

Sec. 3. **Authority to sell certificates.** The authority conferred by this act shall expire on January 1, 1961, Laws 1921, Chapter 299, as amended, with respect to the issuance, sale, negotiation and delivery of the aforesaid certificates in the amount of *not exceeding \$300,000 in any one year, but thereafter the city council or common council of such city may issue, sell, negotiate and deliver certificates annually in an amount not exceeding \$150,000 as now authorized under Laws 1921, Chapter 299.* Any proceedings initiated or had with respect to the issuance, sale, negotiation and delivery of the aforesaid certificates of indebtedness during the years 1959 and 1960, may be completed notwithstanding anything contained in this section shall continue until and unless otherwise hereafter provided by law.

Approved March 31, 1961.

CHAPTER 202—H. F. No. 298

An act relating to forestry and the administration of state timber; amending Minnesota Statutes 1957, Sections 90.01, 90.04, 90.05, 90.07, 90.08, 90.09, 90.11, 90.12, 90.13, 90.15, 90.16, 90.17, 90.20, 90.21, 90.22, 90.23, 90.24, 90.26, 90.28, 90.29, 90.30, 90.32 to 90.37, 90.39, 90.41 and 90.46; repealing Minnesota Statutes 1957, Sections 90.03, 90.06, 90.10, 90.18, 90.19, 90.38 and 90.46, Subds. 2, 4, and Subdivision 5 as amended by Laws 1959, Chapter 38, Section 1.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1957, Section 90.01, is amended to read:

90.01 **Definitions.** Subdivision 1. Unless the language or context clearly indicates that a different meaning is indicated, the following terms, for the purposes of this chapter shall be given *have* the meanings *subjoined ascribed* to them.

Subd. 2. "Department" means the department of Conservation of the State of Minnesota.

Subd. 3. "Commissioner" means the commissioner of conservation or his agents.

Subd. 3. Subd. 4. The term "surveyor" *Surveyor*

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general" means the state surveyor general of logs and lumber or *his agent*.

Subd. 4. The term "deputy surveyor general" means one of the deputies of the surveyor general.

Subd. 2. Subd. 5. The term "state "State appraisers appraiser" means one or more employees an employee of the department appointed designated by the commissioner, which includes timber estimators and land examiners. When it is necessary to appraise state lands, under the terms of existing law the commissioner shall appoint as such appraiser on the part of the state one of the state appraiser, who shall, except as otherwise provided in this chapter, perform such duties.

Subd. 5. Subd. 6. The word "timber "Timber" means trees that will produce forest products of value whether standing or cut or down, and including but not limited to logs, posts, poles, ties, paving blocks, laths, shingles, bolts, pulpwood, cordwood, and lumber and forest products of every species and description: decorative material.

Subd. 6. The term "merchantable timber" means and includes all logs or pieces from which lumber or forest products of value can be made.

Subd. 7. "Permit" means the written authorization of the commissioner to cut timber on state lands.

Subd. 7. Subd. 8. The term "permit "Permit holder" means the person holding the right a permit to cut timber under a permit on state lands.

Subd. 8. Subd. 9. The word "person "Person" means and includes any natural person acting in his own right, or in any representative capacity, and any corporation, firm, or association of whatever nature or kind.

Sec. 2. Minnesota Statutes 1957, Section 90.04, is amended to read:

90.04 Duties of state appraiser. Subdivision 1. The duties of the state appraiser shall be to appraise and place a valuation upon any state lands or any state timber or any interest therein anywhere; to estimate and appraise timber upon all state lands; to make valuations of lands suitable for agricultural purposes; to check-scale timber cut from state lands in trespass, either situated upon state lands or removed therefrom; to check-scale any scale of timber cut on

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state lands; to make check-scales, by the stump and top, or any other method, of timber removed from state lands; and to perform such other duties as may be assigned to him.

Subd. 2. Nothing contained in this chapter shall be construed to in any way amend the provisions of General Statutes 1866, Chapter 38, Title 1, or any act amendatory thereto; *any other provision of law* relating to the appointment of appraisers by other officials.

Subd. 3. Each state appraiser shall, before entering upon the duties of his office, take and subscribe an oath before a person qualified to administer oaths, that he will faithfully and impartially discharge his duties as appraiser according to the best of his ability, and that he is not interested. *No state appraiser shall have any interest, directly or indirectly, in any of the state land or material improvements thereon and has entered into no combination to shall not purchase, directly or indirectly, any interest in the same or any part thereof. which oath shall be made a part of his bond.*

Sec. 3. Minnesota Statutes 1957, Section 90.05, is amended to read:

90.05 State appraiser. *Subdivision 1.* The commissioner may designate any qualified person as a state appraiser. *At the time of the appointment of any state appraiser he Each state appraiser shall give a bond to the state be bonded in a penal sum of not less than \$1,000, conditioned for upon the faithful performance of his duties, which bond shall be approved by the attorney general and together with his oath be filed in the office of the secretary of state. A bonded district ranger or fire patrolman, certified by the director to be a competent timber appraiser, shall have all the power and authority of any state appraiser without giving further bond than his bond as a district ranger or fire patrolman. These bonds shall be paid for out of moneys appropriated for the supervision of state timber.*

Subd. 2. Every state appraiser is hereby authorized to arrest any person found trespassing or to have trespassed upon state lands and deliver him to the sheriff of the county and immediately enter a complaint before a court of competent jurisdiction in the county charging the person so arrested with such trespass, and the person so charged shall be arraigned and given a hearing on the complaint.

Subd. 3. Each state appraiser shall ~~wear~~ carry on his

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person when on duty a badge of office an identification card to be designated and provided by the director commissioner. It is hereby declared a misdemeanor for any Any person not a duly appointed and acting state appraiser to wear a badge or to who shall impersonate or claim to be a state appraiser: shall be guilty of a misdemeanor.

Subd. 4. When an appraisal or valuation of any land is made upon lands suited for agricultural purposes, the state appraiser shall place an estimate and valuation of any timber thereon and make a separate appraisal report thereof; the report shall be made from his field notes made on the land, and be by him entered in his own hand in a book kept for that purpose and shall be dated when made and, together with the field notes shall be made a part of the record records of the office of the director; department. the entry shall be dated when made and sworn to upon the record at the same time the The state appraiser shall file in the office of the director all plats and field notes made by him and affix his signature to each plat and to each page of the field notes and appraisal report. These records shall show that the state appraiser was actually upon the land when the estimate and valuation was made.

