

# Forestry and Related Laws



The Code of Alabama 1975  
Updated through 2000

# Alabama Forestry Commission

## Structure

### Section 9-3-1

#### **Created; composition; qualifications, appointment and terms of office of members.**

There is hereby created and established a state forestry commission, hereinafter referred to as commission, which commission shall be composed of seven members to be appointed by the governor with the advice and consent of the senate. Two members shall be appointed for a period of one year, two for a period of two years, two for a period of four years and the remaining member for a period of five years. Upon the expiration of said terms, appointments thereafter shall be for a period of five years and until their respective successors in office have been appointed and qualified. At all times at least two of such members shall be licensed and registered foresters under the laws of Alabama. At all times at least three of such members shall be owners of timberland in Alabama. (*Acts 1969, No. 764, p. 1354, §1.*)

### Section 9-3-2

#### **Officers; meetings; quorum; record of proceedings; compensation and expenses of members.**

The commission shall, upon its first meeting, which shall be called by the governor within 60 days after appointment of the membership, elect from its membership a chairman and vice-chairman who shall serve for a period of one year. The vice-chairman shall act in the place of the chairman in his absence or disability. The commission shall meet at such times as designated by the commission or the chairman at the state capitol or at other places as it deems necessary or convenient, but the chairman of the commission must call a meeting two times each year, one meeting in the month of January and one meeting in the month of July. The chairman of the commission may also call a special meeting at any time he deems it advisable or necessary. A quorum shall be four members present, and all matters coming before the commission shall be voted on by the commission. The commission will keep or cause to be kept a record of all transactions discussed or voted on at its meeting. Commission members shall be entitled to a salary of \$25.00 per day when in attendance at a meeting or on official business of the commission, together with their expenses, as provided by article 2 of chapter 7 of Title 36. Such compensation and expenses shall be paid from funds of the commission. (*Acts 1969, No. 764, p. 1354, §2.*)

### Section 9-3-3

#### **Vacancies.**

If any member of the commission fails to attend three successive meetings of the commission without good and valid cause or excuse or without a leave of absence from the chairman, his office shall be declared vacant by the commission, and the chairman shall notify the governor of the vacancy, who will then fill the vacancy as provided by section 9-3-1. (*Acts 1969, No. 764, p. 1354, §3.*)

### **Section 9-3-7**

#### **Offices.**

The commission shall have its main offices in the city of Montgomery; provided, that it may establish other district or subdistrict offices throughout the state in such places as it may deem advisable or necessary. (*Acts 1969, No. 764, p. 1354, §8.*)

### **Section 9-3-8**

#### **Members of commission not eligible for certain employments.**

No member of the commission, during the tenure of his office or within two years thereafter, shall be eligible for appointment as state forester or for any employment under the commission. (*Acts 1969, No. 764, p. 1354, §9.*)

## **State Forester**

### **Section 9-3-5**

#### **State forester.**

It shall be the duty of the Alabama Forestry Commission to appoint with the advice and consent of the governor a state forester who shall serve as the executive secretary and administrative officer for the commission. The person so appointed as the state forester must have earned a minimum of a bachelor of science degree in forestry and must be licensed and registered under the forestry laws of Alabama with considerable experience in the forestry field. The state forester shall receive a salary as fixed by the commission and shall serve at the pleasure of the commission and shall receive actual expenses when traveling on official business of the commission. Until otherwise provided for by the commission, the present state forester of the division of forestry of the department of conservation and natural resources shall continue to serve as the state forester under the commission. The state forester shall devote his 131 time to the duties of his office. He shall be required to take the oath of office and give bond in the sum of \$50,000.06. (*Acts 1969, No. 764, p. 1354, §6.*)

### **Section 9-3-6**

#### **Assistant state forester.**

The commission shall also appoint, with the advice and consent of the governor, an assistant state forester, who shall hold at least a bachelor degree in forestry with considerable forestry experience. The assistant state forester shall serve as the chief assistant to the state forester. The assistant state forester's salary shall be set by the commission, and he shall be paid his actual expenses when traveling on official business of the commission. (*Acts 1969, No. 764, p. 1354, §57.*)

# **Powers and Duties of the Alabama Forestry Commission**

## **Section 9-3-4**

### **Powers and duties generally.**

The functions and duties of the commission shall be as follows:

