a business of the defendant, the court shall, in addition to its responsibilities under this article, advise the attorney general in relation to his authority under subdivision twelve of section sixty-three of the executive law, and if such judgment arises from a certified or licensed business of the defendant, advise the state or local licensing or certifying authority.

(d) Where a judgment has been entered in a small claims court and remains unsatisfied, the small claims clerk shall, upon request, issue information subpoenas, at nominal cost, for the judgment creditor and provide the creditor with assistance on their preparation and use. The court shall have the same power as the supreme court to punish a contempt of court committed with respect to an information subpoena.

§ 1813. Duty to pay judgments.

(a) Any person, partnership, firm or corporation which is sued in a small claims court for any cause of action arising out of its business activities, shall pay any judgment rendered against it in its true name or in any name in which it conducts business. "True name" includes the legal name of a natural person and the name under which a partnership, firm or corporation is licensed, registered, incorporated or otherwise authorized to do business. "Conducting business" as used in this section shall include, but not be limited to, maintaining signs at business premises or on business vehicles; advertising; entering into contracts; and printing or using sales slips, checks, invoices or receipts. Whenever a judgment has been rendered against a person, partnership, firm or corporation in other than its true name and the judgment has remained unpaid for thirty-five days after receipt by the judgment debtor of notice of its entry, the aggrieved judgment creditor shall be entitled to commence an action in small claims court against such judgment debtor, notwithstanding the jurisdictional limit of the court, for the sum of the original judgment, costs, reasonable attorney's fees, and one hundred dollars.

(b) Whenever a judgment which relates to activities for which a license is required has been rendered against a business which is licensed by a state or local licensing authority and which remains unpaid for thirty-five days after receipt by the judgment debtor of notice of its entry and the judgment has not been stayed or appealed, the state or local licensing authority shall consider such failure to pay, if deliberate or part of a pattern of similar conduct indicating recklessness, as a basis for the revocation, suspension, conditioning or refusal to grant or renew such license. Nothing herein shall be construed to preempt an authority's existing policy if it is more restrictive.

(c) The clerk shall attach to the notice of suit required under this article a notice of the duty imposed by this section.

§ 1814. Designation of defendant; amendment procedure.

(a) A party who is ignorant, in whole or in part, of the true name of a person, partnership, firm or corporation which may properly be made a

party defendant, may proceed against such defendant in any name used by the person, partnership, firm or corporation in conducting business, as defined in subdivision (a) of section eighteen hundred thirteen of this article.

(b) If the true name of the defendant becomes known at any time prior to the hearing on the merits, such information shall be brought to the attention of the clerk, who shall immediately amend all prior proceedings and papers. The clerk shall send an amended notice to the defendant, without payment of additional fees by the plaintiff, and all subsequent proceedings and papers shall be amended accordingly.

(c) In every action in the small claims part, at the hearing on the merits, the judge or arbitrator shall determine the defendant's true name. The clerk shall amend all prior proceedings and papers to conform to such determination, and all subsequent proceedings and papers shall be amended accordingly.

(d) A party against whom a judgment has been entered pursuant to this article, in any proceeding under section five thousand fifteen of the civil practice law and rules for relief from such judgment, shall, disclose its true name; any and all names in which it is conducting business; and any and all names in which it was conducting business at the time of the transaction or occurrence on which such judgment is based. All subsequent proceedings and papers shall be amended to conform to such disclosure.

§ 1815. Appearance by non-attorney representatives.

The court may permit, upon the request of a party, that a non-attorney representative, who is related by consanguinity or affinity to such party, be allowed to appear on behalf of such party when the court finds that due to the age, mental or physical capacity or other disability of such party that it is in the interests of justice to permit such representation. No person acting as a non-attorney representative shall be permitted to charge a fee or be allowed to accept any form of remuneration for such services.

ARTICLE 18-A
COMMERCIAL CLAIMS

Section 1801-A. Commercial claims defined.

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1803-A. Commencement of action upon commercial claims.

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1813-A. Duty to pay judgments.

1814-A. Designation of defendant; amendment procedure.

§ 1801-A. Commercial claims defined.

(a) The term "commercial claim" or "commercial claims" as used in this act shall mean and include any cause of action for money only not in excess of the maximum amount permitted for a small claim in the small claims part of the court, exclusive of interest and costs, provided that subject to the limitations contained in section eighteen hundred nine-A of this article, the claimant is a corporation, partnership or association, which has its principal office in the state of New York and provided that the defendant either resides, or has an office for the transaction of business or a regular employment, within the county in which the court is located. In a city court having a basic monetary jurisdiction in civil matters of less than one thousand dollars, the commercial claims jurisdiction of such court shall be equal to its basic monetary jurisdiction.

(b) Consumer transaction defined. The term "consumer transaction" means a transaction between a claimant and a natural person, wherein the

money, property or service which is the subject of the transaction is primarily for personal, family or household purposes.

§ 1802-A. Parts for the determination of commercial claims established.

The chief administrator shall assign the times and places for holding, and the judges who shall hold, one or more parts of the court for the hearing of commercial claims as herein defined, and the rules may regulate the practice and procedure controlling the determination of such claims and prescribe and furnish the forms for instituting the same. There shall be at least one evening session of each part every month for the hearing of commercial claims, provided however, that the chief administrator may provide for exemption from this requirement where there exists no demonstrated need for evening sessions. The chief administrator shall not combine commercial claims part actions with small claims part actions for purposes of convenience unless a preference is given to small claims and to commercial claims arising out of consumer transactions. Such practice, procedure and forms shall differ from the practice, procedure and forms used in the court for other than small claims and commercial claims, notwithstanding any provision of law to the contrary. They shall constitute a simple, informal and inexpensive procedure for the prompt determination of commercial claims in accordance with the rules and principles of substantive law. The procedure established pursuant to this article shall not be exclusive of but shall be alternative to the procedure now or hereafter established with respect to actions commenced in the court by the service of a summons. No rule to be enacted pursuant to this article shall dispense with or interfere with the taking of stenographic minutes of any hearing of any business claim hereunder, except that in cities with a population of fifty thousand or less hearings may be recorded mechanically.

§ 1803-A. Commencement of action upon commercial claims.