No such report shall embrace more than one section or fractional section of land according to the government survey thereof and it shall show the amount of timber upon each 40 acre tract or subdivision. As ownership may appear to each subdivision of land so appraised in the various trust funds of the state, so shall all appraisements, sales, and accountings therefor be done according as such title may appear as of record in the office of the director. Where appraisals, sales, and accountings heretofore made have not been in accordance with this provision the director is authorized to make such apportionment to the various funds as he may deem equitable and just to each such fund and such apportionment is hereby legalized and confirmed.

The appraisal report shall state the amount of each kind of timber, and the value per thousand feet, and the value per piece of all such timber. of each kind of timber for each 40-acre tract or subdivision except that reports made for the purpose of timber sales only shall include the percentage value of timber on each 40-acre tract or subdivision together with the total amount of each kind of timber and the total value of each kind of timber for the sale unit.

In making this estimate and valuation the appraiser shall

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take into consideration distance of the timber from the nearest lake, stream, or railroad; the character of the land; what amount, if any, of the timber has been burned, and the extent and character of the burning; the situation of the timber relative to risks from fire or damage of any kind; and the injury which will result in the prospective price that may be obtained in the future by reason of the removal of timber operations contiguous to or in the community of the tract, thereby leaving these tracts isolated and the value of the timber to the state thereby lessened.

Sec. 4. Minnesota Statutes 1957, Section 90.07, is amended to read: .

90.07 **Trespass on certain public land.** Whoever without valid permit shall cut any timber upon the lands owned by this state, or held in trust by the state for the counties, or remove or carry away any such timber, or any other property belonging or appertaining to these lands, or shall commit any other trespass upon these lands, or shall induce or assist another to do so, shall be liable in an action brought by to the state in for treble damages if the trespass is adjudged to have been wilfull but *in liable* for double damages only if the trespass is adjudged to have been casual and involuntary. Any person found to have acquired possession in any manner of any timber unlawfully cut on lands owned by this state or held in trust by the state for the counties, shall be liable to the state in a civil action for twice the stumpage value thereof, and it. *It shall be no defense in any action to plead or claim a purchase of any state timber from any one other than the director commissioner, nor or a purchase of any timber held in trust by the state for the counties from anyone other than the county auditor, nor shall such defendant be allowed to claim may it be claimed that any other person should be joined as defendant; and he shall have no right to any nor may any claim be made for remuneration or allowance for labor or expenses incurred in preparing such timber for market or transporting the same to or toward market. Every such trespass wilfully committed shall be a felony gross misdemeanor.*

Sec. 5. Minnesota Statutes 1957, Section 90.08, is amended to read:

90.08 **Possession of land contrary to agreement; remedies.** If any person holds or continues in possession of any lands mentioned in this chapter contrary to the condi-

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tions or covenants of any lease, certificate of sale, permit, or other written agreement, he shall be liable to an action of forcible entry and detainer, or any other proper action for the recovery of possession of such lands and damages for the detention of the same. The commission of trespass or waste upon these lands or the destruction or removal ~~therefrom~~ of timber or other property *therefrom* may be restrained, enjoined, or otherwise prohibited by any court of competent jurisdiction at the suit of the state pending final determination of the rights of the state therein, and permanently thereafter, as the facts may warrant. No bond shall ever be required of the state in any such ~~injunctive~~ proceeding.

Sec. 6. Minnesota Statutes 1957, Section 90.09, is amended to read:

90.09 Prosecutions. The attorney general shall prosecute or cause to be prosecuted by the county attorney when the public interest so requires any person who may be charged with any indictable offense under this chapter.

The county attorneys of the several counties shall promptly report to the commissioner all trespasses committed upon ~~the lands mentioned in this chapter~~ *state lands* which may come to their knowledge and when directed by the attorney general shall prosecute all actions for any trespass or injury thereto, for the recovery of the possession thereof, or otherwise.

The county attorneys shall prosecute all actions for trespass on lands or timber on lands held in trust by the state for the counties in their respective counties.

Sec. 7. Minnesota Statutes 1957, Section 90.11, is amended to read:

90.11 Executive council, powers. A majority of the executive council at any meeting thereof shall have power in addition to all other powers conferred by any act to do any of the following things:

Subdivision 1. (1) Determine The executive council may determine the number of sections or fractional sections of land to be covered by or described in any one report by state appraisers, or in any one timber permit issued to the purchaser of stumpage timber on state lands, or in any one contract or other instrument relating thereto and within the jurisdiction of the executive council. and;

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*Subd. 2. The executive council may grant extensions of such timber permits and contracts, whether heretofore or hereafter issued, for ~~and during~~ such periods as the executive council deems advisable, but otherwise subject to all the provisions of this chapter; a condition of any *such* extension shall be that the purchaser shall pay to the state interest at the rate of six ~~per cent~~ *percent per annum* of the unpaid purchase price; *for each year of such extension or portion thereof to the date of the surveyor general's statement of products cut as finally computed on the actual scale or count of such timber at the time of cutting thereof, sale price of the timber cut, or if not cut, then upon the official estimate thereof; and no permit shall be extended more than six years from the date of issuance thereof.**

*Subd. 3. ~~(2) Compromise~~ The executive council may *compromise* and settle, with the approval of the attorney general, upon such terms as it may deem just, any claim of the state for casual and involuntary trespass upon state lands or timber where the full stumpage value of such timber so taken in trespass would not exceed \$1,000; provided, that no such claim shall be settled in any case for less than the full stumpage value of all timber so taken in casual trespass or the full amount of all actual damage or loss suffered by the state as a result thereof; ~~and the~~ *The executive council may make settlement for not less than the full stumpage value of any timber cut by lessees of state lands holding under Section 92.50.**

*Subd. 4. ~~(3) Formulate~~ The executive council may *formulate* and establish, from time to time, such rules and regulations as it deems advisable for the transaction of timber business of the state and abrogate, modify, or suspend such rules and regulations at pleasure. ~~and~~*

*Subd. 5. ~~(4) Appoint~~ The executive council may *appoint* one or more agents ~~or cruisers~~ to gather evidence in any action brought by the state or to investigate the correctness of any state appraiser's report or to ascertain whether any timber proposed to be sold is subject to sale, or whether any trespass has been committed on state lands, and may send such agent to examine such timber or lands. Such agents of the executive council, independently of the commissioner and state appraisers, shall report, in writing, to the governor, and the money necessary to defray expenses in connection therewith shall be paid upon verified accounts from any funds available for the expenses of the executive council.*

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Sec. 8. Minnesota Statutes 1957, Section 90.12, is amended to read:

90.12 **Timber resources.** *Subdivision 1.* The ~~director~~ *commissioner* shall make thorough inquiry into the extent, character, and value of the timber on all state lands. He shall take such measures as will protect the timber from damage or loss by fire, trespass, or otherwise; and make such regulations, in conformity with the other provisions of this chapter, for the care and control of the lands and for the sale of the timber thereon, as will best protect the interests of the state.

