

## CHAPTER 90

## TIMBER LANDS

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NOTE: For definitions, see section 88.01

**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 have the meanings 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. 4. "Surveyor general" means the state surveyor general of logs and lumber or his agent.

Subd. 5. "State appraiser" means an employee of the department designated by the commissioner to appraise state lands.

Subd. 6. "Timber" means trees that will produce forest products of value whether standing or down, and including but not limited to logs, posts, poles, bolts, pulpwood, cordwood, lumber and decorative material.

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

Subd. 8. "Permit holder" means the person holding a permit to cut timber on state lands.

Subd. 9. "Person" means 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; 1961 c 202 s 1] (6353, 6394-2)

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

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

**90.03** [Repealed, 1961 c 202 s 38]

**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 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.

Subd. 2. Nothing contained in this chapter shall be construed to in any way amend any other provision of law relating to the appointment of appraisers by other officials.

Subd. 3. No state appraiser shall have any interest, directly or indirectly, in any of the state land or material improvements thereon and shall not purchase, directly or indirectly, any interest in the same or any part thereof.

[1917 c 162 s 2, 3; 1961 c 202 s 2] (6354) (6355)

**90.05 STATE APPRAISERS.** Subdivision 1. The commissioner may designate any qualified person as a state appraiser. Each state appraiser shall be bonded in a sum of not less than \$1,000, conditioned upon the faithful performance of his duties.

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 carry on his person when on duty an identification card provided by the commissioner. Any person not a state appraiser 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, 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, shall be dated when made and, together with the field notes shall be made a part of the records of the department. The state appraiser shall affix his signature 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.

The appraisal report shall state the amount of each kind of timber and the value 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.

[1917 c 162 s 4; 1937 c 369 s 1; 1961 c 202 s 3] (6356)

**90.06** [Repealed, 1961 c 202 s 38]

**90.07 TRESPASS ON CERTAIN PUBLIC LAND.** Whoever without valid permit shall cut any timber upon 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 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 to the state for treble damages if the trespass is adjudged to have been wilfull but 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 for twice the stumpage value thereof. It shall be no defense to plead or claim a purchase of any state timber from any one other than the commissioner, or a purchase of any timber held in trust by the state for the counties from anyone other than the county auditor, nor may it be claimed that any other person should be joined as defendant; 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 gross misdemeanor.

[1925 c 276 s 3; 1937 c 368 s 1; 1955 c 387 s 1; 1961 c 202 s 4] (6394-3)

**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 conditions or covenants of any lease, certificate of sale, permit, or other written agreement, he shall be liable to an 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 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 proceeding.

[1925 c 276 s 4; 1961 c 202 s 5] (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 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. [1925 c 276 s 5; 1955 c 387 s 2; 1961 c 202 s 6] (6394-5)

**90.10** [Repealed, 1961 c 202 s 38]

**90.11 EXECUTIVE COUNCIL, POWERS.** Subdivision 1. The executive council may determine the number of sections or fractional sections of land to be covered by any one timber permit issued to the purchaser of timber on state lands, or in any one contract or other instrument relating thereto and within the jurisdiction of the executive council.

Subd. 2. The executive council may grant extensions of such timber permits and contracts, whether heretofore or hereafter issued, for 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 percent 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 computed on the 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. 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. 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. 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.

Subd. 5. The executive council may appoint one or more agents to gather evidence in any action brought by the state or to investigate the correctness of any other 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 s 1; 1961 c 202 s 7] (6394-8)

**90.12 TIMBER RESOURCES.** Subdivision 1. The 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. The commissioner shall 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; 1961 c 202 s 8] (6394-9)

**90.125 TIMBER DEVELOPMENT, FUNDS.** Subdivision 1. **Development.** In any county where the county board by proper resolution sets aside funds for timber development pursuant to Minnesota Statutes 1949, Section 282.08, Clause 4(a), or Minnesota Statutes 1949, Section 459.06, Subdivision 2, the Commission of Iron Range Resources may upon request of the county board assist said county in carrying out any project for the long range development of its timber resources through matching of funds or otherwise, provided that any such project shall first be approved by the commissioner of conservation.

