

CHAPTER 990

CONSTRUCTION OF STATUTES

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990.001 Construction of laws; rules for. In construing Wisconsin laws the following rules shall be observed unless construction in accordance with a rule would produce a result inconsistent with the manifest intent of the legislature:

(1) **SINGULAR AND PLURAL.** The singular includes the plural, and the plural includes the singular.

(2) **GENDER.** Words importing one gender extend and may be applied to any gender. Any person who by statute, rule or ordinance is designated a chairman, alderman or other similar title may use another equivalent title such as, in the case of a chairman, "chair", "chairperson", "chairwoman" or other such appropriate title.

(3) **TENSES.** The present tense of a verb includes the future when applicable. The future perfect tense includes past and future tenses.

(4) **TIME, HOW COMPUTED.** (a) The time within which an act is to be done or proceeding had or taken shall be computed by excluding the first day and including the last; and when any such time is expressed in hours the whole of Sunday and of any legal holiday, from midnight to midnight, shall be excluded.

(b) If the last day within which an act is to be done or proceeding had or taken falls on a Sunday or legal holiday the act may be done or the proceeding had or taken on the next secular day.

(c) When the last day within which a proceeding is to be had or taken or an act done, which consists of any payment to or the service upon or the filing with any officer, agent, agency, department or division of the state or of any county, city, village, town, school district or other subdivision of the state, of any money, return, statement, report, notice or other document, falls on a Saturday and the duly established official office hours of such officer, agent, agency, department or division to which such payment is to be made or upon which such service is to be made or with which such return, statement, report, notice or other document is required to be filed, do not include any office hours thereof on such Saturday, said proceeding may be had or taken or such act may be done on the next succeeding day that is not a Sunday or a legal holiday.

(d) Regardless of whether the time limited in any statute for the taking of any proceeding or the doing of an act is measured from an event or from the date or day on which such event occurs, the day on which such event took place shall be excluded in the computation of such time.

(e) "Legal holiday" as used in this section means any statewide legal holiday provided in s. 895.20. When an act is permitted to be done by the use of the postal service, and the last day within the time prescribed by law for performing such act falls on a legal public holiday under federal law, or other holiday designated by the president such that the postal service does not receive registered mail or make regular deliveries on that day, the day shall be considered a legal holiday for purposes of this section.

(5) **STATUTORY REFERENCES.** (a) If a statute refers, by number, to a group of chapters, sections, subsections or paragraphs of the statutes, the reference includes both the first and the last numbers mentioned.

(b) When a decimal-numbered statute of this state contains a reference to another decimal-numbered statute of this state, the reference is to the current text of the statute referenced, and includes any change that has been inserted into and any interpretation or construction that has been adopted with respect to the referenced statute since the reference was first incorporated into the statute, whether or not the referenced statute is a general, specific, substantive or procedural statute. When a decimal-numbered statute refers to another decimal-numbered statute in a specific prior edition of the Wisconsin statutes, the reference does not include subsequent changes to the statute referenced.

(6) **STATUTE TITLES AND HISTORY NOTES.** The titles to subchapters, sections, subsections, paragraphs and subdivisions of the statutes and history notes are not part of the statutes.

(7) **CONSTRUCTION OF REVISED STATUTES.** A revised statute is to be understood in the same sense as the original unless the change in language indicates a different meaning so clearly as to preclude judicial construction. If the revision bill contains a note which says that the meaning of the statute to which the note relates is not changed by the revision, the note is indicative of the legislative intent.

(8) **JOINT AUTHORITY, HOW EXERCISED.** All words purporting to give a joint authority to 3 or more public officers or other persons shall be construed as giving such authority to a majority of such officers or other persons.

(8m) **QUORUM.** A quorum of a public body is a majority of the number of members fixed by law.

(9) **ACTS BY AGENTS.** If a statute requires an act to be done which may legally be done by an agent, such requirement includes all such acts when done by an authorized agent.

(10) **LIABILITY OF SURETIES.** If an officer is liable on his official bond for any act, the sureties on his bond are also liable.

(11) **SEVERABILITY.** The provisions of the statutes are severable. The provisions of any session law are severable. If any provision of the statutes or of a session law is invalid, or if the application of either to any person or circumstance is invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application.

