

## CHAPTER 90

## DIVISION OF FORESTRY; TIMBER LANDS

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**90.01 DEFINITIONS.** Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases, for the purposes of this chapter, shall be given the meanings subjoined to them.

Subdivision 2. **State appraisers.** The term "state appraisers" means one or more of the employees of the department appointed 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 appraisers, who shall, except as otherwise provided in this chapter, perform such duties.

Subdivision 3. **Surveyor general.** The term "surveyor general" means the state surveyor general of logs and lumber.

Subdivision 4. **Deputy surveyor general.** The term "deputy surveyor general" means one of the deputies of the surveyor general.

Subdivision 5. **Timber.** The word "timber" means trees, whether standing or cut or down, logs, posts, poles, ties, paving blocks, laths, shingles, cordwood, and lumber and forest products of every species and description.

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

Subdivision 7. **Permit holder.** The term "permit holder" means the person holding the right to cut timber under a permit.

Subdivision 8. **Person.** The word "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.

[1917 c. 162 s. 1; 1925 c. 276 s. 2] (6353) (6394-2)

**90.02 CITATION.** This chapter may be cited as the state timber act.

[1925 c. 276 s. 1] (6394-1)

**90.03 LAWS REVISED, EXPANDED, AND SUPERSEDED; RIGHTS AND OBLIGATIONS NOT AFFECTED.** This chapter shall be deemed and construed as a revision and expansion of, and is intended to supersede and take the place of Laws 1905, Chapter 204, and acts amendatory thereof and supplemental thereto, and other laws relating to the same subject matter, but without in any way abridging or destroying the effect of the laws heretofore in force with respect to any

right or obligation arising or any matter or thing occurring prior to the taking effect of this chapter.

[1925 c. 276 s. 1] (6394-4)

**90.04 DUTIES OF STATE APPRAISER; OATH OF OFFICE.** The duties of the state appraiser shall be 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 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. 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, relating to the appointment of appraisers by other officials.

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 directly or indirectly in any of the state lands or material improvements thereon and has entered into no combination to purchase the same or any part thereof, which oath shall be made a part of his bond.

[1917 c. 162 ss. 2, 3] (6354) (6355)

**90.05 STATE APPRAISERS.** At the time of the appointment of any state appraiser he shall give a bond to the state in a penal sum of not less than \$1,000, conditioned for 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.

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.

Each state appraiser shall wear when on duty a badge of office to be designated and provided by the director.

It is hereby declared a misdemeanor for any person not a duly appointed and acting state appraiser to wear a badge or to impersonate or claim to be a state appraiser.

When an appraisal or valuation 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 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 made a part of the record of the office of the director; the entry shall be dated when made and sworn to upon the record at the same time 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. 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 made 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 report shall state the amount of each kind of timber, the value per thousand feet, and the value per piece of all such timber.

In making this estimate and valuation the appraiser shall 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.

[1917 c. 162 s. 4; 1937 c. 369 s. 1] (6356)

**90.06 FALSE REPORTS A FELONY.** Every state appraiser who shall make a false report, or insert in any such report a false date, estimate appraisal, valuation quantity, or statement of whatever nature; or shall make any such report without having examined the land embraced therein or without having actually been upon the land; or who, in executing his oath of office, or who, in stating his qualifications as state appraiser, for the purpose of securing such appointment, or who shall insert therein any false statement, shall be guilty of a felony.

[1917 c. 162 s. 5] (6357)

**90.07 TRESPASS ON STATE LANDS.** Whoever without valid permit shall cut any timber upon the lands owned by this state, 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 so to do, shall be liable in an action brought by the state in treble damages, if the trespass is adjudged to have been wilful, but in 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 shall be conclusively presumed to have acquired the timber with knowledge that the same was so unlawfully cut, and shall be liable to the state in a civil action for twice the value thereof, and it shall be no defense in any action to plead or claim a purchase of the timber from any one other than the director, nor shall such defendant be allowed to claim that any other person should be joined as defendant; and he shall have no right to any 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.