(a) Commercial claims other than claims arising out of consumer transactions shall be commenced upon the payment by the claimant of a

filing fee of twenty-five dollars and the cost of mailings as herein provided, without the service of a summons and, except by special order of the court, without the service of any pleading other than a required certification verified as to its truthfulness by the claimant on a form prescribed by the state office of court administration and filed with the clerk, that no more than five such actions or proceedings (including the instant action or proceeding) have been instituted during that calendar month, and a statement of its cause of action by the claimant or someone in its behalf to the clerk, who shall reduce the same to a concise, written form and record it in a docket kept especially for such purpose. Such procedure shall provide that the commercial claims part of the court shall have no jurisdiction over, and shall dismiss, any case with respect to which the required certification is not made upon the attempted institution of the action or proceeding. Such procedure shall provide for the sending of notice of such claim by ordinary first class mail and certified mail with return receipt requested to the party complained against at his residence, if he resides within the county in which the court is located, and his residence is known to the claimant, or at his office or place of regular employment within such county if he does not reside therein or his residence within the county is not known to the claimant. If, after the expiration of twenty-one days, such ordinary first class mailing has not been returned as undeliverable, the party complained against shall be presumed to have received notice of such claim. Such notice shall include a clear description of the procedure for filing a counterclaim, pursuant to subdivision (d) of this section.

Such procedure shall further provide for an early hearing upon and determination of such claim. The hearing shall be scheduled in a manner which, to the extent possible, minimizes the time the party complained against must be absent from employment.

Either party may request that the hearing be scheduled during evening hours, provided that the hearing shall not be scheduled during evening hours if it would cause unreasonable hardship to either party. The court shall not unreasonably deny requests for evening hearings if such requests are made by the claimant upon commencement of the action or by

the party complained against within fourteen days of receipt of the notice of claim.

(b) Commercial claims in actions arising out of consumer transactions shall be commenced upon the payment by the claimant of a filing fee of twenty-five dollars and the cost of mailings as herein provided, without the service of a summons and, except by special order of the court, without the service of any pleading other than a required statement of the cause of action by the claimant or someone on its behalf to the clerk, who shall reduce the same to a concise written form including the information required by subdivision (c) of this section, denominate it conspicuously as a consumer transaction, and record it in the docket marked as a consumer transaction, and by filing with the clerk a required certificate verified as to its truthfulness by the claimant on forms prescribed by the state office of court administration.

Such verified certificate shall certify (i) that the claimant has mailed by ordinary first class mail to the party complained against a demand letter, no less than ten days and no more than one hundred eighty days prior to the commencement of the claim, and (ii) that, based upon information and belief, the claimant has not instituted more than five actions or proceedings (including the instant action or proceeding) during the calendar month.

A form for the demand letter shall be prescribed and furnished by the state office of court administration and shall require the following information: the date of the consumer transaction; the amount that remains unpaid; a copy of the original debt instrument or other document underlying the debt and an accounting of all payments, and, if the claimant was not a party to the original transaction, the names and addresses of the parties to the original transaction; and a statement that the claimant intends to use this part of the court to obtain a judgment, that further notice of a hearing date will be sent, unless payment is received by a specified date, and that the party complained against will be entitled to appear at said hearing and present any defenses to the claim.

In the event that the verified certificate is not properly completed

by the claimant, the court shall not allow the action to proceed until the verified certificate is corrected. Notice of such claim shall be sent by the clerk by both ordinary first class mail and certified mail with return receipt requested to the party complained against at his residence, if he resides within the county in which the court is located, and his residence is known to the claimant, or at his office or place of regular employment within such county if he does not reside therein or his residence is not known to the claimant. If, after the expiration of thirty days, such ordinary first class mailing has not been returned as undeliverable, the party complained against shall be presumed to have received notice of such claim.

Such procedure shall further provide for an early hearing upon and determination of such claim. The hearing shall be scheduled in a manner which, to the extent possible, minimizes the time the party complained against must be absent from employment. Either party may request that the hearing be scheduled during evening hours, provided that the hearing shall not be scheduled during evening hours if it would cause unreasonable hardship to either party. The court shall not unreasonably deny requests for evening hearings if such requests are made by the claimant upon commencement of the action or by the party complained against within fourteen days of receipt of the notice of claim.

(c) The clerk shall furnish every claimant, upon commencement of the action, and every party complained against, with the notice of claim, and with information written in clear and coherent language which shall be prescribed and furnished by the state office of court administration, concerning the commercial claims part. Such information shall include, but not be limited to, the form for certification and filing by the claimant that no more than five such actions or proceedings have been instituted during that calendar month, and an explanation of the following terms and procedures: adjournments, counterclaims, jury trial requests, evening hour requests, demand letters in cases concerning consumer transactions, default judgments, subpoenas, arbitration and collection methods, the responsibility of the judgment creditor to collect data on the judgment debtor's assets, the ability of the court prior to entering judgment to order examination of or disclosure by, the defendant and restrain him, and fees. The information shall be available

in English and, if the chief administrator determines it is appropriate or necessary, in Spanish. Large signs in English and if the chief administrator requires it, in Spanish shall be posted in conspicuous locations in each commercial claims part clerk's office, advising the public of its availability.

(d) A defendant who wishes to file a counterclaim shall do so by filing with the clerk a statement containing such counterclaim within five days of receiving the notice of claim. At the time of such filing the defendant shall pay to the clerk a filing fee of five dollars plus the cost of mailings which are required pursuant to this subdivision. The clerk shall forthwith send notice of the counterclaim by ordinary first class mail to the claimant. If the defendant fails to file the counterclaim in accordance with the provisions of this subdivision, the defendant retains the right to file the counterclaim, however the claimant may, but shall not be required to, request and obtain adjournment of the hearing to a later date. The claimant may reply to the counterclaim but shall not be required to do so.

§ 1804-A. Informal and simplified procedure on commercial claims.

The court shall conduct hearings upon commercial claims in such manner as to do substantial justice between the parties according to the rules of substantive law and shall not be bound by statutory provisions or rules of practice, procedure, pleading or evidence, except statutory provisions relating to privileged communications and personal transactions or communications with a decedent or person with a mental illness. An itemized bill or invoice, receipted or marked paid, or two itemized estimates for services or repairs, are admissible in evidence and are prima facie evidence of the reasonable value and necessity of such services and repairs. Disclosure shall be unavailable in commercial claims procedure except upon order of the court on showing of proper circumstances. The provisions of this act and the rules of this court, together with the statutes and rules governing supreme court practice, shall apply to claims brought under this article so far as the same can be made applicable and are not in conflict with the provisions of this article; in case of conflict, the provisions of this article shall

control.