- (1) To protect, conserve and increase the timber and forest resources of this state and to administer all laws relating to timber and forestry and the protection, conservation and increase of such resources;
- (2) To make exploration, surveys, studies and reports concerning the timber and forest resources and to publish such thereof as will be of general interest;
- (3) To maintain, supervise, operate and control all state forests;
- (4) To cooperate with and enter into cooperative agreements and stipulations with the secretary of agriculture of the United States or any other federal officer or department, board, bureau, commission, agency or office thereunto authorized with respect to the protection of timbered and forest-producing land from fire, insects and disease, the acquisition of forest lands to be developed, administered and managed as state forests, the production, procurement and distribution of forest trees and shrub planting stock, the carrying on of an educational program in connection therewith, the assistance of the owners of farms in establishing, improving and renewing wood lots, shelter belts, windbreaks and other valuable forest growths, the growing and renewing of useful timber crops and the collection and publication of data with respect to the timber and forest resources or any other matters committed to the commission by this title;
- (5) To make and enforce all regulations and restrictions required for such cooperation, agreements or stipulations;
- (6) To carry on a program of education and public enlightenment with respect to the timber and forest and other natural resources of Alabama;
- (7) To make an annual report to the governor concerning the activities and accomplishments of the commission for the preceding fiscal year;
- (8) To recommend to the legislature such legislation as may be needed further to protect, conserve, increase or to make available or useful the timber and forests and other natural resources of Alabama; and
- (9) To supervise, direct and manage all activities of the forestry commission and its staff and employees. (*Acts 1969, No. 764, p. 1354, §4.*)

## **Section 9-13-3**

### **Assistance, etc., of private landowners; suppression of forest fires, etc.; promotion and development of forestry, etc.; acquisition, management and disposition of land; officers, assistants and employees.**

- (a) The commission shall give such advice, assistance and cooperation as may be practicable to private landowners and promote, so far as it may be able, a proper appreciation in this state among all classes of the population of the benefits to be derived from forest culture, preservation and use.
- (b) The commission may take such measures as may be reasonable and practicable to prevent and suppress forest fires and other influences harmful to forest growth and may apply such parts of the forestry fund and other funds accruing to it as may be necessary to such purposes and to providing such systems of control as it may establish, either independently or in cooperation with the federal government and other agencies, public or private.

(c) The commission shall be the sole cooperating agency in joint work in the promotion and development of forestry and other matters and interests devolving upon it by law, among all classes of land ownership in the state, in which both the state and the federal government may have financial or administrative participation.

(d) The commission, for the purpose of establishing, developing and maintaining state forests, administrative headquarters sites, tower sites and other areas necessary for its efficient operation, may acquire land by donation, purchase, condemnation or lease, and for these purposes may use such funds as may be available to it and not otherwise obligated and may enter into agreements with the federal government or other agencies and private landowners for acquiring by lease, purchase or otherwise such lands as in its judgment are desirable or necessary.

When lands are acquired or leased under this section, the commission is authorized to make expenditures from any funds not otherwise obligated for the management, development and utilization of such areas, to sell or otherwise dispose of products from such lands, to have sole charge of all state forests and other lands that have been acquired hereunder and to have authority to make such rules and regulations for the management, administration, occupancy and use of said lands and all property and things of whatsoever nature therein or thereon as it shall find necessary.

The commission shall have full power and authority to sell, exchange or lease lands under its jurisdiction when in its judgment it is advantageous to the state to do so in the orderly development and management of state forests and other designated areas; provided, however, that said sale, lease or exchange shall not be contrary to the terms of any contract which it has entered into.

(e) The commission may employ such officers, assistants and employees as may be necessary and, as to persons employed wholly or in part in carrying out the provisions of cooperative agreements with the federal government or other agencies, for such compensation heretofore or hereafter paid may use such contributions or receipts as may be derived from the United States or from any private or philanthropic source. (*Acts 1969, No. 764, p. 1354, §5.*)

### **Section 9-3-9**

#### **Promulgation of rules and regulations.**

The commission shall have the power to adopt and promulgate rules and regulations pertaining to all phases of forestry within this state, which rules and regulations when adopted shall have the force and effect of law. All rules and regulations of the division of forestry of the department of conservation and natural resources heretofore promulgated shall continue in effect until repealed or amended by the commission. (*Acts 1969, No. 764, p. 1354, §10.*)

