

130278

1941 Supplement

To

**Mason's Minnesota Statutes**

**1927**

**1939 to 1941**

**(Supplementing Mason's 1940 Supplement)**

Containing the text of the acts of the 1941 Session of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with Law Review Articles and digest of all common law decisions.

Edited by  
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Whenever the commission or commissioner is in possession of information indicating that a licensee is insolvent, is of bad business repute, has violated or is about to violate any of the provisions of this act, or lacks the necessary experience and qualifications for acting as an investment adviser, or has engaged in or is about to engage in any fraudulent transaction, it may issue its order requiring such licensee to show cause why his license should not be revoked. In any such order the commission shall fix the time and place for hearing thereon, at which time a hearing shall be had. Any license may be suspended pending the final determination of any order to show cause, during which suspension it shall be unlawful for such licenses to transact any business as an investment adviser. After the hearing the commission shall enter its order vacating such order to show cause and suspension, or permanently revoking the license, or making such other disposition of the matter as the facts require. (Act Apr. 28, 1941, c. 547, §19.)

**3996-24b. Remuneration from persons other than clients or customers.**—No investment adviser who shall recommend the purchase or sale of a security to a client and no licensed dealer or licensed broker acting as a broker for a customer in the purchase or sale of a security shall take or accept any remuneration or other thing of value from any person other than the client or customer in connection with such purchase of sale unless, prior to or contemporaneously with such recommendation in the case of an investment adviser and prior to or contemporaneously with the confirmation of the transaction in the case of a licensed dealer or licensed broker so acting, written disclosure to the client or customer is made of the acceptance or intended acceptance of such remuneration or other thing of value and of the amount thereof. All charges made by an investment adviser for services and all charges by a licensed dealer or licensed broker for services rendered by him as broker or for advice and respect to securities shall be reasonable, and no such charges shall be based upon or measured by profits accrued or to accrue from transactions recommended or carried out by an investment adviser, licensed dealer, or licensed broker. (Act Apr. 28, 1941, c. 547, §20.)

**3996-24c. Rules and regulations.**—The commissioner may promulgate rules and regulations to carry out the provisions of the act. (Act Apr. 28, 1941, c. 547, §21.)

**3996-24d. Persons subject to act not subject to certain other laws.**—No person, subject to the provisions of Mason's Minnesota Statutes of 1927, Sections 7771 to 7774, both inclusive, as now or hereafter amended, and subject to this act as now or hereafter amended, and no agent, broker or dealer of, or security issued by, any such person, subject to this act, shall be subject to any of the provisions of Mason's Minnesota Statutes of 1927, Chapter 19. (Act Apr. 28, 1941, c. 547, §22.)

**3996-24e. Pending actions or prosecutions.**—Except as provided in Mason's Minnesota Statutes of 1927, Section 3996-24, all actions, civil or criminal, pending or which may arise under the act as it was in effect prior to the effective date of this enactment, shall in no wise be affected by this enactment but shall continue under the act as it was in effect prior to the effective date of this enactment. All registrations and licenses in effect on the effective date of this enactment shall be subject to the act and shall continue in effect but may be suspended, canceled or revoked in accordance with the provisions of the act. (Act Apr. 28, 1941, c. 547, §23.)

**3996-24f. "Act" as used herein construed.**—The word "act" when used in this enactment shall, unless the context otherwise requires, mean Laws of 1925, Chapter 192, as amended by Laws of 1927, Chapter 66; Laws of 1931, Chapter 404; Laws of 1933, Chapter 408; Laws of 1937, Chapter 243 and 481 and Laws of 1939, Chapter 275. (Act Apr. 28, 1941, c. 547, §24.)

**3996-24g. Repealer.**—Mason's Supplement 1940, Sections 3996-30, 3996-30a and 3996-30b, are hereby repealed. (Act Apr. 28, 1941, c. 547, §25.)

**3996-24h. Time of taking effect.**—This enactment shall take effect and be in force on and after July 1, 1941. (Act Apr. 28, 1941, c. 547, §26.)