[1925 c. 276 s. 3; 1937 c. 368 s. 1] (6394-3)

**90.08 FORCIBLE ENTRY AND DETAINER; RESTRAINTS.** If any person holds or continues in possession of any lands mentioned in this chapter contrary to the conditions 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 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.

[1925 c. 276 s. 4] (6394-4)

**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 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.

[1925 c. 276 s. 5] (6394-5)

**90.10 PROCEEDS OF SALES OF TIMBER SEIZED AND DAMAGES RECOVERED.** The net proceeds from all sales of timber seized in trespass and from all damages recovered on behalf of the state for any trespass or other injury upon or to any of the lands in charge of the commissioner shall be paid over to the state treasurer, for the benefit of the fund to which the same properly belongs.

[1925 c. 276 s. 6] (6394-6)

**90.11 POWERS OF EXECUTIVE COUNCIL.** 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:

(1) 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 on state lands, or in any one contract or other instrument relating thereto and within the jurisdiction of the executive council; and grant extensions of such timber permits and contracts, whether heretofore or hereafter issued, for and during such period as the executive council deems advisable, but otherwise subject to all the provisions of this chapter; a condition of any extension shall be that the purchaser shall pay to the state interest at the rate of six per cent per annum on the unpaid purchase price, as finally computed on the actual scale or count of such timber at the time of cutting thereof, 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;

(2) 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 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;

(3) Formulate and establish, from time to time, such rules and regulations as it deems advisable for the transaction of the timber business of the state, and abrogate, modify, or suspend such rules and regulations at pleasure; and

(4) 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.

[1925 c. 276 s. 8; 1933 c. 375 s. 1; 1937 c. 368 s. 2; 1939 c. 32] (6394-8)

**90.12 TIMBER RESOURCES.** The director 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. He 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.

[1925 c. 276 s. 9] (6394-9)

**90.13 SALES OF STATE TIMBER.** Subject to the restrictions of the state constitution, the director, with the approval of the commissioner, may sell the timber on the lands in his charge without formalities but for not less than the full appraised value as fixed by any two state appraisers, small amounts of green standing, dead, down, dying, or insect-infected or diseased timber, not exceeding \$250.00 in appraised value, to any individual; provided, that not more than one such sale to any individual shall be in effect at any one time. The purchaser shall pay the full appraised price in advance before the permit is issued and, upon receipt of such payment, the director may informally, by letter or otherwise, authorize the purchaser to cut and remove such timber within one year from the date of sale under such supervision and restrictions as the director, 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 extension shall be granted and the extension shall be for one year only. All timber products, except fuel wood cut under the provision of this chapter, shall be scaled by the surveyor general, or his designated representative, and 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.

[1925 c. 276 s. 10; 1939 c. 352] (6394-10)

**90.14 TIMBER SALES, WHEN HAD.** Timber sales shall be had only after appraisal of the timber is made by the division and approved by the commissioner. Land sales shall be had only after appraisal by the division of lands and minerals and the approval of the commissioner. The actual sale of both land and timber shall be held by the commissioner in the county-seats of the counties in which the land or timber is situated and at times recommended by the commissioner.

[1937 c. 310 s. 3] (53-23½n)

**90.15 STATE APPRAISERS; SUPERINTENDENT OF STATE TIMBER.** 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 of state timber 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-sale 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, to perform any of the duties of a deputy surveyor general when designated or requested so to do 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 the permits or other contracts governing the same and protect the state from loss.

The form of 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 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 surveyor general may 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 surveyor general.

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 in 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.

[1925 c. 276 s. 11] (6394-11)

**90.16 RE-SCALES, RECOUNTS, AND RE-ESTIMATES OF TIMBER.** 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 at his discretion or of his own motion when no complaint is pending 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 per cent 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 at his discretion may require such person to make irrevocably available such sum of money as the director 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 per cent 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 were paid.

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

[1925 c. 276 s. 12] (6394-12)

**90.17 TIMBER SOLD AT PUBLIC AUCTION.** 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. All sales, except as otherwise herein provided, shall be held at the capitol, in St. Paul, Minnesota. 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.