# Alabama Forestry Commission - Finances

## Forestry Funds

### Section 9-3-10

#### **Alabama Forestry Commission fund.**

There is hereby created a fund in the state treasury to be known as the Alabama Forestry Commission fund. All money derived by the commission shall be deposited to the credit of said fund. (*Acts 1969, No. 764, p. 1354, §12.*)

### Section 9-13-4

#### **Alabama Forestry Commission fund.**

There shall be a fund known as the Alabama Forestry Commission fund. This fund shall consist of all occupational licenses and privilege taxes imposed by the state for engaging in any business dealing with timber or timber products and all fines and forfeitures arising under the provisions of this chapter, and all appropriations made by the state of Alabama from its general funds in furtherance of the purposes of this chapter shall be paid into said Alabama Forestry Commission fund. There shall also be paid into said Alabama Forestry Commission fund all sums accruing to the state forestry commission from whatsoever source. This fund shall be used and expended by the state forestry commission in accordance with the terms of the gift, bequest, appropriation or donation from which said moneys are derived and, in absence of any such terms, shall be expended by the state forestry commission in furtherance of any of the provisions of this chapter. All necessary expenses of the state forestry commission shall be payable out of said fund on the requisition of the state forester; provided, that nothing herein contained shall be construed to require the diversion of any funds from any particular purpose for which they were collected, allotted or budgeted if the effect of such diversion would penalize the state in retaining or securing any federal funds or federal assistance, and no funds shall be withdrawn nor expended for any purpose whatsoever unless the same shall have been allotted and budgeted in accordance with the provisions of article 4 of chapter 4 of Title 41 of this Code and only in the amounts and for the purposes provided by the legislature in the general appropriation bill. (*Acts 1923, No. 486, p. 638; Code 1923, §§1005, 1006; Code 1940, T. 8, §202; Acts 1945, No. 227, p. 350, §1; Acts 1951, No. 832. p. 1462.*)

### Section 9-3-10.1

#### **Emergency forest fire, insect and disease fund; creation; annual automatic appropriation; ceiling on amount; expenditures; replenishment; governor's approval.**

(a) There is hereby established an emergency forest fire, insect and disease fund into which there is automatically appropriated \$180,000.00 annually at the beginning of each state fiscal year. The state comptroller shall transfer said moneys from the general fund to such emergency fund annually at the beginning of each state fiscal year. Said emergency fund shall not exceed a total accumulated amount of \$1,000,000.00. The moneys in said fund may be expended from time to time to meet emergency forest fire, insect and disease needs as deemed necessary by the state forester and governor. The moneys expended from said fund for such emergency needs shall be automatically replenished and are hereby appropriated from the general fund annually to the extent of \$ 180,000.00 per year at the beginning of each state fiscal year until the said \$1,000,000.00 ceiling is reached. The state comptroller shall make the transfer to replenish the

funds within a period of one week following the commencement of each state fiscal year.

(b) The moneys appropriated herein may be expended for salaries, capital expenditures or any other category of expenditures deemed necessary by the state forester for emergency forest fire, insect and disease suppression and control. This money shall be conditional upon approval of the governor. (*Acts 1979, No. 79-830, p. 1566; Acts 1987, No. 87-821, §1.*)

## **Forest Products Privilege and Severance Taxes**

### **Section 9-13-80**

#### **Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) Person.

Such term includes any individual, firm, copartnership, association, corporation, receiver, trustee or any other group or combination acting as a unit.

(2) Department.

The department of revenue of the state of Alabama.

(3) Taxpayer.

Any person liable for taxes under this article.

(4) Producer.

Any person engaging or continuing to engage in this state in the business of severing timber or any other forest products from the soil, whether as owner, lessee, concessionaire or contractor. Such definition shall also include any person who assembles or causes to be assembled any forest product for shipment out of the state of Alabama in an unmanufactured condition.

(5) Forest products.

Logs, timber, pulpwood, chemical wood, bolts, crossties and switch ties, mine ties, coal mine props, ore mine props, poles, piles, turpentine (crude gum) and stumpwood (tarwood).

(6) Sever.