§ 1805-A. Remedies available; transfer of commercial claims.

(a) Upon determination of a commercial claim, the court shall direct judgment in accordance with its findings, and, when necessary to do substantial justice between the parties, may condition the entry of judgment upon such terms as the court shall deem proper. Pursuant to section fifty-two hundred twenty-nine of the civil practice law and rules prior to entering a judgment, the court may order the examination of or disclosure by, the defendant and restrain him to the same extent as if a restraining notice had been served upon him after judgment was entered.

(b) The court shall have power to transfer any commercial claim or claims to any other part of the court upon such terms as the rules may provide, and proceed to hear the same according to the usual practice and procedure applicable to other parts of the court.

(c) No counterclaim shall be permitted in a commercial claims action, unless the court would have had monetary jurisdiction over the counterclaim if it had been filed as a commercial claim. Any other claim sought to be maintained against the claimant may be filed in any court of competent jurisdiction.

(d) If the defendant appears to be engaged in repeated fraudulent or illegal acts or otherwise demonstrates persistent fraud or illegality in the carrying on, conducting or transaction of business, the court shall either advise the attorney general in relation to his authority under subdivision twelve of section sixty-three of the executive law, or shall advise the claimant to do same, but shall retain jurisdiction over the commercial claim.

(e) If the defendant appears to be engaged in fraudulent or illegal acts or otherwise demonstrates fraud or illegality in the carrying on, conducting or transaction of a licensed or certified business, the court shall either advise the appropriate state or local licensing or certifying authority or shall advise the claimant to do same, but shall retain jurisdiction over the commercial claim.

§ 1806-A. Trial by jury; how obtained; discretionary costs.

A claimant commencing an action upon a commercial claim under this article shall be deemed to have waived a trial by jury, but if said action shall be removed to a regular part of the court, the claimant shall have the same right to demand a trial by jury as if such action had originally been begun in such part. Any party to such action, other than the claimant, prior to the day upon which he is notified to appear or answer, may file with the court a demand for a trial by jury and his affidavit that there are issues of fact in the action requiring such a trial, specifying the same and stating that such trial is desired and intended in good faith. Such demand and affidavit shall be accompanied with the jury fee required by law and an undertaking in the sum of fifty dollars in such form as may be approved by the rules, payable to the other party or parties, conditioned upon the payment of any costs which may be entered against him in the said action or any appeal within thirty days after the entry thereof; or, in lieu of said undertaking, the sum of fifty dollars may be deposited with the clerk of the court and thereupon the clerk shall forthwith transmit such original papers or duly attested copies thereof as may be provided by the rules to the part of the court to which the action shall have been transferred and assigned and such part may require pleadings in such action as though it had been begun by the service of a summons. Such action may be considered a preferred cause of action. In any commercial claim which may have been transferred to another part of the court, the court may award costs up to twenty-five dollars to the claimant if the claimant prevails.

§ 1807-A. Proceedings on default and review of judgments.

(a) A claimant commencing an action upon a commercial claim under this article shall be deemed to have waived all right to appeal, except that either party may appeal on the sole grounds that substantial justice has not been done between the parties according to the rules and principles of substantive law.

(b) The clerk shall mail notice of the default judgment by first class mail, both to the claimant and to the party complained against. Such

notice shall inform the defaulting party, in language promulgated by the state office of court administration, of such party's legal obligation to pay; that failure to pay may result in garnishments, repossessions, seizures and similar actions; and that if there was a reasonable excuse for the default the defaulting party may apply to have the default vacated by submitting a written request to the court.

(c) Proceedings on default under this article are to be governed by, but are not limited to, section five thousand fifteen of the civil practice law and rules.

§ 1808-A. Judgment obtained to be res judicata in certain cases.

A judgment obtained under this article shall not be deemed an adjudication of any fact at issue or found therein in any other action or court except that a subsequent judgment obtained in another action or court involving the same facts, issues and parties shall be reduced by the amount of a judgment awarded under this article.

§ 1809-A. Procedures relating to corporations, associations, insurers and assignees.

(a) Any corporation, including a municipal corporation or public benefit corporation, partnership, or association, which has its principal office in the state of New York and an assignee of any commercial claim may institute an action or proceeding under this article.

(b) No person or co-partnership, engaged directly or indirectly in the business of collection and adjustment of claims, and no corporation or association, directly or indirectly, itself or by or through its officers, agents or employees, shall solicit, buy or take an assignment of, or be in any manner interested in buying or taking an assignment of a bond, promissory note, bill of exchange, book debt, or other thing in action, or any claim or demand, with the intent and for the purpose of bringing an action or proceeding thereon under this article.

(c) A corporation, partnership or association, which institutes an action or proceeding under this article shall be limited to five such

actions or proceedings per calendar month. Such corporation, partnership or association shall complete and file with the clerk the required certification, provided it is true and verified as to its truthfulness, as a prerequisite to the institution of an action or proceeding in this part of the court.

(d) A corporation may appear as a party in any action brought pursuant to this article by an attorney as well as by any authorized officer, director or employee of the corporation provided that the appearance by a non-lawyer on behalf of a corporation shall be deemed to constitute the requisite authority to bind the corporation in a settlement or trial. The court or arbitrator may make reasonable inquiry to determine the authority of any person who appears for the corporation in a commercial claims part case.

§ 1810-A. Limitation on right to resort to commercial claims procedures.

If the clerk shall find that the procedures of the commercial claims part are sought to be utilized by a claimant for purposes of oppression or harassment, as where a claimant has previously resorted to such procedures on the same claim and has been unsuccessful after the hearing thereon, the clerk may in his discretion compel the claimant to make application to the court for leave to prosecute the claim in the commercial claims part. The court upon such application may inquire into the circumstances and, if it shall find that the claim has already been adjudicated, or that the claim is sought to be brought on solely for purposes of oppression or harassment and not under color of right, it may make an order denying the claimant the use of the commercial claims part to prosecute the claim.

§ 1811-A. Indexing commercial claims part judgments.

All wholly or partially unsatisfied commercial claims part judgments shall be indexed alphabetically and chronologically under the name of the judgment debtor. Upon satisfying the judgment, the judgment debtor shall present appropriate proof to the court and the court shall

indicate such in the records.

§ 1812-A. Enforcement of commercial claims judgments.

Where a judgment has been entered in a commercial claims part and remains unsatisfied, the commercial claims clerk shall, upon request, issue information subpoenas, at nominal cost, for the judgment creditor and provide the creditor with assistance on their preparation and use.