Subd. 2. **One mill tax.** In any county where the county board shall determine that insufficient moneys will be available from tax-forfeited funds to carry out the intentions of this section as set forth in the statutes enumerated in subdivision 1,

the county board may levy a tax of not to exceed one mill upon the real and personal property of the county for that purpose but said levy shall not exceed \$15,000 annually, and the proceeds of said levy may be used in the same manner as funds set aside pursuant to Minnesota Statutes 1949, Section 282.08, Clause 4(a), and Minnesota Statutes 1949, Section 459.06, Subdivision 2.

Subd. 3. **Not to affect commissioner of Iron Range Resources.** Nothing herein shall be construed to limit or abrogate the authority of the commissioner of Iron Range Resources to give temporary assistance to any county in the development of its land use program.

[1951 c 365 s 1-3]

**90.13 STATE TIMBER, SALES.** Subdivision 1. The commissioner may sell the timber on 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, to any individual. No sale shall be made under this section to any person holding a previous permit issued hereunder which is still in effect.

Subd. 2. Upon receipt of payment for the full appraised value, the commissioner may issue a permit to cut and remove such timber within one year from the date of sale under such supervision and provisions as the commissioner 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 commissioner. Only one extension shall be granted and the extension shall not exceed one year.

Subd. 3. All timber products, except fuelwood cut under the provisions of this chapter, shall be scaled by the surveyor general 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 applicable.

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

[1925 c 276 s 10; 1939 c 352 s 1; 1949 c 182 s 1; 1951 c 662 s 1; 1959 c 385 s 1; 1961 c 202 s 9] (6394-10)

**90.14** [Repealed, 1943 c 60 s 12]

**90.15 STATE APPRAISERS, PERFORMANCE OF DUTIES OF SURVEYOR GENERAL.** Subdivision 1. State appraisers are empowered, with the consent of the commissioner, to perform any of the duties of the surveyor general when designated or requested 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 the permits or other contracts governing the same and protect the state from loss.

The form of appraisal reports, records, and notes to be kept by state appraisers shall be as the commissioner prescribes. The reports of any state appraiser made while performing the duties of the surveyor general 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 the surveyor general.

Subd. 2. 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 sum of not less than \$25,000, conditioned upon the faithful and honest performance of his duties.

[1925 c 276 s 11; 1961 c 202 s 10] (6394-11)

**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 commissioner 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, 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 commissioner at his discretion may require such person to make available such sum of money as the 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.

[1925 c 276 s 12; 1961 c 202 s 11] (6394-12)

**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 report of the state appraiser. All sales shall be held at the county seat of the county in which the tract is located.

Subd. 2. At least 30 days before the date of sale the 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 thereon and of the appraised price of each kind of timber thereon as shown by the report of the state appraiser. No description shall be added after the list is 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 commissioner and in the office of the auditor of the county in which the lands are situated at least 30 days prior to the date of sale, and extra copies of the list shall be furnished to 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.

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

[1925 c 276 s 13; 1961 c 202 s 12] (6394-13)

**90.18** [Repealed, 1961 c 202 s 38]

**90.19** [Repealed, 1961 c 202 s 38]

**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 bolts, or mine lagging, or wood for fuel purposes shall be offered and sold by the single cord. 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 commissioner 25 percent of the appraised value. In case any purchaser fails to make such payment, he shall be liable therefor to the state in a civil action, and the commissioner may reoffer the timber for sale as though no bid therefor had been made.

[1925 c 276 s 16; 1961 c 202 s 13] (6394-16)

**90.21 PERMITS TO CUT AND REMOVE TIMBER.** Subdivision 1. Following receipt of the down payment for state timber sold at public auction, the commissioner shall issue a numbered permit to 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 commissioner and signed by the purchaser. The permit shall cover one or more logging seasons as the 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 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 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 that, in case of any failure to place these marks upon any state timber, the state shall have the right to take possession of the same wherever found. The permit shall provide that the permit holder may place his own mark upon timber cut under the permit but only after the state marks have been first plainly placed thereon; that no mark of the permit holder shall in any way encroach upon, obliterate, or obscure the state marks or any part thereof; and that no figure shall be used by the 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.

Subd. 3. The permit shall contain such 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 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 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 sold or designated for cutting shall be cut without damage to other timber; that the permit holder shall remove all timber authorized to be cut under the permit; that timber sold by board measure but later determined by the commissioner not to be convertible into board measure 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 commissioner; that the 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 permit holder shall notify the surveyor general 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 which date the removal will begin. The permit holder shall notify the commissioner, as provided by law.