To fell, cut or otherwise separate from the soil; provided, that for the purpose of this article, any person who is the owner or lessee of timber and is also the processor thereof or a manufacturer of products derived therefrom shall be deemed the person engaged in severing such timber from the soil, notwithstanding the fact that the severance is made by an independent contractor or otherwise.

(7) Commissioner.

The commissioner of revenue of the state of Alabama.

(8) Manufacturer.

As applied to forest products suitable for manufacture into lumber, the person who operates the sawmill or plant in which such products are so manufactured into lumber; as applied to pulpwood, chemical wood and bolts, the person who operates the paper mill, chemical plant or other plant in which such forest products are processed, as applied to crossties, switch ties, mine ties, props, poles and piles, the person who purchases from the producer; as applied to turpentine, the person who processes or cooks the crude gum; as applied to stumpwood, the person who operates the plant or retort in which such product is processed.

(9) Concentration yard.

A place where lumber is brought or received within the state of Alabama in a green or rough form or condition for manufacturing or for processing or for resale. (*Acts 1945, No. 169, p. 285, §1; Acts 1953, No. 695, p. 948, §1; Acts 1955, No. 530, p. 11 77,*)

## **Section 9-13-81**

### **Levy of severance tax; lien upon forest products, etc., for payment of tax.**

To provide further for conservation of the natural resources of the state by protection of the forest products and development of the forestry program, there is hereby levied and shall be collected as provided in this article a privilege tax on account of the business activities upon every person engaging or continuing to engage in the state in the business of severing timber or any other forest products from the soil for sale, profit or commercial use whether as owner, lessee, concessionaire or contractor. The privilege tax imposed by this article is in addition to other taxes now levied and shall be known as the forest products severance tax. Said tax, together with interest and penalties imposed by this article, shall be a lien upon the forest products so severed and upon the product or products manufactured therefrom until the tax imposed by this article with respect to such forest products shall have been paid or until such forest products or the products manufactured therefrom shall have been sold by the manufacturer thereof, but the lien of such tax shall not be enforceable against the bona fide purchaser from the manufacturer of any such forest products or of the products manufactured therefrom. (*Acts 1945, No. 169, p. 285, §2.*)

## **Section 9-13-82**

### **Rates; additional privilege tax upon processors of or manufacturers using forest products; taxation of round wood pulpwood converted into chips.**

(a) The measure of the tax is at the following rates:

- (1) On pine lumber \$0.50, per 1,000 feet board measure lumber tally. Where the timber is sold as logs and is not converted into lumber in Alabama, the rate shall be \$0.75 per 1,000 feet log scale (Doyle rule), except that logs under eight inches in diameter inside the bark at the small end shall be scaled as containing one foot log scale for each foot of length, or, at the election of the taxpayer, the rate shall be \$0.10 per ton (2,000 pounds).
- (2) On hardwood, cypress, and all other species of lumber, \$0.30, per 1,000 feet board measure lumber tally. Where the timber is sold as logs and is not converted into lumber in Alabama, the rate shall be \$0.50, per 1,000 feet log scale (Doyle rule), except that logs under eight inches in diameter inside the bark at the small end shall be scaled as containing one foot log scale for each foot of length, or, at the election of the taxpayer, the rate shall be \$0.065 per ton (2,000 pounds).
- (3) On pulpwood, chemical wood, and bolts, \$0.25, per standard cord of 128 cubic feet, or, at the election of the taxpayer, \$0.10 per ton (2,000 pounds).
- (4) On crossties, \$0.15 per piece, or, at the election of the taxpayer, \$0.15 per ton (2,000 pounds), and on switch ties, \$0.025 per piece, or, at the election of the taxpayer, \$0.17 per ton (2,000 pounds).
- (5) On mine ties and coal mine props, \$0.125 per 100 pieces, or, at the election of the taxpayer, \$0.15 per ton (2,000 pounds).
- (6) On pine ore mine props, \$0.75 per 1,000 feet log scale (Doyle rule) and on hardwood ore mine props, \$0.50 per 1,000 feet log scale (Doyle rule), except that props under eight inches in diameter at the small end shall be scaled as containing one foot log scale for each foot of length, or, at the election of the taxpayer, \$3.125 per 1,000 lineal feet, or, \$0.15 per ton (2,000 pounds), regardless of species.
- (7) On piling and poles, \$1.875 per 1,000 board feet (Doyle scale), or, at the election of the taxpayer, \$0.205 per ton (2,000 pounds).
- (8) On turpentine (crude gum), \$0.15 per barrel of 400 pounds.
- (9) On stumpwood (tarwood), \$0.125 per ton (2,000 pounds).
- (10) On pulpwood chips, \$0.25 per 190 cubic feet, or, at the election of the taxpayer, \$0.10 per ton (2,000 pounds).