Subd. 2. ~~He~~ *The commissioner* shall ~~promptly~~ advise the executive council of any information acquired by him concerning any trespass on state lands, giving all details and names of witnesses.

Sec. 9. Minnesota Statutes 1957, Section 90.13, as amended by Laws 1959, Chapter 385, Section 1, is amended to read:

90.13 **State timber, sales.** *Subdivision 1.* Subject ~~to the restrictions of the state constitution,~~ the director, ~~with the approval of the~~ *The commissioner,* may sell ~~small amounts of green standing, dead, down, dying, insect-infected, or diseased the~~ timber on the lands in his charge, *any tract of state land in lots* not exceeding \$350 in appraised value, without formalities but for not less than the full appraised value thereof, ~~as fixed by two state appraisers,~~ to any individual. ~~Not more than one such sale to any individual shall be in effect at any one time. No sale shall be made under this section to any person holding a previous permit issued hereunder which is still in effect.~~

Subd. 2. The purchaser shall pay the full appraised price before the permit is issued, and, ~~upon~~ *Upon* receipt of such payment; ~~for the full appraised value,~~ the director ~~commissioner~~ may ~~informally, by letter or otherwise,~~ *authorize the purchaser issue a permit* to cut and remove such timber within one year from the date of sale under such supervision and ~~restrictions provisions~~ *provisions* as the ~~director commissioner,~~ or any state appraiser by him designated, shall deem advisable. If the purchaser for good and sufficient reason is unable to cut and remove the timber within the one-year period, an extension of time may be granted by the director ~~with the approval of the commissioner.~~ Only one

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extension shall be granted and the extension shall be for *not exceed* one year only.

~~Subd. 2. Subd. 3.~~ All timber products, except fuelwood cut under the provisions of this chapter, shall be scaled by the surveyor general, ~~or his designated representative, who may be a bonded district ranger or a bonded fire patrolman;~~ and the final settlement for the timber cut shall be made on this scale. The purchaser shall dispose of slashings according to law, shall be liable under this chapter in trespass for cutting or unnecessarily injuring any timber not included within the sale made to him under this section, and shall be otherwise subject to all the laws governing the sale and removal of state timber, so far as *practicable applicable*.

~~Subd. 3. Subd. 4.~~ The provisions of any law fixing the fees for the scaling of any timber products shall not be applicable to this section.

Sec. 10. Minnesota Statutes 1957, Section 90.15, is amended to read:

90.15 State appraisers, performance of duties of surveyor general. *Subdivision 1.* State appraisers appointed pursuant to sections ~~90.04 to 90.06~~ may perform any of the duties specified therein and in addition thereto shall perform any and all other duties which the director may require of them in connection with state lands and timber. Such appraisers are hereby empowered, to re-scale, check-scale, or otherwise test the accuracy of scaling done by the surveyor general or his deputies, as required of the director by section ~~91.03~~; to appraise and place a valuation upon any state lands or any state timber or any interest therein anywhere; to cruise and estimate any standing timber, and scale or re-scale or check-scale any cut timber in which the state is interested; to examine any state lands from which timber has been cut and ascertain by count, by scale, either by stump or stump and top or other appropriate method, by cruise and estimate, or by any other reasonably accurate means, the amount of timber cut and removed from or left cut or standing upon such lands, and to report the same to the director; with the consent of the director *commissioner*, to perform any of the duties of a deputy *the* surveyor general when designated or requested ~~so to do so~~ by the surveyor general; and generally to supervise the cutting and removal of timber on or from state lands so far as may be reasonably necessary to insure compliance with the terms of

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the permits or other contracts governing the same and protect the state from loss.

The form of *appraisal* reports to be made and books, records, and notes to be kept by state appraisers shall be adequate to record the amounts, kinds, and descriptions of all timber cut from state lands by them reported upon, and otherwise to carry out the provisions of this chapter, and shall be such as the director *commissioner* designates and prescribes. All such reports, books, records, and notes, except such as are made by any appraiser acting as a deputy surveyor general, shall be filed in and become a part of the records of the office of the director, and the originals or copies thereof certified by the director shall be *prima facie* true and correct and admissible in evidence in all the courts of this state. The books, records, notes and reports of any state appraiser when examined and approved by the surveyor general or when made while acting as deputy *performing the duties of the surveyor general* may shall be filed in the office of the surveyor general and shall be admissible in evidence by certified copy or otherwise to the same extent and have the same effect in all respects as though made by a regular deputy *the surveyor general*.

Subd. 2. The director may designate some properly qualified employee of his department to act as superintendent of state timber and to perform such duties in that connection as the director shall prescribe. The superintendent of state timber shall give a good and sufficient surety bond. *The department employee delegated to supervise state timber appraisals and sales shall be bonded in a form to be prescribed by the attorney general and in the penal sum of not less than \$25,000, conditioned upon the faithful and honest performance of his duties. as such superintendent of state timber. The director shall be responsible for the acts of such superintendent and may remove or replace him at pleasure. At the discretion of the director, the superintendent may be charged with general supervision over all state appraisers, but subject always to the superior control of the director.*

Sec. 11. Minnesota Statutes 1957, Section 90.16, is amended to read:

90.16 **Re-scales, recounts and re-estimates.** Upon complaint of any interested permit holder questioning the accuracy of any scale, count, or estimate of timber made by any state appraiser, the director *commissioner* at his discretion or of his own motion when no complaint is pending

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may cause a re-scale, recount, or re-estimate thereof to be made jointly by any two or more state appraisers, ~~but shall not be deemed obligated to do so in any case~~ which when made shall supersede and for all purposes take the place of the original scale, count, or estimate, if and only when it varies more than ten percent from the original. As a condition precedent to the making of any such re-scale, recount, or re-estimate upon the complaint of any person the ~~director~~ *commissioner* at his discretion may require such person to make ~~irrevocably~~ available such sum of money as the ~~director~~ *commissioner* deems necessary for the actual expenses thereof and to forfeit the same to the state if such re-scale, recount, or re-estimate does not vary more than ten percent from the original. All such forfeited money shall be paid into the state treasury and credited to the fund or account from which the expenses of such re-scale, *recount*, or *re-estimate* were paid.