At least 30 days before the date of sale the director 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 thereon and of the appraised price of each kind of timber thereon as shown by the official estimate. 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 and in the office of the auditor of each county in which any of these lands are situated at least 30 days prior to the date of sale, and extra copies of these posted lists shall be furnished to each county auditor for distribution to applicants. The published notice of 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.

[1925 c. 276 s. 13] (6394-13)

**90.18 STUMPAGE; SALES, NOTICES.** The timber board may authorize the director to sell the stumpage on any tract of state land at public auction to the highest bidder at the county-seat of the county in which the tract is located. He shall give three weeks' published notice of any such sale in a newspaper published at the county-seat of the county where the land is situated. He may give such other published or posted notice as he deems proper to reach prospective bidders or purchasers. The required notice of sale first above mentioned shall contain a description of each tract of land upon which is situated any timber that is to be offered, and a statement of the estimated quantity of each kind of timber thereon, and of the appraised price of each kind of such timber, per thousand feet, or per piece, or per cord, as the case may be.

[1925 c. 276 s. 14] (6394-14)

**90.19 NUMBER OF SALES OF TIMBER IN EACH YEAR.** Except as provided in sections 90.18 and 90.19, there shall be only one sale of timber in each year, which shall be held not later than November first and may be adjourned from day to day, but no longer, until complete; provided, that in case of emergency, if the timber board shall unanimously determine that it is for the best interests of the state that more sales shall take place before the next regular sale, they shall be held under the same regulations, so far as practicable, as are provided for regular sales.

[1925 c. 276 s. 15] (6394-15)

**90.20 SALE OF TIMBER; MANNER, PAYMENTS; RE-SALES.** 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 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 25 per cent 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 may reoffer this timber for sale as though no bid therefor had been made.

[1925 c. 276 s. 16] (6394-16)

**90.21 PERMITS TO CUT AND REMOVE TIMBER.** Upon the delivery and filing of the duplicate receipts mentioned in section 90.20, the director shall issue a numbered permit to such 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 and signed by the purchaser. The permit shall cover one or more logging seasons as the timber board 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. The permit shall state the amount of timber estimated to be thereon, 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 shall plainly place the specified marks upon the end of each piece of timber cut, and that, in case of any failure to place these marks upon any piece, the state shall have the right to take possession of the same wherever found. The permit may provide that the purchaser or permit holder may place his own mark upon timber cut under the permit only after the state marks shall have been first plainly placed thereon; but no mark of the purchaser shall in any way encroach upon, obliterate, or obscure the state marks or any part thereof; nor shall any figure be used by the purchaser as his mark or any part thereof. 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 regardless 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 latter 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. The permit shall also provide that all timber standing on the land and sold shall be cut; that the same shall be cut clean without damage to other timber; that the purchaser shall remove all timber authorized to be cut under the permit; that timber sold by board measure but later determined by the director not to be convertible into board measure may be charged for and shall be paid for by the piece according to the size, species, or value of each piece or cord, as may be determined by the timber board; that the purchaser 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 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 date the removal will begin. The purchaser shall notify the director by registered mail that such cutting is completed for that season, not later than 15 days after he has completed cutting for the season.

The permit shall provide that the purchaser shall make a report in writing to the director under oath enumerating and stating the amounts of timber cut under such permit; the kinds of timber 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. Any false return or report made to the director by any such purchaser or permit holder or by any one representing him shall constitute a gross misdemeanor.

The permit shall provide that the director shall have power to order suspension of all operations under the permit at any time and any timber cut or removed

during such suspension is hereby declared to be 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. The purchaser shall remove his equipment 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 his permits may be canceled. 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 any provision of this chapter and no statute of limitation shall so operate. The permit shall provide that the purchaser and his successors in interest shall burn or otherwise dispose of all slashings or other refuse resulting from cutting operations in the manner now or hereafter provided by law. The permit shall further provide 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.

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.

[1925 c. 276 s. 17; 1937 c. 368 s. 3] (6394-17)

**90.22 SURETY BONDS BY TIMBER PURCHASERS.** 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 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 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.