(b) There is also levied a privilege tax against the processor of the forest products or the manufacturer using the forest products in an amount equal to 50 percent of the tax on the severer as set out above. The privilege tax shall be collected in the same manner as the severance tax on the severer is collected. This tax is levied not only upon processors or manufacturers within this state but also upon out-of-state processors or manufacturers who obtain the timber within this state and ship it outside the state for completion of the manufacturing process. It is the legislative intent that this privilege tax is not to be levied in any manner upon the person owning the land from which the forest products are severed nor upon the person actually cutting the forest products but it is levied upon the processor processing the forest products or manufacturer using the forest products.

(c) Round wood pulpwood on which the tax has been paid shall not be subject to an additional tax when converted into chips, but the additional tax levied by subsection (b) of this section shall be paid by the person, firm, or corporation utilizing the chips in a manufacturing process. (*Acts 1945, No. 169, p. 285, §3; Acts 2955, No. 385, p. 921; Acts 1967, No. 763, p. 1619; Acts 1973, No. 500, p. 738; Acts 1985, No. 8P700, p. 1141, §1; Acts 1988, 1st Ex. Sess., No. 88-842, p. 315, §1; Acts 1993, 1st Ex. Sess., No. 93-888, p. 158, §2; Acts 1995, No. 95-255, p. 427, §1.*)

### **Section 9-13-83**

#### **Exemptions from taxes.**

The taxes levied by this article shall not apply to nor shall such taxes be required of those individual owners of timber who occasionally sever or cut the same from their own premises to be utilized by them in the construction or repair of their own structures, buildings or improvements or for their home consumption or used by them in the processing of their farm products. (*Acts 1945, No. 169, p. 285, §4.*)

### **Section 9-13-84**

#### **Payment and disposition of taxes generally; special state forestry fund; appropriation of tax receipts for use of State Forestry Commission.**

The taxes imposed by this article, and any other taxes imposed on the severance of forest products, shall be due and payable quarterly to the State Department of Revenue and shall, when collected, be paid by such department into the State Treasury. When so paid into the State Treasury, all such taxes shall be credited by the treasurer to a special fund which is hereby created and which shall be known as the Special State Forestry Fund of the State of Alabama, which fund shall be disbursed under the supervision of the State Forester, subject to the restrictions embodied in this article, for the purpose of carrying out the statewide forestry program as provided by law and for no other or different purposes. Not less than 85 percent of the taxes collected under and by virtue of this article shall be expended for forest protection. No portion of such fund shall revert to the General Fund of the state at the end of any fiscal year, and any surplus shall be allowed to accumulate from year to year and be disbursed as exigencies of the statewide forestry program may require.

There is hereby continuously appropriated the receipts from the taxes levied in this article to the State Forestry Commission for the use of the State Forestry Commission. Such amount of money as shall be appropriated for each fiscal year by the Legislature to the Department of Revenue with which to pay the salaries, the cost of operation and the management of the said department shall be deducted, as a first charge thereon, from the taxes collected under and pursuant to said article; provided, however, that the expenditure of said sum so appropriated shall be budgeted and allotted pursuant to Article 4 of Chapter 4, Title 41 and limited to the amount appropriated to defray the expenses of operating said department for each fiscal year; provided further, however, that for the fiscal years ending September 30, 1989, and September 30, 1990, the portion of the receipts allocated to the Forestry Commission is hereby appropriated for use in their fire control

program. (*Acts 1945, No. 169, p. 285, §5; Acts 1951, No. 843, p. 1474; Acts 1967, No. 763, p. 1619; Acts 1988, 1st Ex. Sess., No. 88-842, p. 315, §1.*)