In like manner, upon the same conditions, and with like effect the surveyor general may in his discretion cause a re-scale to be made of any timber originally scaled by a deputy surveyor general.

Sec. 12. Minnesota Statutes 1957, Section 90.17, is amended to read:

90.17 **Public auction; authorization, manner.** *Subdivision 1. The executive council may authorize the commissioner to sell the timber on any tract of state land in lots not exceeding \$15,000 in appraised value. No timber shall be sold, except to the highest bidder at public auction, and the minimum price shall be the appraised value as fixed by the record of appraisals report of the state appraiser. All sales, except as otherwise herein provided, shall be held at the capitol, in St. Paul, Minnesota. the county seat of the county in which the tract is located. The director shall give three weeks' published notice thereof in one or more daily newspapers, published in each city of the first class, and also, in his discretion, may give preliminary or further notice thereof by the publication of display advertisements or other notices in any newspaper, if, in his judgment, the same will give information of such sale to prospective bidders for such timber.*

Subd. 2. At least 30 days before the date of sale the director commissioner shall compile a list containing a description of each tract of land upon which any timber to be offered is situated and a statement of the quantity of timber

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thereon and of the appraised price of each kind of timber thereon as shown by the ~~official estimate report of the state appraiser~~. No description shall be added after the list is ~~compiled and~~ posted as herein provided and no timber shall be sold from land not described therein. Copies of the list shall be furnished to all interested applicants. A copy of the list shall be conspicuously posted in the office of the ~~director~~ *commissioner* and in the office of the auditor of ~~each the~~ county in which ~~any of~~ the lands are situated at least 30 days prior to the date of sale, and extra copies of ~~these posted lists~~ *the list* shall be furnished to ~~each the~~ county auditor for distribution to applicants. ~~The commissioner shall cause the list to be published for three consecutive weeks in a legal newspaper published in the county where the land is situated. He may give such other published or posted notice as he deems proper to reach prospective bidders. The published notice of the sale shall make reference to the posted lists for a description of the lands from which timber is offered for sale and of the kinds and estimated quantity thereof.~~

Subd. 3. There shall be only one sale of timber under this section in any one county in each year.

Sec. 13. Minnesota Statutes 1957, Section 90.20, is amended to read:

90.20 Log timber, manner of sale. All state timber estimated and appraised as log timber shall be offered and sold by the thousand feet; timber estimated and appraised as tie, or pole, or post timber shall be offered and sold by the tie, or pole, or post, as the case may be; timber estimated and appraised as pulpwood, or ~~lath~~ bolts, or mine lagging, or wood for fuel purposes shall be offered and sold by the *single cord*. ~~; all cords to be single cords~~. The sale shall be made to the party who shall bid the highest price for all the several kinds of timber as advertised. The purchaser at any sale of timber shall, immediately upon the approval of his bid, pay to the ~~state treasurer~~ *commissioner* 25 percent of the appraised value. ~~; and the treasurer shall issue duplicate receipts therefor, one of which shall be delivered to the purchaser, and the other filed with the director.~~ In case any purchaser fails to make such payment, he shall be liable therefor to the state in a civil action; and the ~~director~~ *commissioner* may reoffer the timber for sale as though no bid therefor had been made.

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Sec. 14. Minnesota Statutes 1957, Section 90.21, is amended to read:

90.21 **Permits to cut and remove timber.** *Subdivision 1. Upon the delivery and filing of the duplicate receipts mentioned in Section 90.20, Following receipt of the down payment for state timber sold at public auction, the director commissioner shall issue a numbered permit to such the purchaser, in a form approved by the attorney general, by the terms of which he shall be authorized to enter upon the land, and to cut and remove the timber therein described, according to the provisions of this chapter. The permit shall be correctly dated and executed by the director commissioner and signed by the purchaser. The permit shall cover one or more logging seasons as the timber board executive council shall specify, and the timber shall be cut and removed within the time specified therein. No permit shall be issued to any person other than the purchaser in whose name the bid was made.*

Subd. 2. The permit shall state the amount of timber estimated to be thereon for cutting on the land, the estimated value thereof, and the price at which it is sold per thousand feet, per cord, per piece, or by whatever description sold, and shall specify the state marks to be used thereon. These marks shall be M I N and the permit number. The permit shall provide that the purchaser permit holder shall plainly place the specified marks upon the end of each piece of timber cut, except that in the case of piles of pulpwood or other cordwood, a sufficient number of pieces shall be marked to adequately identify the timber before such timber is scaled by the surveyor general. It shall provide and that, in case of any failure to place these marks upon any piece state timber, the state shall have the right to take possession of the same wherever found. The permit may shall provide that the purchaser or permit holder may place his own mark upon timber cut under the permit but only after the state marks shall have been first plainly placed thereon; but that no mark of the purchaser permit holder shall in any way encroach upon, obliterate, or obscure the state marks or any part thereof; nor shall any and that no figure shall be used by the purchaser permit holder as his mark or any part thereof. Christmas trees or other decorative material need not be marked with M I N and the permit number but any landing or concentration of such material shall be posted with a notice listing the permit holder's name, permit number, and description of the land from which the material was cut.

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Subd. 3. The permit shall contain such ~~other~~ provisions as may be necessary to secure to the state the title of all timber cut thereunder wherever found until full payment therefor and until all provisions of the permit have been fully complied with. The permit shall provide that from the date the same becomes effective until the expiration thereof, including all extensions, the purchaser and his successors in interest shall be liable to the state for the full permit price of all timber covered thereby, notwithstanding ~~and regard-~~less of any subsequent damage or injury thereto or trespass thereon or theft thereof, and without prejudice to the right of the state to pursue such timber and recover the value thereof anywhere prior to the payment therefor in full to the state. Upon recovery from any person other than the permit holder, the ~~letter~~ *permit holder* shall be deemed released to the extent of the net amount, after deducting all expenses of collecting same, recovered by the state from such other person.