**3996-24i Separability clause.**—If any provision, section, subsection, or any other portion of this act be held unconstitutional, the remaining portions of this act shall not be affected thereby but shall be and remain in full force and effect. (Act Apr. 28, 1941, c. 547, §27.)

**3996-30 to 3996-30b. [Repealed.]**  
Repealed. Laws 1941, c. 547.

## CHAPTER 22

### Forestry and Forest and Prairie Fires

#### FORESTRY ACT

**4031-10¼. State land exchange commission—Members—Officers—Approval of official acts.**—The commission created by Section 8 of Article 8 of the state constitution, consisting of the governor, the attorney general, and the state auditor, shall be known as the Minnesota Land Exchange Commission. The term "commission" as used in this act refers to such commission. The governor shall be chairman of the commission. The state auditor shall be secretary of the commission and shall keep a record of its proceedings. Approvals of land exchanges and other official acts of the commission may be evidenced by the certificate of the state auditor as secretary, under his official seal. When a land exchange has been approved by the commission it shall be presumed that all other pertinent requirements of the law have been complied with, and no exchange shall be invalidated by reason of any defect or omission in respect of any such other requirement. (Act Apr. 23, 1941, c. 393, §1.)

#### 4031-10¼ a. Classification of land.—

Subdivision 1. All land owned by the state and controlled or administered by the commissioner of conservation or by any division or agency of the department of conservation shall be known as Class A land for the purposes of this act. Class A land shall include school, swamp, internal improvement, and other land granted to the state by acts of congress, state forest land, tax-forfeited land held by the state free from any trust in favor of taxing districts, and other land acquired by the state in any manner and controlled or administered as aforesaid; but this enumeration shall not be deemed exclusive.

Subdivision 2. All land heretofore or hereafter acquired by the state through tax-forfeiture, held subject to a trust in favor of taxing districts, and under the control of county authorities for classification, appraisal, and sale shall be known as Class B land for the purposes of this act.

Subdivision 3. No land specifically designated by law as a state park shall be given in exchange hereunder unless expressly authorized by the legislature.

No land bordering on or adjacent to any meandered or other public waters and withdrawn from sale by law shall be given in exchange unless expressly authorized by the legislature or unless through the same exchange the state acquires land on the same or other public waters in the same general vicinity affording at least equal opportunity for access to the waters and other riparian use by the public. (Act Apr. 23, 1941, c. 393, §2.)

**4031-10 1/4 b. Commissioner of conservation—Exchange programs—Reservation of rights and easements—Approval of exchanges.**

Subdivision 1. Except as otherwise herein provided, any Class A land may, with the unanimous approval of the commission, be exchanged for land of the United States or privately owned land in the manner and subject to the conditions herein prescribed. The commissioner of conservation, herein called the commissioner, with the approval of the commission, shall formulate general programs of exchange of Class A land designed to serve the best interests of the state in the acquisition, development, and use of lands for purposes within the province of the department of conservation.

Subdivision 2. Except as herein expressly prohibited, Class A land may be exchanged, though devoted to a specific public use, if the use is discretionary and the authority in charge thereof shall approve the exchange, or if the commissioner, with the approval of the commission, shall determine that the exchange will not materially curtail the activity or project for which the land is used; provided, that exchanges of land belonging to any state forest, game preserve, conservation area, or other territory designated by law for particular purposes shall be made so as to consolidate or fill out the state's holdings of land therein, and not materially to reduce the same.

Subdivision 3. Except as otherwise herein provided, Class A land shall be exchanged only for land of at least substantially equal value to the state, as determined by the commissioner of conservation, with the approval of the commission. For the purposes of such determination, the commissioner shall cause the state land and the land proposed to be exchanged therefor to be examined and appraised by qualified state appraisers in like manner as state land to be offered for sale. The appraisers shall determine the fair market value of the lands involved, disregarding any minimum value fixed for state land by the state constitution or by law, and shall make a report thereof, together with such other pertinent information respecting the use and value of the lands to the state as they deem pertinent or as the commissioner or the commission may require. Such reports shall be filed and preserved in the same manner as other reports of appraisal of state lands. The appraised values shall not be conclusive, but shall be taken into consideration by the commissioner and the commission, together with such other matters as they deem material, in determining the values for the purposes of exchange.