### **Section 9-13-85**

#### **Expenditures for forest protection.**

The percentage of the funds expended under this article for forest protection for the protection of farm forest lands shall not be less than the percentage that the area of the farm forest lands of the state is of the total area of the forest lands of the state. The percentage of the funds expended under this article for each four-year period for the forest protection in any county shall not be less than 50 percent of the amount of the tax collected on forest products severed from the soil in such county together with the equal portion of any available matching funds. (*Acts 1945, No. 169, p. 285, §6; Acts 1967, No. 763, p. 1619.*)

### **Section 9-13-86**

#### **Filing of quarterly reports and payment of taxes- Manufacturers of forest products or owners of concentration yards; failure or refusal to collect tax from seller; refunds, etc., of tax collected from seller, penalties.**

Every manufacturer of forest products shall, within 30 days after the expiration of each quarter annual period expiring, respectively, on the last day of March, June, September and December of each year, file with the department of revenue of the state of Alabama a statement under oath, on forms prescribed by the said department of revenue, showing the kinds of forest products and the gross quantity of each manufactured during the preceding quarter annual period by such manufacturer of forest products, showing the county or counties in which such products were severed from the soil and showing the gross quantity, if any, of such forest products severed from soil outside the state of Alabama and such other reasonable and necessary information pertaining thereto as the department of revenue may require for the proper enforcement of the provisions of this article. At the time of rendering such quarter annual reports, the manufacturer of forest products shall pay to the department of revenue the taxes imposed by this article with respect to all forest products severed from the soil in the state of Alabama and embraced in such report; provided, that in the case that any lumber is sold or delivered to a concentration yard as is defined in this article, then the taxes provided for in this article shall be reported and paid by the owner or owners of such concentration yard to the state instead of the manufacturer, but it shall be the duty of the owner or owners of any such concentration yard to collect the tax in all cases from the seller.

It shall be unlawful for the owner or owners of any such concentration yard to fail or refuse to collect the tax from the seller as aforesaid. It shall also be unlawful to refund or offer to refund all or any part of the tax collected by the owner of the concentration yard from a seller or to absorb or advertise directly or indirectly that the concentration yard will absorb or refund to the seller all or part of said tax. Any persons, firms, associations, corporations or copartnerships violating any of the provisions of this section or this article in said respect shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$50.00 nor more than \$100.00, or by imprisonment in the county jail for not more than six months or by both such fine and imprisonment, and each act in violation of the provisions of this article shall constitute a separate offense. (*Acts 1945, No. 169, p. 285, §7; Acts 1953, No. 695, p. 948, §2.*)

### **Section 9-13-87**

#### **Filing of quarterly reports and payment of taxes - Producers of forest products shipping, etc., same out of state in unmanufactured condition.**

Every producer of forest products who shall ship the same out of the state of Alabama in an unmanufactured condition or who shall sell such product for shipment outside the state of Alabama in an unmanufactured condition shall, within 30 days after the expiration of each quarter annual period expiring, respectively, on the last day of March, June, September and December of each year, file with the department of revenue a statement under oath, on forms prescribed by the department of revenue, showing the kinds of forest products and the gross quantity thereof severed from the soil in Alabama and shipped or sold for shipment to points outside the state of Alabama in an unmanufactured condition, the county or counties in which such products were severed from the soil and such other reasonable and necessary information pertaining thereto as the department of revenue may require for the proper enforcement of the provisions of this article. At the time of rendering such quarter annual reports, such producer of forest products shall pay to the department of revenue the taxes herein imposed by this article upon the forest products embraced in said report. (*Acts 1945, No. 169, p. 285, §8.*)

### **Section 9-13-88**

#### **Maintenance of records, books and accounts by manufacturers, concentration yards and producers shipping forest products out of state in unmanufactured condition.**

It shall be the duty of every manufacturer of forest products in this state and of every producer who shall ship forest products out of the state of Alabama in an unmanufactured condition and of every concentration yard as is defined in this article where any lumber is sold or delivered to it to keep and preserve suitable records with the items separated into the various items on which privilege taxes are levied in this article, and such other books or accounts as may be necessary to determine the amount of taxes for which he is liable under the provisions of this article. Said books and records shall be kept and preserved for a period of three years, and all such records shall be open for examination at any time by the department or its duly authorized agent. (*Acts 1945, No. 169, p. 285, §9; Acts 1953, No. 695, p. 948, §3.*)