(12) **TIME.** When time is referred to, the standard of time as provided by s. 175.09 or 175.095, whichever is applicable, is meant.

(13) **REGISTERED AND CERTIFIED MAIL.** Except in s. 345.09, whenever the statutes authorize or require the use of registered mail, and do not require a return receipt of the addressee only, certified mail may be used if a sender's receipt is obtained from the postal authorities and return receipt is

requested. If a return receipt signed by addressee only is required, registered mail must be used.

(14) STATUTORY REFERENCE TO NUMERICAL SERIES. If a statute refers to a numerical series such as 1 to 10, the reference includes both the first and last number mentioned.

(15) STATUTORY REFERENCE TO A CLASS OF CITY. If a statute refers to a class of city specified under s. 62.05 (1), such reference does not include any city with a population which makes the city eligible to be in that class unless the city has taken the actions necessary to pass into the class under s. 62.05 (2).

History: 1975 c. 10, 94; 1977 c. 187 s. 135; 1979 c. 89; 1981 c. 314; 1983 a. 135; 1983 a. 192 s. 304.

NOTE: Chapter 89, laws of 1979, which created (5) (b), has a prefatory note by the legislative council which includes a discussion on cross references.

Cross References: See 401.109 for provision that section titles are part of the commercial code notwithstanding 990.001 (6).

As to sub. (4), see 801.15 for exception as to computation of time. Also see 985.09 (2).

Unless a statute is so vague and uncertain that it is impossible to execute it or to ascertain the legislative intent with reasonable certainty, it is valid. *Forst Home Dodge, Inc. v. Karns*, 29 W (2d) 78, 138 NW (2d) 214.

Where the legislature enacts a statute which through clerical error refers to and by its terms amends a preexisting statute which had earlier in the same legislative session been renumbered, and there is no issue as to the legislative intent and no doubt that correcting the clerical error in numbering is the only means of having the statute serve the purpose intended, a court is duty bound to rectify the error and substitute the right number for the wrong number used in the statute. *State ex rel. Gutbrod v. Wolke*, 49 W (2d) 736, 183 NW (2d) 161.

The general rule is that a specific penalty prescribed by a special statute for a particular offense takes precedence over a general provision in a penal code; hence 161.30 (12), Stats. 1969, prescribing a penalty for violation of 161.30, ranging from one year to life imprisonment is a specific penalty provision and takes precedence over 161.20, a general penalty provision permitting maximum punishment of not more than 3 years for offenses defined in ch. 161. *State ex rel. Gutbrod v. Wolke*, 49 W (2d) 736, 183 NW (2d) 161.

Where a statute imposes a punishment for the commission of an act, this is sufficient to make the act a crime. *State ex rel. Gutbrod v. Wolke*, 49 W (2d) 736, 183 NW (2d) 161.

See note to 893.01, citing *Cuisinier v. Sattler*, 88 W (2d) 654, 277 NW (2d) 776 (1979).

When statute is written in objective terms not susceptible to more than one meaning, subjective intent of lawmakers is not controlling. *State v. Derenne*, 102 W (2d) 38, 306 NW (2d) 12 (1981).

Registered mail serves the purpose of certified mail to an even greater degree. *Patterson v. Board of Regents*, 103 W (2d) 358, 309 NW (2d) 3 (Ct. App. 1981).

Sender's receipt need not be postmarked. *Trojan v. Board of Regents*, 104 W (2d) 277, 311 NW (2d) 586 (1981).

See note to 51.20, citing *State ex rel. Lockman v. Gerhardstein*, 107 W (2d) 325, 320 NW (2d) 27 (Ct. App. 1982).

Under 990.001 (5) (b) and rule of strict construction of penal statutes, legislature implied repeal of 940.29 (9), 1979 stats., when it repealed 146.32 (2), 1973 stats. *State v. Christensen*, 110 W (2d) 538, 329 NW (2d) 382 (1983).

See note to 801.15, citing *In Matter of Petition of Elec. Power Co.* 110 W (2d) 649, 329 NW (2d) 186 (1983).