Subdivision 4. There shall be reserved to the state in all Class A land conveyed in exchange all mineral and water power rights and such other rights and easements as the commissioner, with the approval of the commission, shall direct. All Class A land which at the time of exchange is subject to the provisions of Mason's Supplement 1940, Section 6602-2 and acts amendatory thereof shall remain subject thereto as a condition of the exchange, and all land received by the state in exchange for Class A land within the area to which said provisions apply shall become subject thereto. Land may be received in exchange subject to any mineral reservations or other reservations thereon. All such reservations and conditions shall be taken into consideration in determining the value of the lands exchanged.

Subdivision 5. Class A land may be exchanged for land of greater value if the other party to the exchange shall waive payment for the difference or if

there is an appropriation available for the acquisition of such land from which the difference may be paid.

Subdivision 6. Class A land may be exchanged for land of less value in any case where disposal of the state land is not limited by the state constitution to public sale, provided the other party to the exchange shall pay to the state the amount of the difference in value either upon consummation of the exchange or by deferred payment, as the commissioner, with the approval of the commission, may direct. In case of deferred payment, a certificate of sale of the state land shall be issued to the other party as in case of sale of state public land, crediting the value of the land received by the state in exchange as an initial payment, and providing for payment of the balance upon like terms and subject to like conditions as in case of such sale; provided, that the commissioner, with the approval of the commission, may require a further initial cash payment and may shorten the time for payment of the balance. Money received in such cases shall be credited to the same fund as in case of sale of the land, if such fund exists, otherwise to the special fund, if any, from which the cost of the land was paid, otherwise to the general revenue fund.

Subdivision 7. Before giving final approval to any exchange of Class A land, the commission shall hold a public hearing thereon at the capital city or at some place which it may designate in the general area where the lands involved are situated; provided, that the commission may direct such hearing to be held in its behalf by any of its members or by the commissioner or by a referee appointed by the commission. The commissioner shall furnish to the county auditor of each county affected a notice of the hearing signed by the state auditor as secretary of the commission, together with a list of all the state lands proposed to be exchanged and situated in the county, and the county auditor shall post the same in his office at least two weeks before the hearing. The county auditor shall also cause a copy of the notice, referring to the list of lands posted in his office, to be published at least two weeks before the hearing in the newspaper designated for publication of the proceedings of the county board. The cost of publication of the notice shall be paid by the state out of any moneys appropriated for the expenses of the commission.

Subdivision 8. The commissioner, with the approval of the commission, may submit a proposal for exchange of Class A land to any land owner concerned. Any land owner may submit to the commissioner and the commission a proposal for exchange in such form as the commissioner, with the approval of the commission, may prescribe.

Subdivision 9. No exchange of Class A land shall be consummated unless the attorney general shall have given his opinion in writing that the title to the land proposed to be conveyed to the state is good and marketable, free from all liens and encumbrances except reservations herein authorized. If required by the attorney general, the land owner shall submit an abstract of title and shall make and file with the commissioner an affidavit as to possession of the land, improvements, liens, and encumbrances thereon, and other matters affecting the title.

Subdivision 10. Conveyance of Class A land given in exchange shall be made by deed executed by the commissioner of conservation in the name of the state, with a certificate of unanimous approval by the commission appended. All such deeds received by the state shall be recorded or registered in the county in which the lands lie, and all recorded deeds and certificates of registered title shall be filed in the office having custody of the state public land records in the department of conservation.

Subdivision 11. Land received in exchange for Class A land shall be subject to the same trust, if any, and shall otherwise have the same status as the state land given in exchange. The commissioner, with the approval of the commission, shall determine accord-

ingly the status of each tract of such land received in exchange, and shall make and file a certificate thereof in the office having custody of the state public land records in the department of conservation.