Subd. 4. The permit shall provide that all timber ~~standing on the land and~~ *sold or designated for cutting* shall be cut; ~~that the same shall be cut clean~~ without damage to other timber; that the ~~purchaser~~ *permit holder* shall remove all timber authorized to be cut under the permit; that timber sold by board measure but later determined by the ~~director~~ *commissioner* not to be convertible into board measure ~~may be charged for and~~ shall be paid for by the piece ~~or cord~~ according to the size, species, or value of each piece or cord, as may be determined by the ~~timber board~~ *commissioner*; that the ~~purchaser~~ *permit holder* shall pay to the state the permit price for all timber authorized to be cut, including timber which he fails to cut and remove, together with all fees of the surveyor general for scaling same; that the ~~purchaser~~ *permit holder* shall notify the surveyor general ~~and the director by registered letter~~ at least 15 days before any cutting is done, at which time such cutting will begin, and at least 15 days before any timber is removed from the land, at ~~what~~ *which* date the removal will begin. The ~~purchaser~~ *permit holder* shall notify the ~~director~~ *commissioner*, ~~by registered mail that such cutting is completed for that season; not later than 15 days after he has completed cutting for the season;~~ *as provided by law.*

Subd. 5. The permit shall provide that the ~~purchaser~~ *permit holder* shall make a report in writing to the ~~director~~ *commissioner* under oath enumerating and stating the amounts of timber cut under such permit, the kinds of tim-

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ber removed and the amounts of each in board feet, per piece, in cords, or any other dimension, in the manner ~~and forthwith~~ whenever so required by the ~~director commissioner-~~er. Any false return or report made to the ~~director commissioner~~ by any such ~~purchaser~~ or permit holder or by ~~any one~~ anyone representing him shall constitute a gross misdemeanor.

Subd. 6. The permit shall provide that the permit holder shall not start cutting any state timber nor clear building sites nor logging roads until the commissioner has given prior approval to such cutting operations.

Subd. 7. The permit shall provide that the permit holder shall pay the appraised value for any timber sold which is negligently destroyed or damaged by the permit holder in cutting or removing other timber sold. If the permit holder shall cut or remove or negligently destroy or damage any timber upon the land described, not sold under the permit, except such timber as it may be necessary to cut and remove in the construction of necessary logging roads and landings approved as to location and route by the commissioner, such timber shall be deemed to have been cut in trespass. The permit holder shall be liable for any such timber and recourse may be had upon his bond.

Subd. 8. The permit shall provide that the ~~director commissioner~~ shall have the power to order suspension of all operations under the permit ~~at any time when in his judgment the conditions thereof have not been complied with~~ and any timber cut or removed during such suspension is hereby declared to be shall be deemed to have been cut in trespass. The permit shall further provide; that the executive council may cancel the permit at any time when in its judgment the conditions thereof have not been complied with and such cancellation shall constitute repossession of the timber by the state; that the ~~purchaser~~ permit holder shall remove his equipment and buildings from such land within 90 days thereafter; The permit shall further provide that, if the purchaser at any time fails to pay any obligations to the state under all ~~or~~ any other permits, any or all of his permits may be cancelled; and The permits shall provide that any timber removed in violation of the terms of the permit or of any law shall constitute trespass. A provision shall be contained in the permit that the statutes of limitation shall not prevent the bringing of any action or proceeding, either civil or criminal, growing out of any violation of

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any provision of this chapter and no statute of limitation shall so operate.

Subd. 9. The permit shall provide that the purchaser and his successors in interest *permit holder* shall burn or otherwise dispose of all slashings or other refuse resulting from cutting operations in the manner now or hereafter provided by law.

Subd. 10. The permit shall further provide holder or his representatives upon any of the lands covered by the permit when in that at any time the state may bring an action or suit to restrain, enjoin and prohibit the further cutting or removal of timber or the further entry of the permit holder or his representatives upon any of the lands covered by the permit when in the opinion of the attorney general any of the terms of the permit are being or have been violated, which suit shall be without prejudice to any other action or proceeding on behalf of the state.

Subd. 11. Any permit failing to conform to the requirements of this section shall be void on its face. All permits shall be filed for record with the director. The executive council, the attorney general, and the director, or any of them, are hereby specifically empowered to enforce all provisions and all conditions contained in any timber permit executed pursuant to the provisions of this chapter.

Sec. 15. Minnesota Statutes 1957, Section 90.22, is amended to read:

90.22 Purchaser's bond. *Subdivision 1.* Except as otherwise provided by law the purchaser of any state timber, before any timber permit to him shall become effective for any purpose, shall within 90 days from the date of purchase give a good and valid bond to the State of Minnesota in double the value of all timber covered or to be covered by the permit, as shown by the sale price bid therefor and the record of appraisal report thereof as to quantity, which bond shall be conditioned for and upon the faithful performance by the purchaser and his successors in interest of all the terms and conditions of the permit and all requirements of law in respect to such sales; and the bond shall be approved in writing by the commissioner and filed for record in the *his* office of the director. No person directly or indirectly interested in law or in equity in the purchase of the timber shall be accepted as a surety on such bond.

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Subd. 2. If such bond is not furnished within 90 days from the date of purchase, the down payment for such timber shall forfeit to the state, except that the commissioner may grant an extension of time for good and sufficient reason, provided that such extension of time shall not exceed 30 days.

Subd. 3. In case of default in payment by the permit holder the surety upon his bond may shall make payment in full to the state of all sums of money due under such permit; and thereupon such surety or sureties shall be deemed immediately subrogated to all the rights of the state in, or to, or in respect of, all the timber so paid for; and such subrogated party may pursue the timber and recover therefor, or have any other appropriate relief in relation thereto which the state might or could have had if such surety had not made such payment. No assignment or other writing on the part of the state shall be necessary to make such subrogation effective, but the certificate of the commissioner under his hand and official seal, showing the amount of such timber, the lands from which it was cut or upon which it stood, and the amount paid therefor, shall be prima facie evidence of such facts.

Sec. 16. Minnesota Statutes 1957, Section 90.23, is amended to read:

90.23 Assignment of permits. Any permit *sold at public auction* may be assigned; *but only as herein provided upon written approval of the commissioner.* The assignment of any permit shall be *in writing and signed and acknowledged by the permit holder. No assignment shall be operative without the approval of the director, who, if he shall approve the same, shall endorse his approval thereon and record the assignment in his office. Before any such approval The commissioner shall not approve any assignment until the assignee shall give* has given to the state a bond which shall be substantially in the form of, and shall be deemed of the same effect as, the bond required of the original purchaser; but the original bond given by the purchaser and any bond given by any prior assignee shall remain in full force. The ~~director~~ *commissioner* in his discretion may accept the agreement of the assignee and any corporate surety upon such original bond, substituting the assignee in the place of such original purchaser and continuing such original bond in full force and effect, as to the assignee. Thereupon but not otherwise the permit holder making the assignment

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shall be released from all liability arising or accruing from ~~things done~~ *actions taken* after the assignment became effective.