Subd. 5. The permit shall provide that the permit holder shall make a report in writing to the commissioner 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 required by the commissioner. Any false return or report made to the commissioner by any such permit holder or by any one 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 commissioner shall have the power to order suspension of all operations under the permit when in his judgment the conditions thereof have not been complied with and any timber cut or removed during such suspension shall be deemed to have been cut in trespass; 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 permit holder shall remove

his equipment and buildings from such land within 90 days thereafter; that, if the purchaser at any time fails to pay any obligations to the state under any other permits, any or all of his permits may be cancelled; and that any timber removed in violation of the terms of the permit or of any law shall constitute trespass.

Subd. 9. The permit shall provide that the 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 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.

Subd. 11. Any permit failing to conform to the requirements of this section shall be void on its face.

[1925 c 276 s 17; 1937 c 368 s 3; 1961 c 202 s 14] (6394-17)

**90.215 PRESERVATION AND PROTECTION OF TIMBERED AREAS.** Subdivision 1. **Cutting practices in logging operations.** The conservation of the forest resources of the state, the prevention of forest fires, wastage of timber, soil erosion, the conservation of water resources and the prevention of floods, the maintenance of a satisfactory tax base, and the promotion of a desirable land use program so as to maintain forest and timbered lands in a productive state, are hereby recognized and declared as requiring that uniform and wise cutting practices in logging operations shall be established and enforced.

Subd. 2. **Size of trees which may be cut for pulpwood.** No spruce, balsam, jack pine, or tamarack shall be cut unless two or more 100 inch sticks can be cut per tree and the tree has a stump diameter of six inches or more inside of the bark at 16 inches above ground level. On each acre cut over there shall be left at least eight thrifty trees of the minimum diameter or larger of the predominant species as seed trees, but nothing herein shall be construed to prohibit the cutting of Christmas trees.

Subd. 3. **Size of trees which may be cut for saw logs.** No white or Norway pine trees shall be cut which do not have a stump diameter of ten inches or more in diameter inside of the bark 16 inches above ground level. On each 40-acre tract from which pine timber is taken, eight or more such pine trees with a stump diameter of ten inches or more, 16 inches above ground level, shall be left.

Subd. 4. **Ties.** No birch, maple or oak shall be cut which do not have a stump diameter inside the bark of ten inches or more.

Subd. 5. **Rules and regulations.** The director of the division of forestry is hereby authorized and empowered to make such rules and regulations for the disposal of slash as in his judgment will afford adequate protection against fire hazards, and leave the land in a productive state, and may where conditions warrant grant special permits modifying the cutting regulations herein contained. Such regulations when published once in a legal newspaper shall have the same effect as though specifically provided herein.

Subd. 6. **Not to apply to land clearing operations.** This section applies to all timber cutting in the state, except that it shall not apply to operations where land is being cleared by bona fide farmers for actual agricultural use or bona fide owners of cottage sites, nor shall the cutting provisions hereof apply to the cutting of cordwood for firewood.

Subd. 7. **Violation a misdemeanor.** Violation of any of the provisions hereof constitutes a misdemeanor punishable by a fine of not less than \$50 nor more than \$100 or imprisonment in the county jail for not less than 30 nor more than 90 days. Violation of the cutting practices herein prescribed shall constitute a separate offense as to each 40-acre tract involved.

[1943 c 290; 1945 c 149 s 1-3]

**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 appraisal report thereof as to quantity, which bond shall be conditioned 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 his office.

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 shall make payment in full to the state of all sums of money due under such permit; and thereupon such surety shall be deemed immediately subrogated to all the rights of the state in 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 s 1; 1961 c 202 s 15] (6394-18)

**90.23 ASSIGNMENT OF PERMITS.** Any permit sold at public auction may be assigned upon written approval of the commissioner. The assignment of any permit shall be signed and acknowledged by the permit holder. The commissioner shall not approve any assignment until the assignee 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 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 shall be released from all liability arising or accruing from actions taken after the assignment became effective.

[1925 c 276 s 19; 1961 c 202 s 16] (6394-19)

**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 permit holder, or at his request the commissioner may credit the refund as payment upon any other timber purchased by the permit holder.