Subdivision 12. Whenever an exchange of Class A tax-forfeited land which is subject to sale by county authorities is under consideration, the commissioner may notify the county auditor to withdraw the land from sale. Thereupon the land shall be withdrawn from sale until the proposed exchange is consummated or rejected, of which the commissioner shall notify the county auditor. (Act Apr. 23, 1941, c. 393, §3.)

#### 4031-10 1/4 c. Exchanges of classified lands—Specified exchanges—Approval.—

Subdivision 1. Except as otherwise herein provided, any Class B land may, by resolution of the county board of the county in which the land is situated and with the unanimous approval of the land exchange commission, be exchanged for land of the United States or privately owned land in the same county in the manner and subject to the conditions herein prescribed.

Subdivision 2. No Class B land which is not classified for sale, and no Class B land, however classified, lying within any zone or district which is restricted against any use for which the land may be suitable shall be given in exchange for any privately owned land.

Subdivision 3. Except as otherwise herein provided, Class B land shall be exchanged only for land of at least substantially equal value to the state, as determined by the county board, with the approval of the commissioner and the commission. For the purposes of such determination the county board shall appraise the state land and the land proposed to be exchanged therefor in like manner as tax-forfeited land to be offered for sale. The appraised values shall not be conclusive, but shall be taken into consideration, together with such other matters as may be deemed material, in determining the values for the purposes of exchange.

Subdivision 4. There shall be reserved to the state in all Class B land conveyed in exchange the same rights and easements as may be required by law in case of sale of tax-forfeited land and such other rights and easements as the county board, with the approval of the commissioner and the commission, shall direct. Land may be received in exchange subject to any mineral reservation or other reservations thereon. All such reservations and conditions shall be taken into consideration in determining the value of the lands exchanged.

Subdivision 5. Class B land may be exchanged for land of greater value only in case the other party to the exchange shall waive payment for the difference.

Subdivision 6. Class B land may be exchanged for land of less value, provided the other party to the exchange shall pay the amount of the difference to the county treasurer either upon consummation of the exchange or by deferred payment, as the county board may direct. In case of deferred payment, a certificate of sale of the state land shall be issued to the other party in like manner as in case of sale of tax-forfeited land, crediting the value of the land received by the state in exchange as an initial payment, and providing for payment of the balance upon like terms and subject to like conditions as in case of such sale; provided, that the county board may require a further initial cash payment and may shorten the time for payment of the balance. Money received in such cases shall be disposed of in like manner as the proceeds of sale of tax-forfeited land.

Subdivision 7. Before giving final approval to any exchange of Class B land, the county board shall hold a public hearing thereon. At least two weeks before the hearing the county auditor shall post in his office a notice thereof, containing a description of the lands affected, and shall cause a copy of the notice to be

published in the newspaper designated for publication of the official proceedings of the county board.

Subdivision 8. By direction of the county board the county auditor may submit a proposal for exchange of Class B land to any land owner concerned. Any land owner may file with the county auditor a proposal for exchange for consideration by the county board. Forms for such proposals shall be prescribed by the commissioner of conservation.

Subdivision 9. No exchange of Class B land shall be consummated unless the title to the land proposed to be exchanged therefor shall first be approved by the county attorney in like manner as provided for approval by the attorney general in case of Class A land. The county attorney's opinion on the title shall be subject to approval by the attorney general.

Subdivision 10. After approval by the county board, every proposal for the exchange of Class B land shall be transmitted to the commissioner of conservation in such form and with such information as he may prescribe, for consideration by him and by the commission. The county attorney's opinion on the title, with the abstract and other evidence of title, if any, shall accompany the proposal. If the proposal be approved by the commissioner and the commission and the title be approved by the attorney general, the same shall be certified to the commissioner of taxation, who shall execute a deed in the name of the state conveying the land given in exchange, with a certificate of unanimous approval by the commission appended, and shall transmit the deed to the county auditor to be delivered upon receipt of a deed conveying to the state the land received in exchange, approved by the county attorney; provided, that if any amount is due from the state under the terms of the exchange, the deed from the state shall not be executed or delivered until such amount is paid in full and a certificate thereof by the county auditor is filed with the commissioner of taxation. The county auditor shall cause all deeds received by the state in such exchanges to be recorded or registered, and thereafter shall file the deeds or the certificates of registered title in his office.