Sec. 17. Minnesota Statutes 1957, Section 90.24, is amended to read:

90.24 Sales made by fraud or mistake; refunds. Any sale of timber made by fraud or mistake or in violation of the provisions of this chapter shall be void, the permit issued thereon shall be of no effect, and the holder shall be required to surrender the same. In case of mistake the amount so paid shall be refunded to the ~~purchaser;~~ *permit holder*, or at his request the ~~director~~ *commissioner* may credit the refund as payment upon any other timber purchased by the permit holder.

Sec. 18. Minnesota Statutes 1957, Section 90.26, is amended to read:

90.26 Scaling of timber; reports; examination of land and timber covered by permits. *Subdivision 1.* The surveyor general shall scale all timber cut on lands in charge of the ~~director~~ *commissioner*, except as expressly provided otherwise in this chapter. *No timber sold at public auction may be scaled until such timber is first marked with M I N and the permit number.* All scaling shall be done upon the land from which the timber was cut; provided that the commissioner of ~~conservation~~ subject to the approval of the surveyor general, ~~when in his opinion it is in the best interest of the state,~~ may designate in writing to the holder of a scale permit *holder* another location where such timber may be scaled, counted or measured; all logs scaled shall be numbered consecutively, and the number of each entered upon the minutes of the scaler; *such allowance shall be made for defects therein as will make such timber equivalent to merchantable timber.* No state timber shall be removed from the land where it was cut until it has been so scaled or counted except as herein provided. Any person removing any such timber from the land where it was cut, or from the place designated by the commissioner of ~~conservation~~, before it has been so scaled or counted shall be guilty of a *gross misdemeanor*. ~~felony and may be prosecuted criminally therefor.~~

Subd. 2. The surveyor general shall make ~~to the director~~ separate reports *to the commissioner* of all such timber by ~~him~~ scaled, covering the respective permits. Each report

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shall describe the land on which the timber was cut, and state the names of the persons cutting, the person for whom the cutting was done, and the person hauling the timber, the quantities of each kind or species of timber, the state marks used thereon, the number of logs or pieces, and the total number of feet or other units of measurement, as the case may be. Each report shall state specifically whether the scaling was done upon the land from which the timber was cut; whether the cutting was done without unnecessary waste or damage; whether all timber cut has been scaled and reported and whether the timber has been marked with the state marks specified in the permit. The surveyor general shall report to the ~~director~~ *commissioner* any trespass coming to his knowledge.

Subd. 3. Final examination of lands and timber covered by any permit ~~may~~ *shall* be made by ~~any~~ *a* state appraiser at or subsequent to the expiration of the permit or of any cutting season and it shall be the duty of such appraiser to ascertain and report the amount of any timber covered by the permit and cut and left on the land or left standing thereon, but he shall not report any timber cut and left which has been marked as scaled by the surveyor general. This final report of the state appraiser shall be deemed supplementary to the report of the surveyor general and shall have the same force and effect as though made by the surveyor general.

~~In the making of any scale of state timber such allowance shall be made for defects therein as will make the same equal to merchantable timber.~~

Sec. 19. Minnesota Statutes 1957, Section 90.28, is amended to read:

90.28 **Re-scaling.** If the ~~director~~ *commissioner* shall question any scale of state timber made by the surveyor general he may demand a re-scale and in such case shall serve upon the surveyor general a written notice containing a description of the tract on which a re-scale is demanded. The surveyor general shall thereupon appoint one of his deputies, who, together with one or more state appraisers designated by the ~~director~~ *commissioner* for that purpose, shall make a correct scale of all timber authorized to be cut from the tract in question, whether the same has been cut and removed, or remains cut or standing on such land; and a report of such scale shall be made and signed by them, and filed for record with the ~~director~~ *commissioner*. This report, if both

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the deputy surveyor general and the state appraisers agree upon the scale, shall be final and binding upon the state and the purchaser. ~~The state shall pay the surveyor general the sum of \$5 for each day necessarily spent by his deputy in making the re-scale, in addition to all necessary expenses incurred by him in traveling to and from the land.~~

Any re-scale of state timber, either by state appraisers or by the surveyor general ~~or his deputies~~, may be a stump scale or a top and stump scale.

Sec. 20. Minnesota Statutes 1957, Section 90.29, is amended to read:

90.29 Fees and charges for scaling state timber. *Except as otherwise provided,* ~~The the fees and charges of the surveyor general and his deputies for scaling state timber shall be as provided in sections 91.01 and 91.07, which are hereby confirmed.~~ The surveyor general may bring any legal action or proceeding against any permit holder or the surety on his bond, ~~or either or both of them,~~ to enforce payment of any amount due him from the permit holder. The liability of the permit holder and his predecessors and successors in interest and their respective sureties for payment of the fees and charges of the surveyor general shall be coextensive with their liability for payment of the purchase price of timber sold under the permit.

Sec. 21. Minnesota Statutes 1957, Section 90.30, is amended to read:

90.30 Scaling for state; settlement of claims by state. No state timber shall ever be scaled for or on behalf of the state by any person except a state appraiser, or the surveyor general or one of his deputies. No scale, count, measurement, or estimate of state timber officially made and reported by any state appraiser or the surveyor general or any deputy surveyor general shall ever be changed or altered by any other person, nor superseded or set aside in any manner except as expressly provided in this chapter. Reappraisals of unsold state land or timber may be made when deemed advisable by the ~~director~~ *commissioner*. Except as herein expressly provided and as generally authorized by ~~section~~ *sections 10.11 and 10.12*, no claim of the state for timber from state lands shall ever be settled or discharged for less than the full amount thereof as shown by the scale or estimate of the surveyor general, or of state appraisers, as the case may be.