In case of default in payment by the permit holder the surety upon his bond may 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.

[1925 c. 276 s. 18; 1939 c. 120] (6394-18)

**90.23 PERMITS ASSIGNABLE; BONDS AND RIGHTS OF ASSIGNEES.** Any permit may be assigned, but only as herein provided. The assignment of any permit shall be in writing 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 assignee shall give 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 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 shall be released from all liability arising or accruing from things done after the assignment became effective.

[1925 c. 276 s. 19] (6394-19)

**90.24 SALES VOID, WHEN; 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; or at his request the director may credit the refund as payment upon any other timber purchased by the permit holder.

[1925 c. 276 s. 20] (6394-20)

**90.25 PURCHASE MONEY FORFEITED, WHEN.** If the purchaser of any timber or his assignee fails to cut and remove any part thereof before the expiration of the permit, he shall nevertheless pay the price therefor; but under no circumstances shall he cut or remove any such timber after the expiration of the permit or extension thereof.

[1925 c. 276 s. 21] (6394-21)

**90.26 SCALING OF TIMBER; REPORTS; EXAMINATIONS OF LAND AND TIMBER COVERED BY PERMITS.** The surveyor general shall scale all timber cut on lands in charge of the director, except as expressly provided otherwise in this chapter. All scaling shall be done upon the land from which the timber was cut, all logs scaled shall be numbered consecutively, and the number of each entered upon the minutes of the scaler. No state timber shall be removed from the land where it was cut until it has been so scaled or counted. Any person removing any such timber from the land where it was cut before it has been so scaled or counted shall be guilty of a felony and may be prosecuted criminally therefor.

The surveyor general shall make to the director separate reports of all such timber by him scaled, covering the respective permits. Each report 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 any trespass coming to his knowledge.

Final examination of lands and timber covered by any permit may be made by any 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.

[1925 c. 276 s. 22] (6394-22)

**90.27 DEPUTY SURVEYORS GENERAL.** For the purpose of carrying out the provisions of this chapter the surveyor general may appoint and at pleasure discharge and remove as many deputies as he deems necessary; and any such deputy may do anything required of the surveyor general by this chapter, but subject to the limitations, conditions, and penalties set forth in sections 91.01 to 91.07.

[1925 c. 276 s. 23] (6394-23)

**90.28 RE-SCALES ON DEMAND OF DIRECTOR.** If the director 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 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. This report, if both 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 \$5.00 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.

[1925 c. 276 s. 24] (6394-24)

**90.29 SCALING STATE TIMBER; FEES, CHARGES.** The fees and charges of the surveyor general and his deputies for scaling state timber shall be as provided in sections 91.01 to 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.

[1925 c. 276 s. 25] (6394-25)

**90.30 SCALING TIMBER FOR STATE; SETTLEMENT OR COMPROMISE OF STATE CLAIMS FOR TIMBER FROM STATE LANDS; OFFENSES; PENALTIES.** 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. Except as herein expressly provided and as generally authorized by section 10.11, 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.

[1925 c. 276 s. 26] (6394-26)

**90.31 RECORD OF TIMBER SALES.** The director shall keep a record of all sales of timber in a book to be known as the timber sales book, and shall enter therein at the time each tract of timber is sold, and before selling another tract, the name of the purchaser, the price, and a description of the tract on which the timber is situated.

[1925 c. 276 s. 28] (6394-28)

**90.32 STUMPAGE BOOK.** The director shall keep a stumpage book in which he shall enter a description of each tract of land from which any timber is sold; the name and date of the report of the state appraisers; the kind, amount, and value of the timber as shown by such report; the date of approval of the sale of the timber; 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 appraisers; the marks used upon the timber as reported; the names of the deputy surveyor general and the state appraisers who scaled the timber; 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.

[1925 c. 276 s. 29] (6394-29)

**90.33 STATEMENTS OF TIMBER CUT UNDER PERMITS; TITLE PASSES, WHEN.** Upon receipt of the surveyor general's report of the amount of timber cut under any permit, the director shall prepare 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 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.