Subdivision 11. Land received in exchange for Class B land shall be subject to the same trusts in favor of the same taxing districts as the land given in exchange, irrespective of where the land received is situated. Otherwise the land received shall be subject to all the provisions of law relating to tax-forfeited land in the governmental subdivision where it is situated, so far as applicable. The county auditor shall keep a record of such land, showing the taxing districts interested in each tract. (Act Apr. 23, 1941, c. 393, §4.)

4031-10 1/4 d. Conveyances and other instruments—Approval by Attorney General.—The attorney general shall prescribe or approve the forms for all deeds, certificates, and other instruments required in proceedings hereunder, and the procedure for delivery thereof. (Act Apr. 23, 1941, c. 393, §5.)

4031-10 1/4 e. Quieting title—Registration of titles—Adverse claims.—The state may bring and maintain an action to quiet or register the title to any land or interest in land which it owns or claims in any capacity and to determine all adverse claims thereto under any law pertaining to such proceedings, whether or not the land is actually in possession of or occupied by the state or any other person or corporation. (Act Apr. 23, 1941, c. 393, §6.)

4031-10 1/4 f. Perfection of titles to state owned lands—Expenses and fees.—Subdivision 1. The attorney general, at the request or with the approval of the commission, may commence and carry on any necessary or proper actions to perfect the titles to lands owned by the state and subject to exchange hereunder, and may authorize any county attorney or other attorney to assist in conducting any such action. The expenses of such actions, including such attorneys' fees as the attorney general may allow to county

attorneys or other attorneys representing the state, shall be payable out of any appropriations available for the purpose of this act. Any county attorney performing such service shall be entitled to the fees allowed therefor in addition to his regular compensation unless his salary is fixed on a full-time basis.

**Subdivision 2.** In case an action is necessary to perfect the title to any privately owned land involved in an exchange hereunder, and the owner of the land is unable to bear the expense thereof, the land exchange commission may authorize the attorney general to conduct such action and pay the expenses thereof as in case of actions to perfect the title to state lands. The expenses of the action, including attorney's fees, shall be deducted from the value of the land for the purpose of exchange, subject to payment by the owner for any difference in value as herein provided, or shall be repaid by the owner otherwise upon such terms as the commission may direct. All money received on account of such expenses shall be remitted to the state treasurer and credited to the fund from which the expenses were paid. (Act Apr. 23, 1941, c. 393, §7.)

**4031-10 1/4 g. State lands subject to trusts—Determination of trust status.**—The lands acquired by the state under Laws 1939, Chapter 343, shall be subject to like trusts as the state lands involved in the actions for damages mentioned therein. The commissioner of conservation shall determine to what trusts the several tracts of land so acquired shall be subject according to their location, character, and value, making due allowance for the relative proportions of the different trusts to which the damaged lands were subject, and shall make and file a certificate thereof in the office having custody of the records of such lands in the department of conservation. The determination of the commissioner so certified shall be deemed conclusive as to the trust status of the lands affected unless thereafter changed by act of the legislature. (Act Apr. 23, 1941, c. 393, §8.)

**4031-10 1/4 h. Appropriation for expenses—Equalization of land value—Audit of claims.**—There is hereby appropriated out of any money in the state treasury not otherwise appropriated the sum of \$5,000 for the fiscal year ending June 30, 1942, and the sum of \$5,000 for the fiscal year ending June 30, 1943, for expenses of the land exchange commission, the commissioner of conservation, and the attorney general in carrying out the provisions of this act; provided, that no payment for equalization of any land value shall be made out of this appropriation. Claims against this appropriation shall be audited and certified by

the state auditor as secretary of the commission. (Act Apr. 23, 1941, c. 393, §9.)

**4031-10 1/4 i. Repealer.**—Mason's Supplement 1940, Sections 4031-10 1/2 m to 4031-10 1/2 t, inclusive, and all other acts and parts of acts inconsistent herewith are hereby repealed. (Act Apr. 23, 1941, c. 393, §10.)