When contemporaneous report or other document from non-legislative agency or private party forms vital link in chain of legislative history of statute, it may be used to determine legislative intent. *Ball v. District No. 4, Area Board*, 117 W (2d) 529, 345 NW (2d) 389 (1984).

See note to 807.01, citing *White v. General Cas. Co. of Wisconsin*, 118 W (2d) 433, 348 NW (2d) 614 (Ct. App. 1984).

Court may consider titles of statutes to resolve doubt as to statutory meaning. *In Interest of C.D.M.* 125 W (2d) 170, 370 NW (2d) 287 (Ct. App. 1985).

See note to Art. IV, sec. 1, citing *Dane County Hospital & Home v. LIRC*, 125 W (2d) 308, 371 NW (2d) 815 (Ct. App. 1985).

Unconstitutional clause was severable under (11). *Wis. Wine & Spirit Institute v. Ley*, 141 W (2d) 958, 416 NW (2d) 914 (Ct. App. 1987).

Second tax payment may be made next secular day when July 31 is on Saturday and office hours unofficial. 60 Atty. Gen. 411.

Computing time in tort statutes of limitation. *Ghiardi*, 64 MLR 575 (1981).

Researching legislative intent in Wisconsin: A suggested procedure. *Nispel*. WBB April 1983.

990.01 Construction of laws; words and phrases. In the construction of Wisconsin laws the words and phrases which follow shall be construed as indicated unless such construction would produce a result inconsistent with the manifest intent of the legislature:

(1) GENERAL RULE. All words and phrases shall be construed according to common and approved usage; but technical words and phrases and others that have a peculiar meaning in the law shall be construed according to such meaning.

(2) ACQUIRE. "Acquire," when used in connection with a grant of power to any person, includes the acquisition by purchase, grant, gift or bequest. It includes the power to condemn in the cases specified in s. 32.02.

(3) ADULT. An adult is a person who has attained the age of 18 years.

(4) BEQUEST AND BEQUEATH. "Bequest" includes a devise; "bequeath" includes devise.

(5) CHIROPRACTOR. "Chiropractor" means a person holding a license issued by the chiropractic examining board.

(5g) COMMUNICABLE DISEASE. "Communicable disease" means any disease that the department of health and social services determines, by rule, to be communicable in fact.

(5r) CONTROLLED ACCESS HIGHWAY. "Controlled access highway" means a highway on which abutting property owners have no right or only a limited right of direct access and on which the type and location of all access connections are determined and controlled by the highway authorities.

(6) COUNTY BOARD. "County board" means the county board of supervisors.

(7) EXECUTOR. "Executor," in statutes relating to probate proceedings, includes an administrator with the will annexed.

(7a) EXPRESS HIGHWAY OR EXPRESSWAY. An express highway or expressway is a divided arterial highway for through traffic with "full" or "partial" control of access and generally with grade separations at intersections. "Full" control of access means that the authority to control access is exercised to give preference to through traffic by providing access connections with selected public roads only and by prohibiting crossings at grade or direct private driveway connections. "Partial" control of access means that the authority to control access is exercised to give preference to through traffic to a degree that, in addition to access connections with selected public roads, there may be some crossings at grade and some private driveway connections.

(7g) "Fire chief" or "chief of a fire department" includes the chief of a department under s. 61.66.

(7m) "Fire department" includes a department under s. 61.66.

(7r) "Fire fighter" includes a person serving under s. 61.66.

(8) FOLIO. "Folio" means 100 words or figures. Any fraction of a folio shall be paid for as a full folio.

(9) FOLLOWING. "Following," when used by way of reference to any statute section, means the section next following that in which the reference is made.

(9a) FREEWAY. "Freeway" means a highway with full control of access and with all crossroads separated in grade from the pavements for through traffic.

(10) GRANTOR AND GRANTEE. "Grantor" includes every person from or by whom any freehold estate or interest passes in or by any deed; and "grantee" includes every person to whom any such estate or interest passes in like manner.

(11) HERETOFORE AND HEREAFTER. "Heretofore" means any time previous to the day on which the statute containing it takes effect; "hereafter" means the time after the statute containing such word takes effect.

(12) HIGHWAY. "Highway" includes all public ways and thoroughfares and all bridges upon the same.