### **Section 9-13-90**

#### **Failure to make reports or maintain records.**

Any person subject to the provisions of this article who shall fail to make the reports or any of them as required by this article or who shall fail to keep the records as required by this article shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$25.00 nor more than \$500.00 for each offense. Each month of such failure shall constitute a separate offense. (*Acts 1945, No. 169, p. 285, §11.*)

### **Section 9-13-93**

#### **When taxes delinquent.**

The taxes provided in this article shall become delinquent after the date fixed for the filing of the quarter annual report to be filed in the office of the department of revenue. (*Acts 1945, No. 169, p. 285, §28.*)

### **Section 9-13-99**

#### **Lien upon property for payment of taxes, interest and penalties.**

The taxes together with interest and penalties imposed by this article shall be a lien upon the property of any person subject to the provisions of this article, and the provisions of the revenue laws of the state of Alabama applying to liens for license taxes shall apply fully to the taxes levied by this article. (*Acts 2945, No. 169, p. 285, §19.*)

### **Section 9-13-103**

#### **Proceedings as to persons designing to engage in acts prejudicial to collection of taxes.**

If the department finds that a person liable for taxes under any provisions of this article designs quickly to depart from the state or to remove his property therefrom, or to conceal himself or his property therein or to do any other act tending to prejudice or to render wholly or partly ineffectual proceedings to collect such tax unless such proceedings are brought without delay, the department shall cause notice of such finding to be given such person together with a demand for an immediate return and immediate payment of such taxes. Thereupon such taxes shall become immediately due and payable. If such person is not in default in making such return or paying any taxes prescribed by this article and furnishes evidence satisfactory to the department under regulations to be prescribed by the department that he will duly return and pay the taxes to which the department's finding relates, then such tax shall not be payable prior to the time otherwise fixed for payment. If such person fails to appear and make such showing, then the department shall make such assessment final and execution may immediately issue as is provided in this article. (*Acts 1945, No. 169, p. 285, §23.*)

### **Section 9-13-104**

#### **Reports of transporters of forest products - Required.**

When requested by the commissioner, all transporters of forest products out of, within or across the state of Alabama shall be required to furnish said commissioner, under oath and upon forms prescribed by him, any and all information relative to the transportation of such forest products, and such reports shall contain, in addition to other required information, the name of the shipper, the date of shipment, the quantity and type or character of such forest products, stated in units or measurements applicable to such forest products, the point of receipt or shipment and the point of destination; provided, that in the case of common carriers using bills of lading or way bills prescribed or approved by the interstate commerce commission, such common carriers shall only be required to keep the usual records at the office or offices in this state where such records are usually kept. (*Acts 1945, No. 169, p. 285, §25.*)

### **Section 9-13-105**

#### **Reports of transporters of forest products - Failure to make report.**

The failure of any person to make the transporter's report provided for in section 9- 13- 104 shall be punished by a fine of not less than \$50.00 and not more than \$500.00 for each offense. (*Acts 1945, No. 169, p. 285, §26.*)

### **Section 9-13-106**

#### **Payment of taxes by counties or municipalities purchasing forest products.**

When the governing body of any county or municipality in the state shall purchase any forest products upon which the privilege taxes imposed by this article have not been paid, then the said governing body of said county or municipality shall withhold from the purchase price the amount of the taxes due and shall remit it to the department of revenue in the same manner as is required of other taxpayers. (*Acts 1945, No. 169, p. 285, §27.*)

### **Section 9-13-107**

#### **Forest products to which taxes imposed by article applicable.**

The taxes imposed by this article shall apply to any forest products severed from land owned by either the state of Alabama or the United States of America, where the forest products severed enter commercial channels of trade for competitive markets. (*Acts 1945, No. 185, p. 285, §24.*)

### **Section 9-13-108**

#### **Taxes upon the excise or privilege of severing, processing, or manufacturing of forest products.**

Any and all taxes upon the excise or privilege of severing, processing, or manufacturing of forest products shall inure to the State of Alabama and shall be exercised only in a uniform, statewide tax. No tax shall be levied by local law or by any political subdivision of the state, including counties, cities, special taxing authorities or other taxing instrumentalities, upon the excise or privilege of severing, processing or manufacturing of forest products in Alabama. (*Acts 1988, 1st Ex. Sess., No. 88-842. p. 315, §2.*)