**4031-10 1/4 j. Severability clause.**—The provisions of this act shall be severable, and if any provision or application hereof shall be declared invalid, it shall not affect any other provision or application which can be given effect without the one declared invalid. (Act Apr. 23, 1941, c. 393, §11.)

**4031-10 1/2 to 4031-10 1/2 t. [Repealed.]**

Repealed. Laws 1941, c. 393.  
Act Apr. 22, 1933, c. 418 consisting of §§4031-10 1/2 to 4031-10 1/2 t was formerly repealed by Act Apr. 21, 1939, c. 382, §9.

**4031-10 3/4 a. Lands to be under control of conservation commission.**

Act Apr. 2, 1941, c. 117, authorizes Commissioner of Conservation to withdraw and sell certain described school lands from Crow Wing State Forest.

**4031-11. Co-operation with state highway; etc.**

Limit of \$500 on yearly expenditures for forest fire protection, pursuant to §4031-11, is not a limitation on expenditures for general fire protection. Op. Atty. Gen. (916B), Oct. 21, 1940.

Limitation of \$500 applies only to funds expended for prevention of forest or prairie fires, and does not apply to expenditures by a town for general fire prevention. Id.

**AFFORESTATION AND REFORESTATION**

**4031-74. Stock to be used on state lands.**—Said commissioner may purchase or collect coniferous forest planting stock indigenous to Minnesota or grow the same; and may supply the same for use on lands owned by the state and dedicated to forestry or conservation purposes or to any political subdivision of the state for use upon lands set aside and dedicated to forestry or conservation purposes for a period of not less than 25 years; or upon lands dedicated to state trunk highway purposes, provided, however, plantings on such lands shall be confined to standard forest plantings; but no such plantings may be sold or given away for replanting upon any lands not qualified for planting under this act. (As amended Mar. 28, 1941, c. 84, §1.)

**4031-75. State reforestation projects established.**

Act Apr. 10, 1941, c. 185, provides for purchase of Civilian Conservation Corps site at Orr.

Act Apr. 16, 1941, c. 250, provides for purchase and rental of Civilian Conservation Corps site in Becker County.

**CHAPTER 23**

**Department of Labor and Industries**

**INDUSTRIAL COMMISSION**

**4037. Office in St. Paul.**

An action against members of state industrial commission to compel reinstatement of a dismissed employee is triable in Ramsey county where commission maintains its office. State v. District Court of St. Louis County, 287NW601. See Dun. Dig. 10113a.

**4046. Powers and duties.**

(5).

Commission has power to adopt and enforce rules and regulations relating to licensing of engineers and boiler inspection, and approval of governor is unnecessary. Op. Atty. Gen., (34f), January 22, 1940.

**HOURS OF, AND RESTRICTIONS ON, LABOR**

**4087. Ten hours to constitute one day's work, etc.**

No state department may enter into arrangement with children's bureau and wage and hour division of United States Department of Labor under which state agencies will make investigations and inspections for purpose of enforcement of federal laws relating to child labor and

to wages and hours, notwithstanding that federal government agrees to reimburse state for expenses from time to time. Op. Atty. Gen., (270a-2), Nov. 10, 1939.

There is no state law, and probably no federal law, regulating hours of labor which might be applicable to employment of a police officer by a village. Op. Atty. Gen., (785g), Feb. 18, 1941.

**4094. Employment of children under fourteen years.**

No state department may enter into arrangement with children's bureau and wage and hour division of United States Department of Labor under which state agencies will make investigations and inspections for purpose of enforcement of federal laws relating to child labor and to wages and hours, notwithstanding that federal government agrees to reimburse state for expenses from time to time. Op. Atty. Gen., (270a-2), Nov. 10, 1939.

**4111-1. Employment of minors prohibited.**

This is the only statute bearing on employment of persons under 18 years of age in 3.2 beer establishments, and fact that a minor is a child of owner does not exempt him from it. Op. Atty. Gen., (218J-12), April 3, 1940.