(13) HOMESTEAD. (a) The word "homestead" means the dwelling and so much of the land surrounding it as is reasonably necessary for use of the dwelling as a home, but not less than one-fourth acre (if available) and not exceeding 40 acres.

(b) Any amendment of a homestead statute shall not affect liens of creditors attaching nor rights of devisees or heirs of persons dying prior to the effective date of the amendment.

- (14) **HOMESTEAD EXEMPTION.** The words "exempt homestead" mean that part of the homestead within the limitation as to value set forth in s. 815.20, except as to liens attaching or rights of devisees or heirs of persons dying before the effective date of any increase of that limitation as to value.
- (15) **INHABITANT.** "Inhabitant" means a resident.
- (16) **INSANE PERSONS.** "Insane persons" include every idiot, non compos, lunatic and distracted person.
- (17) **ISSUE.** "Issue," as applied to descent of estate, includes all the lawful descendants of the ancestor.
- (17m) **JUDGE.** "Judge" does not include a municipal judge, except as provided in ch. 755.
- (18) **LAND.** "Land" includes lands, tenements and hereditaments and all rights thereto and interests therein.
- (19) **LEGACY, LEGATEE.** "Legacy" includes a devise; "legatee" includes a devisee.
- (19m) **MARITAL CHILD.** "Marital child" means either of the following:
- A child who is conceived or born while his or her parents are lawfully intermarried.
 - A nonmarital child who is adopted or whose parents subsequently intermarry under s. 767.60.
- (20) **MINOR.** A minor is a person who has not attained the age of 18 years.
- (21) **MONTH.** "Month" means a calendar month unless otherwise expressed.
- (22) **MUNICIPALITY.** "Municipality" includes cities and villages; it may be construed to include towns.
- (23) **NIGHTTIME.** "Nighttime," used in any statute, ordinance, indictment or information, means the time between one hour after sunset on one day and one hour before sunrise on the following day; and the time of sunset and sunrise shall be ascertained according to the mean solar time of the ninetyeth meridian west from Greenwich, commonly known as central time, as given in any almanac.
- (23m) **NONMARITAL CHILD.** "Nonmarital child" means a child who is neither conceived nor born while his or her parents are lawfully intermarried, who is not adopted and whose parents do not subsequently intermarry under s. 767.60.
- (24) **OATH.** "Oath" includes affirmation in all cases where by law an affirmation may be substituted for an oath. If any oath or affirmation is required to be taken such oath or affirmation shall be taken before and administered by some officer authorized by the laws of this state to administer oaths, at the place where the same is required to be taken or administered, unless otherwise expressly directed, and, when necessary, duly certified by such officer. If an oath is administered it shall end with the words "so help me God". In actions and proceedings in the courts, a person may take an oath or affirmation in communication with the administering officer by telephone or audio-visual means.
- (25) **OFFICERS.** "Officers" when applied to corporations include directors and trustees.
- (26) **PERSON.** "Person" includes all partnerships, associations and bodies politic or corporate.
- (27) **PERSONAL PROPERTY.** "Personal property" includes money, goods, chattels, things in action, evidences of debt and energy.
- (28) **PHYSICIAN, SURGEON OR OSTEOPATH.** "Physician," "surgeon" or "osteopath" means a person holding a license or certificate of registration from the medical examining board.
- (28g) "Police chief" or "chief of a fire department" includes the chief of a department under s. 61.66.
- (28m) "Police department" includes a department under s. 61.66.
- (28r) "Police officer" includes a person serving under s. 61.66.
- (29) **POPULATION.** "Population" means that shown by the most recent regular or special federal census.
- (30) **PRECEDING.** "Preceding," when used by way of reference to any statute section, means the section next preceding that in which the reference is made.
- (30m) **PROMULGATE.** "Promulgate," when used in connection with a rule, as defined under s. 227.01 (13), means to repeal; renumber; consolidate, renumber and amend; renumber and amend; amend; repeal and recreate; or create.
- (31) **PROPERTY.** "Property" includes real and personal property.
- (32) **PUBLICATION.** "Publication" in a newspaper of any notice or other matter indicated to be for a stated number of weeks means one insertion each week, unless specifically stated to be for more than one day in each week.
- (33) **QUALIFIED.** "Qualified," when applied to any person elected or appointed to office means that such person has done those things which he was by law required to do before entering upon the duties of his office.
- (34) **RAILROAD CORPORATION.** "Railroad corporation" and "railroad company" include any person managing, maintaining, operating or in possession of a railroad, whether as owner, contractor, lessee, mortgagee, trustee, assignee or receiver.
- (35) **REAL ESTATE OR REAL PROPERTY.** "Real estate" or "real property" includes lands, tenements and hereditaments and all rights thereto and interests therein.
- (36) **RECORDED.** If any instrument is required to be recorded by any officer or in any office it must be recorded in a suitable book kept for that purpose unless otherwise expressly directed.
- (37) **SEAL.** Except for the sealing of instruments by persons required to have and use official seals, "seal" includes the word "seal", the letters "L S" and a scroll or other device intended to represent a seal, if any is affixed in the proper place for a seal, as well as an impression of a seal on the instrument. An instrument executed in the corporate name, by the proper officers of a corporation, under any seal is sealed even though the corporate seal is not used. If the seal of any court or public officer is required to be affixed to any paper issuing from such court or officer "seal" includes an impression of such official seal made upon the paper alone.
- (38) **SIGNATURE.** If the signature of any person is required by law it shall always be the handwriting of such person or if he is unable to write, his mark or his name written by some person at his request and in his presence.
- (40) **STATE.** "State," when applied to states of the United States, includes the District of Columbia, the commonwealth of Puerto Rico and the several territories organized by Congress.
- (41) **SWORN.** "Sworn" includes "affirmed" in all cases where by law an affirmation may be substituted for an oath.
- (42) **TOWN.** "Town" may be construed to include cities, villages, wards or districts.
- (43) **TOWN BOARD.** "Town board" means the town board of supervisors.
- (43m) **TYPE 1 MOTORCYCLE.** "Type 1 motorcycle" is a motor vehicle as defined in s. 340.01 (32) (a).
- (43r) **TYPE 2 MOTORCYCLE.** "Type 2 motorcycle" is a motor vehicle as defined in s. 340.01 (32) (b).