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Sec. 22. Minnesota Statutes 1957, Section 90.32, is amended to read:

90.32 Timber sales book. The ~~director~~ *commissioner* shall keep timber sales records, including the description of each tract of land from which any timber is sold; the date of the report of the state appraisers; the kind, amount, and value of the timber as shown by such report; ~~the date of the sale; the price for which the timber was sold;~~ the name of the purchaser; the number, date of issuance and date of expiration of each permit; the date of any assignment of the permit; the name of the assignee; the dates of the filing and the amounts of the respective bonds by the purchaser and assignee; the names of the sureties thereon; the amount of timber taken from the land; the date of the report of the surveyor general and state appraiser; the names of the deputy surveyor general and the state appraiser who scaled the timber; and the amount paid for such timber and the date of payment. ~~;~~ *together with a specific reference to all correspondence relating to the land covered by the permit.*

Sec. 23. Minnesota Statutes 1957, Section 90.33, is amended to read:

90.33 Statement of timber cut under permits; passage of title to timber. Upon receipt of the surveyor general's report of the amount of timber cut under any permit, the ~~director~~ *commissioner* shall ~~prepare~~ *transmit to the permit holder* a statement of the amount due therefor by the terms of the permit, ~~and place in the hands of the state treasurer a duplicate thereof.~~ *Payment of this amount shall be made by the purchaser, or assignee, as the case may be, to the treasurer, who shall give duplicate receipts therefor, one of which shall be filed with the director.* Any partial payment received may be applied to any items on the statement as the ~~director~~ *commissioner* shall determine.

When actual cash in the full amount due under such permit for the timber shall have come into the state treasury in payment thereof, but not before, the title to the timber shall pass from the state.

Sec. 24. Minnesota Statutes 1957, Section 90.34, is amended to read:

90.34 Deferred payments. If the amount of the statement ~~be is~~ not paid ~~immediately,~~ *within 30 days of the date thereof,* it shall bear interest at the rate of six percent

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per annum from date; and if ~~not paid within 30 days the~~ *treasurer the amount is not paid within 60 days, the commissioner* shall place the account in the hands of the attorney general who shall proceed to collect the same. When the ~~director~~ *commissioner* shall deem it for the best interest of the state he shall take possession of the timber for which such amount is due wherever it may be found and sell the same at public auction. The proceeds of ~~the such~~ sale shall be applied, first, to the payment of the expenses of seizure and sale; and, second, to the payment of the amount due for such timber; with interest; and the surplus, if any, shall belong to the state; and, in case a sufficient amount is not realized to pay such amounts in full, the balance shall be collected by the attorney general. Neither payment of such amount, nor the recovery of judgment therefor, nor satisfaction of such judgment, nor the seizure and sale of such timber, shall release the sureties on any bond given pursuant to this chapter, or preclude the state from afterwards claiming that such timber was cut or removed contrary to law and recovering damages for the trespass thereby committed, or from prosecuting the offender criminally.

Sec. 25. Minnesota Statutes 1957, Section 90.35, is amended to read:

90.35 Seizure of unlawfully cut timber. *Subdivision 1.* The ~~director~~ *commissioner* shall take possession of any timber heretofore or hereafter unlawfully cut upon or taken from any land owned by the state wherever found and may sell the same at public auction after giving such notice as he deems reasonable and after deducting all the expenses of such sale the proceeds thereof shall be paid into the state treasury to the credit of the proper fund; and when any timber so unlawfully cut has been intermingled with any other timber or property so that it cannot be identified or plainly separated therefrom the ~~director~~ *commissioner* may so seize and sell the whole quantity so intermingled and, in such case, the whole quantity of such timber shall be conclusively presumed to have been unlawfully taken from state land. When the timber unlawfully cut or removed from state land is so seized and sold the seizure shall not in any manner relieve the trespasser who cut or removed, or caused the cutting or removal of, any such timber from the full liability imposed by this chapter for the trespass so committed, but the net amount realized from such sale shall be credited on whatever judgment is recovered against such trespasser.

Subd. 2. ~~and, in~~ *In addition to any other penalty pro-*

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vided by law, any person who shall remove, transport, carry away, conceal, or convert to his own use any timber unlawfully cut on state lands, knowing the same to have been so cut, shall be guilty of larceny of the same and prosecuted and punished accordingly in the county where the property was cut or in any county into or through which the property or any part thereof may be removed; and when any corporation is guilty of the acts herein declared to be larceny, each officer of the corporation shall, individually and severally, be guilty of such larceny.

So far as permitted by the state constitution the director, or any employee by him authorized, may determine the manner and method of sale or disposal of any timber seized hereunder and the director, or any employee by him authorized, may provide for the transportation of all such timber to available markets or places for advantageous sale thereof or to places suitable for the storage or preservation thereof, or may do such other things as seem reasonably necessary to realize ultimately the largest net price therefor. All reasonable and necessary expenses so incurred shall be deemed a part of the expenses of sale of such seized timber and shall be paid from the proceeds thereof. The director shall keep and enter upon his books a detailed account of all expenses so paid. The director may advance from the moneys appropriated for his expenses all reasonable and necessary expenses incident to such transportation, sale, or preservation of such seized timber, but the advances shall be returned as soon as sufficient money is received therefor from the proceeds of the sale of such timber.

Sec. 26. Minnesota Statutes 1957, Section 90.36, is amended to read:

90.36 **Record of trespasses reported.** The director *commissioner* shall keep a book in which he shall enter all trespasses reported, with the minutes of all estimates and appraisals and settlements thereof, together with references to any correspondence relating thereto. *a record of all trespasses reported, with the estimates, appraisals and settlements thereof.* This record may be made in connection with the timber sales book or stumpage book required by this chapter to be kept, if he so elects.

Sec. 27. Minnesota Statutes 1957, Section 90.37, is amended to read:

90.37 **Apprehension of trespassers, reward for.** The

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following rewards shall be paid to any person giving to the proper authorities any information which shall lead to the detection and conviction of any persons violating any of the provisions of this chapter: \$25 reward, if the value of the timber so unlawfully cut or removed shall not exceed the sum of \$25; \$50 reward, if the value of the timber shall not exceed \$50; and \$100 reward, if the value of the timber shall exceed the sum of \$100; and the court before whom the person so violating the provisions of this chapter shall have been tried, shall, upon application of any person claiming to be entitled to such reward, examine the claim in a summary manner and determine whether or not the person claiming the reward is entitled to the same and, if it should appear to the satisfaction of the court that the person claiming the reward is entitled to the same, a certificate of such facts shall be made by the court and delivered to the person, which shall be deemed evidence of his right to the reward. The ~~timber board~~ *executive council* shall pay the same from any funds appropriated for its expenses.