§ 1813-A. Duty to pay judgments.

(a) Any person, partnership, firm or corporation which is sued in a commercial claims part for any cause of action arising out of its business activities, shall pay any judgment rendered against it in its true name or in any name in which it conducts business. "True name" includes the legal name of a natural person and the name under which a partnership, firm or corporation is licensed, registered, incorporated or otherwise authorized to do business. "Conducting business" as used in this section shall include, but not be limited to, maintaining signs at business premises or on business vehicles; advertising; entering into contracts; and printing or using sales slips, checks, invoices or receipts. Whenever a judgment has been rendered against a person, partnership, firm or corporation in other than its true name and the judgment has remained unpaid for thirty-five days after receipt by the judgment debtor of notice of its entry, the aggrieved judgment creditor shall be entitled to commence an action in commercial claims part against such judgment debtor, notwithstanding the jurisdictional limit of the court, for the sum of the original judgment, costs, reasonable attorney's fees, and one hundred dollars.

(b) Whenever a judgment which relates to activities for which a license is required has been rendered against a business which is licensed by a state or local licensing authority and which remains unpaid for thirty-five days after receipt by the judgment debtor of notice of its entry and the judgment has not been stayed or appealed, the state or local licensing authority shall consider such failure to pay, if deliberate or part of a pattern of similar conduct indicating

recklessness, as a basis for the revocation, suspension, conditioning or refusal to grant or renew such license. Nothing herein shall be construed to preempt an authority's existing policy if it is more restrictive.

(c) The clerk shall attach to the notice of suit required under this article a notice of the duty imposed by this section.

§ 1814-A. Designation of defendant; amendment procedure.

(a) A party who is ignorant, in whole or in part, of the true name of a person, partnership, firm or corporation which may properly be made a party defendant, may proceed against such defendant in any name used by the person, partnership, firm or corporation in conducting business, as defined in subdivision (a) of section eighteen hundred thirteen-A of this article.

(b) If the true name of the defendant becomes known at any time prior to the hearing on the merits, such information shall be brought to the attention of the clerk, who shall immediately amend all prior proceedings and papers. The clerk shall send an amended notice to the defendant, without payment of additional fees by the plaintiff, and all subsequent proceedings and papers shall be amended accordingly.

(c) In every action in the commercial claims part, at the hearing on the merits, the judge or arbitrator shall determine the defendant's true name. The clerk shall amend all prior proceedings and papers to conform to such determination, and all subsequent proceedings and papers shall be amended accordingly.

(d) A party against whom a judgment has been entered pursuant to this article, in any proceeding under section five thousand fifteen of the civil practice law and rules for relief from such judgment, shall disclose its true name; any and all names in which it is conducting business; and any and all names in which it was conducting business at the time of the transaction or occurrence on which such judgment is based. All subsequent proceedings and papers shall be amended to conform to such disclosure.

COSTS AND FEES

- Section 1900. Security for costs.
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§ 1900. Security for costs.

Article 85 of the CPLR, entitled "security for costs," shall apply in this court, except that the minimum undertaking of CPLR 8503 shall be \$200 rather than the amount therein provided.

§ 1901. Amount of costs in an action.

(a) Ordinary costs. Except as provided in subdivisions (b) and (c) of this section, costs awarded in an action shall be in the amount of:

1. fifty dollars for all proceedings before a notice of trial is filed; plus

2. one hundred dollars for all proceedings after a notice of trial is filed and before trial; plus

3. one hundred fifty dollars for each trial, inquest or assessment of

damages.

(b) Limited costs in certain actions. Costs awarded in an action for a sum of money only where the amount of the judgment is not more than six thousand dollars, shall be in the amount of:

1. twenty dollars for all proceedings before a notice of trial is filed; plus

2. thirty-five dollars for all proceedings after a notice of trial is filed and before trial; plus

3. sixty dollars for each trial, inquest or assessment of damages.

(c) This section shall not apply to costs in a summary proceeding or in a small claims action.

§ 1903. Costs; additional provisions.

The provisions of CPLR §§ 8101, 8103, 8104, 8105 and 8106 shall apply in actions and proceedings in this court.

§ 1904. Certain costs added.

Costs on appeal, and those awarded under § 1102 of this act, may be added to the amount of costs otherwise applicable in the action.

§ 1905. No costs on plea of bankruptcy.

Where the defendant recovers judgment upon the defense of bankruptcy, he shall not be entitled to costs.

§ 1906. Costs allowed by court.

The court may in its discretion impose costs not exceeding fifty

dollars in the following cases:

- (a) Upon granting or denying a motion.
- (b) Upon allowing an amendment of a pleading.
- (c) Upon adjournment of a trial.

§ 1906-a. Costs in a summary proceeding.

In a summary proceeding to recover possession of real property, petitioner shall be allowed as costs for each necessary respondent served with the notice of petition by a person other than an enforcement officer, five dollars, and if there is a default in appearance by the respondent, the sum of five dollars for securing the affidavit that the respondent is not in military service, required by the statutes of the United States; plus, as a disbursement, the fee paid pursuant to § 1911 (a) (11) of this act. Such costs shall be exclusive in such proceeding and shall constitute the sum to be awarded as costs by the judgment pursuant to § 747 of the real property actions and proceedings law, except insofar as additional costs may be imposed pursuant to subdivision three of said section.

§ 1907. Taxation of costs and disbursements.

Costs, together with fees paid to the clerk and the fee for issuing execution to the enforcement officer, must be taxed by the clerk forthwith upon rendition of judgment and inserted therein. Upon issuing a transcript the clerk shall include therein the prospective fees of the county clerk and sheriff. Other taxable disbursements shall be taxed by the clerk on two days' notice to be given by the party entitled thereto to the adverse party. The clerk shall also tax costs allowed by an appellate court and shall enter all items of costs and disbursements in the docket book. All disbursements taxable on notice must be verified by affidavit. The clerk must examine all items presented to him for taxation and, before allowing any disbursements, must be satisfied that the items were necessarily incurred or that the services for which they are charged were necessarily performed.

§ 1908. Disbursements allowable.

Except where the contrary is specifically provided by law, a party to whom costs are awarded, or a prevailing party who has appeared in person, shall be allowed his necessary disbursements as follows:

(a) All fees paid to the clerk or an enforcement officer, including jury fees, and the reasonable expense of serving process where service is made by other than an enforcement officer.

(b) The legal fees of witnesses.