[1925 c. 276 s. 30] (6394-30)

**90.34 DEFERRED PAYMENTS.** If the amount of the statement be not paid immediately, it shall bear interest at the rate of six per cent per annum from date; and if not paid within 30 days the treasurer shall place the account in the hands of the attorney general who shall proceed to collect the same. When the director 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 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.

[R. L. s. 2653; 1925 c. 276 s. 31; 1933 c. 375 s. 2] (6394-31)

**90.35 TIMBER UNLAWFULLY CUT OR REMOVED FROM STATE LANDS; POSSESSION AND SALE.** The director 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 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 and, in addition to any other penalty provided 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.

[1925 c. 276 s. 32] (6394-32)

**90.36 TRESPASSES.** The director 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.

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.

[1925 c. 276 s. 33] (6394-33)

**90.37 APPREHENSION OF TRESPASSERS, REWARD FOR.** The 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: \$25.00 reward, if the value of the timber so unlawfully cut or removed shall not exceed the sum of \$25.00; \$50.00 reward, if the value of the timber shall not exceed \$50.00; and \$100.00 reward, if the value of the timber shall exceed the sum of \$100.00; 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 shall pay the same from any funds appropriated for its expenses.

[1925 c. 276 s. 34] (6394-34)

**90.38 LOGGERS' NOTICES.** Every person engaged in the cutting of timber upon any of the land belonging to the state shall, before cutting any such timber, post in a conspicuous place in any camp or other building occupied by his employees engaged in such cutting, or if there be no such building then on and at the north-west corner of each 40-acre governmental subdivision or at the nearest corresponding point in each fractional subdivision, a notice which shall contain a full description of the lands proposed by him to be cut, the period during which the cutting is proposed to be done, and which description shall contain the precise description of the land by 40-acre tracts, or fractions thereof by governmental subdivisions, and shall include the section, town, and range; and the person so engaged in cutting timber shall be required to keep the notice conspicuously posted in such place during the entire time that he is engaged in cutting the timber; and, before cutting any such timber, he shall forward, by registered mail, a copy of the notice, with his post-office address, to the director, at the capitol, St. Paul, Minnesota. Any person violating the provisions of this section shall be guilty of a misdemeanor; and, upon conviction thereof, shall be punished by a fine of not less than \$25.00, nor more than \$100.00, or by imprisonment in the county jail for not less than 20, nor more than 90, days.

Any person giving to the proper authorities information which shall lead to the conviction of any person guilty of a violation of this section shall receive the sum of \$25.00 reward, to be ascertained and paid in the manner provided herein for the payment of the rewards under section 90.37.

[1925 c. 276 s. 35] (6394-35)

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

[1925 c. 276 s. 36] (6394-36)

**90.40 STATUTES OF LIMITATION NOT APPLICABLE; VENUE OF PROCEEDINGS.** The statutes of this state limiting the time for bringing either civil or criminal actions shall not apply to any action brought by the state for trespass upon any of its lands, or for violating any of the terms of the permit under which timber is removed from state lands, or for failure to pay the state for all the timber removed under any such permit, or to any criminal prosecution instituted under this chapter. Any civil action brought under this chapter may, at the election of the attorney general, be brought in any county in this state.

[1925 c. 276 s. 37] (6394-37)

**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 scaled, or insert in any such report any false statement, 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

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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 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.

Subdivision 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.

[1925 c. 276 ss. 26, 27] (6394-26) (6394-27)

**90.42 LAWS NOT AFFECTED.** Nothing in this chapter shall be deemed or construed as authorizing the sale, cutting, or removal, or as excusing damage or injury to any timber reserved to the state and set aside for any purpose, including state forests set aside under the Constitution of the State of Minnesota, Article 8, Section 7, and laws enacted in furtherance thereof, except as provided in the laws directly relating to such reserved timber.

All persons cutting or removing state timber shall be subject to all laws now in force or hereafter enacted governing the burning and disposition of slashings or other debris resulting from timber operations, and concerning forest fires, including the setting or spreading or prevention or control thereof or liability therefor.

[1925 c. 276 s. 38] (6394-38)