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(44) UNITED STATES. "United States" includes the District of Columbia, the states, the commonwealth of Puerto Rico and the territories organized by congress.

(45) VILLAGE. "Village" means incorporated village.

(46) WEEK. "Week" means 7 consecutive days.

(47) WILL. "Will" includes codicils as well as wills.

(48) WRITTEN OR IN WRITING. "Written" or "in writing" includes any representation of words, letters, symbols or figures. This subsection does not affect any law relating to signatures.

(49) YEAR. "Year" means a calendar year, unless otherwise expressed; "year" alone means "year of our Lord".

History: 1971 c. 164 ss. 80, 91; 1971 c. 213 s. 5; Sup. Ct. Order, 67 W (2d) 784; 1977 c. 305; 1979 c. 169; 1981 c. 291, 391; 1983 a. 447; 1985 a. 65, 182, 332; Sup. Ct. Order, 141 W (2d) xxxiii; 1987 a. 399.

Statutory construction requires that a law be construed so that no word or clause is surplusage. *Johnson v. State*, 76 W (2d) 672, 251 NW (2d) 834.

Applicable meaning of words in insurance policies should be determined by meaning given them by informed persons, not by "man in the street". *Hochgurtel v. San Felippo*, 78 W (2d) 70, 253 NW (2d) 526.

Word "relative" has peculiar meaning in the law and so is construed to mean "blood relative". In re *Estate of Haese*, 80 W (2d) 285, 259 NW (2d) 54.

Sub. (38) did not prevent delegation of authority to sign annexation petition on behalf of property owner. *Town of Medary v. City of La Crosse*, 88 W (2d) 101, 277 NW (2d) 310 (Ct. App. 1979).

Oaths, affirmations, notary publics and jurats discussed. 60 Atty. Gen. 429.

990.02 Construing statutes of 1898. (1) All references to chapters or sections in the statutes of 1898 are to the chapters and sections of those statutes.