(c) The legal fees paid for a certified copy of a deposition or other paper recorded or filed in any public office, necessarily used or obtained for use on the trial.

(d) The reasonable compensation of commissioners for taking depositions.

(e) Prospective charges for filing a transcript with the county clerk and the sheriff's fees for receiving and returning an execution.

(f) Such other reasonable and necessary expenses as are taxable pursuant to the provisions of CPLR § 8301.

§ 1908-a. Disbursement where service of process by mail is not acknowledged.

In any action where service of process is made by mail pursuant to CPLR 312-a, and where the signed acknowledgement of receipt is not returned within thirty (30) days after receipt of the documents mailed pursuant to that section, the reasonable expense of serving process by an alternative method shall be taxed by the court as a disbursement, payable to the party serving process, if that party is awarded costs in the action or proceeding.

§ 1909. Review of taxation.

Within ten days the clerk's taxation may be reviewed by the court upon

two days' notice. The order must disallow any items wrongfully included in the judgment or add any items wrongfully omitted therefrom, and direct that any sum so disallowed be credited upon any execution or other mandate issued to enforce the judgment. Unless a motion for review of the taxation is made, the clerk's taxation cannot be questioned on appeal.

§ 1910. Costs upon appeal.

(a) Costs upon an appeal may be awarded by the appellate court in its discretion, and if awarded shall be as follows:

1. To the appellant upon reversal, not more than thirty dollars.
2. To the respondent upon affirmance, not more than twenty-five dollars.
3. To either party upon modification, not more than twenty-five dollars.

(b) Costs upon appeal from the judgment or order of the appellate court shall be as provided in the CPLR.

§ 1911. Fees.

(a) Fees payable to the clerk. There shall be paid to the clerk the following sums as court fees in civil matters and there shall be no others:

(1) Upon the filing of the first paper in any action or proceeding, forty-five dollars, unless there has already been paid a fee of forty-five dollars as provided for by paragraph eleven of this subdivision.

(1-a) Upon filing the first paper in an action or proceeding arising out of a consumer credit transaction as defined in subdivision (f) of section one hundred five of the civil practice law and rules, an addition ninety-five dollars.

(2) For issuing an order of arrest or attachment, or requisition or warrant of seizure, where no paper was previously filed, forty-five

dollars.

(3) Upon filing an infant's compromise, where no paper was previously filed, forty dollars.

(4) For filing a notice of trial, forty dollars.

(5) For entry of judgment upon confession, where no paper was previously filed, forty-five dollars.

(6) On filing notice of appeal, thirty dollars.

(7) For issuing a satisfaction of judgment, or a certificate regarding the judgment, six dollars.

(8) On a trial by jury, seventy dollars; to be paid by the party demanding the jury, at the time of the demand.

(9) For exemplification of a copy of a paper on file in the clerk's office fifteen dollars.

(10) For certifying a copy of a paper on file in the clerk's office, six dollars.

(11) For issuing a notice of petition in a summary proceeding to recover possession of real property, forty-five dollars.

(12) Upon the filing of a judgment by a plaintiff on or after September first, two thousand ten in an action or proceeding arising out of a consumer credit transaction as defined in subdivision (f) of section one hundred five of the civil practice law and rules, ninety-five dollars, provided such action or proceeding was commenced prior to such date and no additional fee was paid therein pursuant to paragraph (one-a) of this subdivision.

All fees shall be prepaid before the service shall be performed.

(b) Fees of enforcement officer. There shall be paid to the enforcement officer by the party requiring his services, the same fees to which a sheriff would be entitled for like services in supreme court.

(c) Stenographer's fees. A stenographer shall be entitled to the fees prescribed by the CPLR.

§ 1912. Actions in which no fees to be charged; employees.

Employee's action. When the action is brought by an employee against an employer for services performed by such employee, the clerk shall not

demand or receive any fees whatsoever from the plaintiff or his attorney, if the plaintiff shall present proof by his own affidavit that his demand does not exceed three hundred dollars exclusive of interest and costs; that he is a resident of or an employee in the county; that he has a good and meritorious cause of action against the defendant and the nature thereof; and that he has made either a written or a personal demand upon the defendant or his agent for payment thereof and payment was refused; provided that if the plaintiff shall demand a trial by jury, he must pay to the clerk the fees therefor.

§ 1913. Witnesses' fees.

Witnesses in an action or a special proceeding or before a commissioner or judge of this court taking a deposition, are entitled to the same fees, including mileage, as a witness in an action in the supreme court.

ARTICLE 20

CRIMINAL JURISDICTION AND PROCEDURE

Section 2001. Criminal jurisdiction; procedures.

2005. Further powers of judges; process and mandates.

2009. Judge before whom defendant arraigned or tried.

2012. Drawing of jurors.

2013. Jury trial; submission to jury.

2014. Impanelment and fees of jurors.

2015. Correction of technical errors.

2019. Records.

2020. Disposition of fines and penalties.

§ 2001. Criminal jurisdiction; procedures.

(1) The court shall have such jurisdiction of criminal matters as is prescribed by the criminal procedure law.

(2) Unless otherwise specifically prescribed, the practice and procedure in the court shall be governed by the criminal procedure law.

§ 2005. Further powers of judges; process and mandates.

The judges of the court shall have the power and jurisdiction to send processes and other mandates in any matter of which they have jurisdiction into any part of the county or any adjoining county, for service or execution, as provided by the criminal procedure law; and particularly to compel the attendance of witnesses, to order the conditional examination of witnesses, to issue commissions for the examination of witnesses within or without the state, to inquire into the sanity of a defendant and to dismiss the prosecution of an action conformably to the provisions of the criminal procedure law, and to punish for criminal contempt a person guilty thereof in the manner and subject to the limitations prescribed for courts of record by the judiciary law.

§ 2009. Judge before whom defendant arraigned or tried.

An accused person need not be arraigned or tried before the judge signing or issuing the summons or warrant, but may be arraigned or tried before any judge of the court; provided, however, that whenever trial has been commenced, it shall be continued and concluded by and before the same judge before whom it was commenced, except as hereinbefore provided.

§ 2012. Drawing of jurors.

Jurors may be drawn and summoned in the manner provided by rules of the appellate division of the department in which the court is located. Jurors drawn for civil actions pursuant to this act may also be used in the trial of criminal cases.

§ 2013. Jury trial; submission to jury.

Whenever a case is submitted to the jury, the jury shall be placed in charge of any peace officer, acting pursuant to his special duties, or police officer designated by the court.