[1925 c 276 s 20; 1961 c 202 s 17] (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; EXAMINATION OF LAND AND TIMBER COVERED BY PERMITS.** Subdivision 1. The surveyor general shall scale all timber cut on lands in charge of the 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, subject to the approval of the surveyor general, may designate in writing to a 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, before it has been so scaled or counted shall be guilty of a gross misdemeanor.

Subd. 2. The surveyor general shall make separate reports to the commissioner



of all such timber 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 commissioner any trespass coming to his knowledge.

Subd. 3. Final examination of lands and timber covered by any permit shall be made by 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.

[1925 c 276 s 22; 1957 c 278 s 1; 1961 c 202 s 18] (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-SCALING.** If the 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 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 commissioner. 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.

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

[1925 c 276 s 24; 1961 c 202 s 19] (6394-24)

**90.29 FEES AND CHARGES FOR SCALING STATE TIMBER.** Except as otherwise provided, the fees and charges of the surveyor general for scaling state timber shall be as provided in sections 91.01 and 91.07. The surveyor general may bring any legal action or proceeding against any permit holder or the surety on his bond, or both, 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; 1961 c 202 s 20] (6394-25)

**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 commissioner. Except as herein expressly provided and as generally authorized by 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.

[1925 c 276 s 26; 1961 c 202 s 21] (6394-26)

**90.31** [Repealed, 1957 c 202 s 2]

**90.32 TIMBER SALES BOOK.** The 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.

[1925 c 276 s 29; 1957 c 202 s 1; 1961 c 202 s 22] (6394-29)

**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 commissioner shall transmit to the permit holder a statement of the amount due therefor by the terms of the permit. Any partial payment received may be applied to any items on the statement as the 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.

[1925 c 276 s 30; 1961 c 202 s 23] (6394-30)

**90.34 DEFERRED PAYMENTS.** If the amount of the statement is not paid within 30 days of the date thereof, it shall bear interest at the rate of six percent per annum from date; and if 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 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 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.

[1925 c 276 s 31; 1933 c 375 s 2; 1961 c 202 s 24] (6394-31)

**90.35 SEIZURE OF UNLAWFULLY CUT TIMBER.** Subdivision 1. The 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 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. 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.

[1925 c 276 s 32; 1961 c 202 s 25] (6394-32)

**90.36 RECORD OF TRESPASSES REPORTED.** The commissioner shall keep a record of all trespasses reported, with the estimates, appraisals and settlements thereof.

[1925 c 276 s 33; 1961 c 202 s 26] (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 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 executive council shall pay the same from any funds appropriated for its expenses.

[1925 c 276 s 34; 1961 c 202 s 27] (6394-34)

**90.38** [Repealed, 1961 c 202 s 38]

**90.39 RECORDS AS NOTICE.** The records kept by the 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.

[1925 c 276 s 36; 1961 c 202 s 28] (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, 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 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.

[1925 c 276 s 26, 27; 1961 c 202 s 29] (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)

**90.46 STATE TIMBER, SALE IN LOTS OF LIMITED VALUE.** Subdivision 1. The commissioner may sell the timber on any tract of state land in lots 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.

Subd. 2. M.S. 1957 [Repealed, 1961 c 202 s 31, 38]

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 three weeks' published notice of any such sale in a legal newspaper published in such 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 as hereinbefore 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.

Subd. 3. 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.

Subd. 4. M.S. 1957 [Repealed, 1961 c 202 s 33, 38]

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

Subd. 5. M.S. 1957 [Repealed, 1961 c 202 s 34, 38]

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 apply to and govern all timber sold hereunder.

Subd. 6. No sale shall be made under this section to any purchaser holding 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.

[1955 c 329 s 1; 1957 c 45 s 1; 1961 c 202 s 30, 32, 35-37]

**90.47 TIMBER SALES FROM STATE LANDS, MARKING OF BOUNDARIES.** Whenever timber on a tract of state owned land which does not border on privately owned, federally owned, or tax forfeited lands held in trust by the state for the county is sold, prior to the removal of the timber, the director of the division of forestry of the department of conservation shall cause the boundaries of the tract to be marked with suitable identification marks located at intervals of not more than 20 rods upon the boundaries of the tract.

[1961 c 757 s 1]