Sec. 28. Minnesota Statutes 1957, Section 90.39, is amended to read:

90.39 Records as notice. The records kept by the ~~director~~ *commissioner* pursuant to this chapter shall be deemed notice of the facts therein set forth. All these records shall be prima facie true and correct.

Sec. 29. Minnesota Statutes 1957, Section 90.41, is amended to read:

90.41 Violations; penalties. Subdivision 1. Any surveyor general or deputy surveyor general or state appraiser who shall accept any compensation or gratuity for his services as such from any other source except the State of Minnesota, or who shall make any false report of ~~timber sealed~~, or insert in any such report any false statement, or *shall make any such report without having examined the land embraced therein or without having actually been upon the land*, or omit from any such report any statement required by law to be made therein, or who shall fail to report any trespass committed upon state lands which has come to his knowledge, or who shall conspire with any other person in any manner, by act or omission or otherwise, to defraud or unlawfully deprive the State of Minnesota of any land or timber, or the value thereof, shall be guilty of a felony. Any material discrepancy between the facts and the scale returned by any such person scaling timber for the state shall be

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considered prima facie evidence that such person is guilty of violating this statute.

No state appraiser or surveyor general or deputy surveyor general who has been once discharged for cause shall ever again be appointed. This provision shall not apply to resignations voluntarily made by and accepted from such employees.

Subd. 2. Every person who shall cut timber on state lands and fail to mark the same, as provided by law, and the permit under which the same was cut, or shall place any other mark thereon, except as provided in this chapter, and every person who shall sell, transfer, or manufacture any timber cut on state lands, before the amount due to the state therefor shall have been paid, shall be guilty of a gross misdemeanor.

Sec. 30. Minnesota Statutes 1957, Section 90.46, Subdivision 1, is amended to read:

90.46 Timber, sale of. Subdivision 1. ~~Timber subject to sale on any tract of state land may be sold at public auction by the~~ *The commissioner of conservation or his authorized agent may sell the timber on any tract of state land in lots of limited value as herein provided. not exceeding \$800 in appraised value. No timber shall be sold, except to the highest bidder at public auction, at not less than the appraised value.*

Sec. 31. Minnesota Statutes 1957, Section 90.46, Subdivision 2, is repealed.

Sec. 32. Minnesota Statutes 1957, Section 90.46, Subdivision 3, is amended to read:

~~Subd. 2.~~ *Subd. 2.* Every such sale shall be held at the county seat of the county in which the timber is located, except that in any county having branch county seats, such sale may be made either at the county seat or branch county seat, whichever is closer to the location of the timber. The commissioner shall give ~~two~~ *three* weeks' published notice of any such sale in a *legal* newspaper published ~~at~~ *in* such county. ~~seat or branch county seat or if there be no such newspaper, in one published elsewhere in the county.~~ The commissioner may give such other notice by publication, posting, or otherwise as he deems proper to reach prospective bidders or purchasers. The notice of sale required to be published in a newspaper ~~at the county seat or branch county seat as here-~~

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inbefore prescribed shall contain a description of each tract of land upon which any of the timber to be offered for sale is situated and a statement of the estimated quantity and appraised value of each kind of timber thereon, itemized in appropriate units.

Sec. 33. *Minnesota Statutes 1957, Section 90.46, Subdivision 4, is repealed.*

Sec. 34. *Minnesota Statutes 1957, Section 90.46, Subdivision 5, is amended by Laws 1959, Chapter 38, Section 1, is repealed.*

Sec. 35. *Minnesota Statutes 1957, Section 90.46, Subdivision 6, is amended to read:*

~~Subd. 6. Subd. 3. The commissioner shall issue a numbered permit to the purchaser at such sale in a form approved by the attorney general, describing the timber sold and the land whereon it is situated, by the terms of which the purchaser shall be authorized to enter upon the land and to cut and remove the timber described, according to the terms of the permit and applicable provisions of law. Every such permit shall be for a term not exceeding two years from the date of the sale, subject to extension by the commissioner in writing for not exceeding one additional year for good cause shown upon written application made by the holder of the permit before the expiration of the original term thereof. Every such permit shall be assignable, but no assignment shall be effective until written notice thereof, signed by the holder of the permit and accepted by the assignee, is filed with the commissioner.~~

Subd. 4. No provisions limiting the number of auction sales in one year shall apply to sales held under the provisions of this section.

Sec. 36. *Minnesota Statutes 1957, Section 90.46, Subdivision 7, is amended to read:*

~~Subd. 7. Subd. 5. Except as otherwise provided in this section, all provisions of law relating to the sale, cutting, removal, and scaling of state timber sold at public auction, payment and surety bonds therefor, and other matters pertaining thereto shall, so far as pertinent, apply to and govern all timber sold hereunder.~~

Sec. 37. *Minnesota Statutes 1957, Section 90.46, Subdivision 8, is amended to read:*

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~~Subd. 8.~~ *Subd. 6.* No sale shall be made under this section to any purchaser holding a ~~previous more than one~~ permit issued hereunder which is still in effect, nor to any purchaser who is in default for failure to comply with the terms of any previous timber sale permit issued ~~under this section or any other provisions of law.~~

Sec. 38. Repealer. *Minnesota Statutes 1957, Sections 90.03, 90.06, 90.10, 90.18, 90.19, 90.38 and 90.46, Subdivisions 2, 4, and Subdivision 5 as amended by Laws 1959, Chapter 38, Section 1, are repealed.*

Approved April 5, 1961.

CHAPTER 203—H. F. No. 441

An act relating to reinsurance agreements of certain insurance companies; amending Minnesota Statutes 1957, Section 60.52.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1957, Section 60.52, is amended to read:

60.52 Reinsurance; maximum by fire companies; reports. If any company, other than life, shall, directly or indirectly, effect the reinsurance of any risk taken by it, or any part thereof, it shall make a sworn report thereof to the commissioner, at the time of filing its annual statement, or at such other time as he may request.

No fire company shall insure or reinsure in a single risk a larger sum than one-tenth of its net assets; *provided, that in the case of a fire company with net assets of more than \$50,000, any portion of any such risk which shall have been reinsured, as authorized by the laws of this state, shall be deducted before determining the limitation of risk prescribed by this section; and, provided, that a mutual fire insurance company organized under section 71.28, subdivision 1, may insure in a single risk, consisting of a creamery or a cheese factory, a sum equal to one percent of its insurance in force.*

Every company effecting any reinsurance in violation of the foregoing provisions, and every agent effecting or

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