§ 2014. Impanelment and fees of jurors.

The system for impaneling, and the fees of, trial jurors shall be as provided by law for the particular court or, in the absence of such governing provisions, as provided for the supreme court of the county in which the court sits. No fee shall be paid to a juror who has been excused from service as a juror, for the day or days so excused.

§ 2015. Correction of technical errors.

Technical errors in the commitment of any accused person may be corrected by the judge at any time after the commitment is signed. The judge may alter or modify a sentence or correct any technical error in the record not affecting the substantial rights of the defendant at any time before the execution of the sentence has been commenced.

§ 2019. Records.

All judges of the court shall keep or cause to be kept legible and suitable records and dockets of all criminal actions and proceedings separate and apart from the records and dockets of civil actions and proceedings kept by them or by clerks of their respective courts.

§ 2020. Disposition of fines and penalties.

All fines and penalties collected by the court shall be paid over to the persons or agencies entitled to the same pursuant to law.

ARTICLE 21

GENERAL

- Section 2101. Definitions; construction of act.
2102. Civil practice; general provisions; CPLR applicable.
2103. Rules of court.
- 2103-a. Use of electronic filing authorized.
2104. Organization of city courts.
2105. Holding of court.

§ 2101. Definitions; construction of act.

The following words used in this act shall have the meaning defined in this section, unless otherwise apparent from the context:

(a) "Administrative board" means the administrative board of the judicial conference of the state.

(b) "Administrative judge" means the officer designated by the appellate division of the department in which the court is located.

(c) "Appellate division" means the appellate division of the supreme court in and for the department in which the court is located, or its designated administrative judge.

(d) "City" means the city in which the court is located.

(e) "City clerk" means the clerk of the city in which the court is located, or the person, by whatever other title, performing equivalent duties.

(f) "Clerk" means the chief clerk or any other clerk or nonjudicial person, regardless of title, employed by the court and designated to perform the function referred to in the particular section.

(g) "Common council" means the local governing body of the city in which the court is located.

(h) "County" means the county in which the court is located.

(i) "Court" means the court to which this act applies pursuant to § 2300, whether called "city court" or otherwise titled, or one of the judges thereof, unless the context clearly indicates reference to some other court.

(j) "Enforcement officer" means such officer or officers, whether

sheriffs or marshals or otherwise titled, designated pursuant to law to execute the civil mandates of the court.

(k) "Judge" means any judicial officer of the court, unless the context clearly indicates reference to some other judge.

(l) "Rules" means the rules adopted pursuant to § 2103 of this act.

§ 2102. Civil practice; general provisions; CPLR applicable.

The CPLR and other provisions of law relating to practice and procedure in the supreme court, notwithstanding reference by name or classification therein to any other court, shall apply in this court as far as the same can be made applicable and are not in conflict with this act.

§ 2103. Rules of court.

The appellate division may adopt, amend and rescind rules for the court not inconsistent with this act, with the CPLR or with the standards and policies adopted by the administrative board. A copy of the rules shall be available at all times in the office of the clerk of the court, and shall be published as directed by the administrative board or, absent the board's direction, by the appellate division. Three copies of the rules shall be filed with the administrative board.

§ 2103-a. Use of electronic filing authorized.

(a) Notwithstanding any other provision of law, the chief administrator of the courts may authorize a program in the use of electronic means in civil cases in a city court as provided in article twenty-one-A of the civil practice law and rules, and in criminal cases as provided in section 10.40 of the criminal procedure law.

(b) For purposes of this section, "electronic means" shall have the same meaning as defined by subdivision (f) of rule twenty-one hundred three of the civil practice law and rules.

§ 2104. Organization of city courts.

(a) The number of judges for each city court outside the city of New York, their jurisdiction and terms of office, and the methods of their selection and of filling vacancies in their offices shall be as provided in this section.

(b) Each judge of a city court, including acting city court judges, shall:

* (1) be an attorney admitted to practice law in this state for at least five years as of the date he or she commences the duties of office, and be a resident of the city in which he or she is elected or appointed, except that the judges of the Sherrill city court may reside anywhere in either Oneida or Madison counties, the city court judge who serves in the office that formerly was that of acting judge of the Oneida city court may reside anywhere in Madison county, the judges of the Peekskill city court may reside anywhere in Westchester county, the city court judge who serves in the office that formerly was that of acting judge of the Port Jervis city court may reside anywhere in either Sullivan or Orange counties, the judges of the Hudson city court may reside anywhere in Columbia county, the city court judge who serves in the office that formerly was that of acting judge of the Mechanicville city court may reside anywhere in Saratoga county, the judges of the Ogdensburg city court may reside anywhere in St. Lawrence county, the judges of the Rensselaer city court may reside anywhere in Rensselaer county, the part-time judge of the Lackawanna city court may reside anywhere in Erie county provided his or her term of office commenced during the two thousand eighteen calendar year and one judge of the Cohoes city court and the city court judge who serves in the office that formerly was that of acting judge of the Watervliet city court may reside anywhere in Albany county.

* NB Effective until the day the term of office of the first part-time judge of the Lackawanna city court to be appointed during the 2018 calendar year expires or on the day such judge otherwise vacates his or her office, whichever occurs first

* (1) be an attorney admitted to practice law in this state for at least five years as of the date he or she commences the duties of office, and be a resident of the city in which he or she is elected or

appointed, except that the judges of the Sherrill city court may reside anywhere in either Oneida or Madison counties, the city court judge who serves in the office that formerly was that of acting judge of the Oneida city court may reside anywhere in Madison county, the judges of the Peekskill city court may reside anywhere in Westchester county, the city court judge who serves in the office that formerly was that of acting judge of the Port Jervis city court may reside anywhere in either Sullivan or Orange counties, the judges of the Hudson city court may reside anywhere in Columbia county, the city court judge who serves in the office that formerly was that of acting judge of the Mechanicville city court may reside anywhere in Saratoga county, the judges of the Ogdensburg city court may reside anywhere in St. Lawrence county, the judges of the Rensselaer city court may reside anywhere in Rensselaer county and one judge of the Cohoes city court and the city court judge who serves in the office that formerly was that of acting judge of the Watervliet city court may reside anywhere in Albany county.

* NB Effective the day the term of office of the first part-time judge of the Lackawanna city court to be appointed during the 2018 calendar year expires or on the day such judge otherwise vacates his or her office, whichever occurs first

(2) exercise all jurisdiction possessed by the court on which he or she serves.