(2) If the provisions of different chapters of the statutes of 1898 conflict with or contravene each other the provisions of each chapter shall prevail as to all matters and questions growing out of the subject matter of such chapter.

(3) If conflicting provisions are found in different sections of the same chapter of the statutes of 1898 the provisions of the section which is last in numerical order shall prevail unless such construction is inconsistent with the meaning of such chapter.

History: 1979 c. 89

990.03 Effect of repeals. (1) No law repealed by a subsequent act of the legislature is revived or affected by the repeal of such repealing act.

(2) The repeal of a curative or validating law does not impair or affect any cure or validation previously effected thereby.

(3) No section, subsection or paragraph of Wisconsin Statutes is repealed or affected by the repeal of any session law from which it was in whole or in part derived.

(4) The repeal, express or implied, of any law already repealed, expressly or by implication, does not constitute or supply a declaration or implication that such law was in force or was valid for any purpose at any time subsequent to such prior repeal.

990.04 Actions pending not defeated by repeal of statute.

The repeal of a statute hereafter shall not remit, defeat or impair any civil or criminal liability for offenses committed, penalties or forfeitures incurred or rights of action accrued under such statute before the repeal thereof, whether or not in course of prosecution or action at the time of such repeal; but

all such offenses, penalties, forfeitures and rights of action created by or founded on such statute, liability whereof shall have been incurred before the time of such repeal thereof, shall be preserved and remain in force notwithstanding such repeal, unless specially and expressly remitted, abrogated or done away with by the repealing statute. And criminal prosecutions and actions at law or in equity founded upon such repealed statute, whether instituted before or after the repeal thereof, shall not be defeated or impaired by such repeal but shall, notwithstanding such repeal, proceed to judgment in the same manner and to the like purpose and effect as if the repealed statute continued in full force to the time of final judgment thereon, unless the offenses, penalties, forfeitures or rights of action on which such prosecutions or actions shall be founded shall be specially and expressly remitted, abrogated or done away with by such repealing statute.

This section also applies to statutes which are amended after the commission of an alleged criminal act although before trial. *Truesdale v. State*, 60 W (2d) 481, 210 NW (2d) 726.

See note to 973.013, citing *State v. Hegwood*, 113 W (2d) 544, 335 NW (2d) 399 (1983).

Absent legislative intent to the contrary, repeal of statute governing appeals of tax assessments did not affect taxpayer whose right to appeal under statute accrued prior to its repeal. *Jackson County Iron Co. v. Musolf*, 134 W (2d) 95, 396 NW (2d) 323 (1986).

Counties are liable for proportionate share of tax certified to them prior to repeal of 59.07 (21) by sec. 300m of ch. 90, laws of 1973. 63 Atty. Gen. 300.

990.06 Repeal or change of law limiting time for bringing actions.

In any case when a limitation or period of time prescribed in any act which shall be repealed for the acquiring of any right, or barring of any remedy, or for any other purpose shall have begun to run before such repeal and the repealing act shall provide any limitation or period of time for such purpose, such latter limitation or period shall apply only to such rights or remedies as shall accrue subsequently to the time when the repealing act shall take effect, and the act repealed shall be held to continue in force and be operative to determine all such limitations and periods of time which shall have previously begun to run unless such repealing act shall otherwise expressly provide.

See note to 893.88, citing *In re Paternity of D. L. T.*, 137 W (2d) 57, 403 NW (2d) 434 (1987).

"Repeal" in this section includes "amendment". *Poquette v. Community State Bank*, 631 F Supp. 1480 (1986).

990.07 Evidence. The Wisconsin statutes as prepared under s. 35.18 shall be prima facie evidence in all courts and proceedings as provided by s. 889.01; but they shall not preclude reference to, nor control, in case of any discrepancy, any original act of the legislature; and the certified volumes of session laws provided for by s. 35.15 shall also and in the same degree be prima facie evidence in all courts and proceedings.

History: 1981 c. 372 s. 8; Stats. 1981 s. 990.08; 1983 a. 192 s. 287; Stats. 1983 s. 990.07.

990.08 Citation of supreme court rules. When a supreme court rule is cited within the statutes, the reference shall be to the SCR number, such as "words and phrases specified in SCR 99.02".

History: 1983 a. 192.