(3) serve a term of six years, except that full-time judges each shall serve a term of ten years.

(c) A full-time judge of a city court shall not engage in the practice of law, act as an arbitrator, referee, or compensated mediator in any action or proceeding, or engage in the conduct of any other professional business that interferes with the performance of his or her judicial duties.

(d) The number of judges of the city court in each city shall be as provided herein. Full-time judgeships are specifically so designated, all others are part-time:

Par. Name of city

- 1 Albany, five full-time;
- 2 Amsterdam, one full-time and one part-time;
- 3 Auburn, one full-time and one part-time;
- 4 Batavia, one full-time and one part-time;

5 Beacon, one full-time and one part-time;
6 Binghamton, three full-time;
7 Buffalo, fourteen full-time;
8 Canandaigua, one full-time and one part-time;
9 Cohoes, two;
10 Corning, one full-time and one part-time;
11 Cortland, one full-time and one part-time;
12 Dunkirk, one full-time and one part-time;
13 Elmira, two full-time;
14 Fulton, one full-time and one part-time;
15 Geneva, three;
16 Glen Cove, two;
17 Glens Falls, one full-time and one part-time;
18 Gloversville, one full-time and one part-time;
19 Hornell, two;
20 Hudson, two;
21 Ithaca, two full-time;
22 Jamestown, two full-time;
23 Johnstown, two;
24 Kingston, two full-time;
25 Lackawanna, one full-time and one part-time;
26 Little Falls, two;
27 Lockport, two full-time;
28 Long Beach, two full-time;
29 Mechanicville, two;
30 Middletown, two full-time;
31 Mount Vernon, three full-time and one part-time;
32 Newburgh, three full-time;
33 New Rochelle, three full-time;
34 Niagara Falls, four full-time;
35 North Tonawanda, one full-time and one part-time;
36 Norwich, one full-time and one part-time;
37 Ogdensburg, one full-time and one part-time;
38 Olean, one full-time and one part-time;
39 Oneida, one full-time and one part-time;
40 Oneonta, two;
41 Oswego, one full-time and one part-time;

42 Peekskill, one full-time and one part-time;
43 Plattsburgh, one full-time and one part-time;
44 Port Jervis, two;
45 Poughkeepsie, two full-time;
46 Rensselaer, two;
47 Rochester, ten full-time;
48 Rome, two full-time;
49 Rye, one full-time and one part-time;
50 Salamanca, two;
51 Saratoga Springs, two full-time;
52 Schenectady, four full-time;
53 Sherrill, one;
54 Syracuse, nine full-time;
55 Tonawanda, one full-time and one part-time;
56 Troy, two full-time and one part-time;
57 Utica, three full-time;
58 Watertown, one full-time and one part-time;
59 Watervliet, two;
60 White Plains, four full-time;
61 Yonkers, seven full-time.

(e) Method of selection; vacancies. (1) Each judge of a city court shall be elected for the term provided in this section, except that each of the following judges shall be appointed:

(i) by the mayor of the city for which the court on which he or she will serve has been established, with the advice and consent of the city council: part-time city court judge of Beacon, part-time city court judge of Corning, part-time city court judge of Cortland, part-time city court judge of Gloversville, city court judge of Glen Cove who serves in the office that on June first, two thousand one was an appointive office pursuant to this subparagraph, part-time city court judge of Olean, city court judges of Plattsburgh, city court judge of Port Jervis who serves in the office that formerly was that of acting city court judge of Port Jervis, city court judges of Rye, the city court judge of Salamanca who serves in the office that formerly was that of acting city court judge of Salamanca, and the part-time city court judge of Watertown who serves in the office that was full-time on March thirty-first, two thousand twenty-one.

(ii) by the city council of the city for which the court on which he or she will serve has been established: part-time city court judge of Auburn, part-time city court judge of Batavia, part-time city court judge of Canandaigua, city court judge of Johnstown who serves in the office that formerly was that of acting city court judge of Johnstown, city court judge of Newburgh who serves in the office that on March thirty-first, two thousand one was part-time, city court judge of Norwich who serves in the office that was created during the calendar year commencing January first, two thousand thirteen, city court judges of Peekskill, and city court judges of White Plains.

(iii) by the mayor of the city for which the court on which he or she will serve has been established: city court judges of Cohoes, part-time city court judge of Dunkirk, part-time city court judge of Fulton, city court judge of Geneva who serves in the office that formerly was that of acting city court judge of Geneva, city court judge of Hornell who serves in the office that formerly was that of acting city court judge of Hornell, city court judge of Hudson who serves in the office that formerly was that of acting city court judge of Hudson, part-time city court judge of Lackawanna, city court judge of Little Falls who serves in the office that formerly was that of acting city court judge of Little Falls, city court judge of Mechanicville who serves in the office that formerly was that of acting city court judge of Mechanicville, city court judge of Middletown who serves in the office that was created during the calendar year commencing January first, two thousand thirteen, part-time city court judge of Mount Vernon, city court judge of New Rochelle who serves in the office that was created during the calendar year commencing January first, two thousand thirteen and the city court judge of such city who serves in the office that on January first, two thousand thirteen was an appointive office pursuant to this subparagraph, part-time city court judge of North Tonawanda, part-time city court judge of Ogdensburg, part-time city court judge of Oneida, city court judge of Oneonta who serves in the office that formerly was that of acting city court judge of Oneonta, part-time city court judge of Oswego, city court judges of Poughkeepsie, city court judge of Rensselaer who serves in the office that formerly was that of acting city court judge of Rensselaer, city court judge of Saratoga Springs who serves in the office that was created during the calendar year

commencing January first, two thousand thirteen, part-time city court judge of Tonawanda and city court judge of Watervliet who serves in the office that formerly was that of acting city court judge of Watervliet. Provided, however, the following special provisions shall be applicable in the city of Poughkeepsie:

(A) except as otherwise provided in clause (B) of this subparagraph, the mayor shall submit the name of the person he or she intends to appoint to fill a vacancy in the office of city court judge, together with such background information as he or she may deem appropriate, to an advisory judicial screening committee. Such committee shall be comprised of three residents of the city of Poughkeepsie, two of whom shall be attorneys duly licensed and in good standing to practice law in the state of New York and who shall be designated by the president of the Dutchess county bar association, and one of whom shall be a non-lawyer who shall be designated by the president of the Dutchess county community college. Within thirty days after such submission, the committee shall rate the person named therein for his or her fitness for the office of Poughkeepsie city court judge and shall notify the mayor in writing of such rating, which may be "highly-qualified", "qualified", or "not rated". The committee's rating shall be advisory only and the mayor's authority to appoint the person whose name has been submitted, or to choose not to appoint such person, shall not in any way be limited thereby.

(B) In the event that a vacancy in the office of city court judge of the city of Poughkeepsie is anticipated to occur on the first day of January of any year in which a new mayoral term shall commence, the person who will assume the office of mayor on such first day of January shall submit the name of the person he or she intends to appoint to fill such vacancy to the advisory judicial screening committee not later than the immediately preceding first day of December.

(iv) by the city commission of the city in which the court on which he or she will serve has been established: city court judge of Sherrill.

(2) Whenever a vacancy in the office of city court judge occurs other than by expiration of term, it shall be filled as herein provided:

(i) If the office is elective, the part-time city court judge of the court on which the vacancy has occurred or, if there be more than one part-time city court judge of such court, the part-time city court judge

senior in service, shall fill the vacancy temporarily until the thirty-first day of December following the next general city election at which the vacancy can be filled. At such election, a successor shall be elected to fill the vacancy for a full term of office, to commence on January first next thereafter. If there is no part-time city court judge of the court on which the vacancy has occurred or if the incumbent part-time city court judge declines to serve as provided herein or if the vacancy is in the office of part-time city court judge, the mayor of the city in which the court on which the vacancy has occurred is located shall appoint a qualified person to fill the vacancy temporarily as provided in this subparagraph. Where a part-time city court judge fills a vacancy in the office of full-time city court judge pursuant to this subparagraph:

(A) he or she shall not be deemed to have vacated the office of part-time city court judge, his or her term in such office shall not be deemed to have been interrupted and, upon expiration of service as full-time city court judge hereunder, he or she shall resume service as part-time city court judge for the remainder of such term;

(B) for the duration of such service, he or she shall be paid the compensation provided by law for the office of city court judge thereby filled; and

(C) the mayor may appoint a qualified person to serve as part-time city court judge in his or her stead for a period not to exceed the period during which he or she serves as full-time city court judge hereunder.

(ii) If the office is appointive, a successor shall be selected for a full term in the manner provided in paragraph one of this subdivision.

(f) Notwithstanding the designation hereunder of a judge of a city court as part-time or as an acting city court judge, such judge shall, for purposes of determining his or her entitlement to credit under the retirement and social security law for service rendered prior to April first, nineteen hundred ninety-four, be deemed to work full time.

§ 2105. Holding of court.

A city which hosts a city court governed by this act is authorized to

keep its court facilities open in the evening where court administrators determine that the court should schedule night sessions.

ARTICLE 22

TRANSITION

Section 2203. Cases carried over.

2204. Appeal involving pending action or proceeding; judgment or order of court.

§ 2203. Cases carried over.

All actions and proceedings pending in any court to which this act applies, at the time this act takes effect, shall remain in the court and shall be governed by the following subdivisions of this section.

(a) No such action or proceeding, or appeal taken therein, shall abate by virtue of the application of this act to the court.

(b) For the purpose of the disposition of such pending action or proceeding only, the jurisdiction of the court shall be deemed expanded to that of the court under provisions applicable prior to the effective date of this act whenever necessary to sustain the jurisdiction of the court over such action or proceeding if the court had jurisdiction of the same under such provisions.

(c) Except as provided for in the foregoing, practice and procedure in such actions and proceedings shall be as if the same were instituted after the effective date of this act. But if the court shall find that a practice or procedure available prior to the effective date of this act, but unavailable after such effective date, is necessary to the disposition of such action or proceeding, the court may permit recourse to or completion of the same.

§ 2204. Appeal involving pending action or proceeding; judgment or order of court.

(a) If on the effective date of this act there existed a right of appeal from a judgment or order entered before the effective date of

this act in any court to which this act applies, and the time in which to appeal as provided for in the practice obtaining in such court prior to the effective date hereof has not expired, such time shall continue to run as if this act did not take effect and an appeal may be taken within such time by the service of a notice of appeal upon the respondent or respondents and by the filing of the same with the clerk of this court.

(b) Such appeal shall be taken to the county court or, if an appellate term has been established in the department and the appellate division has directed that such appeal be taken to such term, it shall be so taken. Further appeal from either of such courts shall be governed by the same provisions as would govern judgments or orders entered in this court after the effective date of this act.

(c) If the judgment or order is entered by this court after the effective date of this act, it shall be treated, for purposes of appeal, as if the action or proceeding were commenced in this court after such effective date, except as provided in subdivision (d).

(d) If in any action or proceeding decided prior to the effective date of this act, a party had a right of direct appeal from the court to the court of appeals, such appeal may be taken directly to the court of appeals during the time such party would have had under the practice obtaining in the court prior to the effective date hereof; and if the judgment or order in such case is entered after the effective date of this act, the time in which to take such direct appeal shall be governed by the practice obtaining in the court as if such court entered the judgment or order prior to the effective date hereof. The notice of appeal, if not filed as of the effective date of this act, shall be served on the respondent or respondents and shall be filed with the clerk of this court.

(e) For all purposes except appeal, a judgment or order entered by the court before the effective date hereof shall be treated as if the action or proceeding in which the same was entered was commenced in this court and the judgment or order entered herein after such effective date.

ARTICLE 23

APPLICATION

Section 2300. Application of this act.

2301. Effective date.

§ 2300. Application of this act.

(a) All references to the "uniform city court act" or to the "UCCA" in any law of the state shall be deemed a reference to this act or to the appropriate portions thereof.

(b) This act shall apply to each city court of the state outside the city of New York; provided, however, the following, with regard to each court to which this act is applicable as herein provided, shall not be governed by this act but shall be governed by such other provisions of law as may be applicable to each such court:

1. All matters regarding the compensation of judges.

2. Matters regarding expenses of the court and matters regarding the duties of judges and employees of the court to account for and pay over fines, penalties, fees and any other monies received by them.

(c) Notwithstanding any other provision of law, where, on the day immediately preceding the effective date of this subdivision a city court exercised greater jurisdiction or powers than are provided under this act, such city court shall continue to exercise such greater jurisdiction or powers.

§ 2301. Effective date.

This act shall take effect April first, nineteen hundred sixty-five, except that subdivision (f) of section twenty-three hundred shall take effect immediately.