## **County Taxes for Forest Protection**

### **Section 9-13-160**

#### **“Forestland” defined.**

“Forestland” shall mean any land which supports a forest growth or which under prevailing natural and economic conditions may be expected to support such a growth in the future or which is being used or reserved for any forest purpose. (*Acts 1939, No. 562, p. 884; Code 1940, T. 12, §205.*)

### **Section 9-13-161**

#### **Special annual tax for forest protection - Authorized.**

For the purpose of receiving the financial and supervisory cooperation of the state forestry commission of the state of Alabama in forest protection, any county commission is empowered, authorized and required to assess and levy a special annual tax not to exceed \$0.04 per acre against the forested acreage of the county subject to the conditions set forth in section 9-13-163. (*Acts 1939, No. 562, p. 884; Code 1940, T. 12, §205.*)

### **Section 9-13-162**

**Special annual tax for forest protection- Designation of forest protection areas.**

The state forestry commission is hereby empowered and directed to establish and designate such forest protection areas prior to the submission of the petition provided for in section g-13-163. (*Acts 1939, No. 562, p. 884; Code 1940, T. 12, §204.*)

**Section 9-13-163**

**Special annual tax for forest protection- Assessment and levy of tax upon petition of freeholders in forest protection areas.**

For the purpose of receiving the financial and supervisory cooperation of the state forestry commission of the state of Alabama in forest protection, the county commission is required to make, assess and levy a special annual tax upon all said lands in the county, or any definitely described portion thereof immediately upon receipt of a petition so requesting, signed by a majority of the freeholders of the county, or any definitely described portion thereof, said area to be known as a forest protection area. (*Acts 1939, No. 562, p. 884; Code 1940, T. 12, §201.*)

**Section 9-13-164**

**Special annual tax for forest protection Provision of list of landowners within forest protection areas.**

The state forestry commission is hereby empowered and directed to furnish to the county commission of the county in which it is proposed to establish a forest protection area a list of the landowners within said proposed forest protection area, said list to show the total amount of forestland owned by each landowner subject to the forest protection tax within said forest protection area. (*Acts 1939, No. 562, p. 884; Code 1940, T. 12, §206.*)

**Section 9-13-165**

**Special annual tax for forest protection- Inspection, designation, listing and placement on tax rolls of lands prior to assessment and levy.**

The tax provided for in section 9-13-161 shall not be assessed and levied until such time as the county board of equalization shall have first inspected and reviewed such property and shall have designated the same forestland, and such lands must have been returned to or listed with the tax assessor of the county where located as forestland and have been placed on the tax rolls for ad valorem taxation as other forestlands. (*Acts 1939, No. 562, p. 884; Code 1940, T. 12, §207.*)

**Section 9-13-166**

**Special annual tax for forest protection Collection, disposition and expenditure.**

The tax so assessed shall be collected as other taxes are collected and remitted to the state treasurer and placed in a “forest protection fund” to be expended by the state forestry commission of the state of Alabama for forest fire protection in the county, or any definitely described portion thereof, against which the tax has been assessed. (*Acts 1939, No. 562, p. 884; Code 1940, T. 12, §203.*)

### **Section 9-13-167**

#### **Special annual tax for forest protection - Change or discontinuance of tax upon petition of freeholders or state forestry commission.**

The tax provided for in section 9-13-161 shall remain the same from year to year, except that it may be changed or discontinued upon receipt of a petition so requesting, signed by a majority of the freeholders of the county, or any definitely described portion thereof involved or by the state forestry commission of the state of Alabama. (*Acts 1939, No. 562, p. 884; Code 1940, T. 12, §202.*)

## **County Assessments for Forest Fire Protection**

### **Section 9-13-180**

#### **“Forestlands” defined.**

“Forestlands” shall mean any lands which support a forest growth, which under prevailing natural and economic conditions may be expected to support such a growth in the future or which is being used or reserved for any forest purpose. Such term shall not include any lands within an urban area which are primarily used for residential purposes nor shall it include any publicly owned lands. (*Acts 1955, No. 552, p. 1208, §2.*)

### **Section 9-13-181**

#### **Participation by county commissions in fire protection program of state forestry commission- Authorized.**

The county commission of any county in this state is authorized, when the need therefor exists, to provide in the manner specified in this division protection against forest fires in such county by participating in the state forestry commission’s fire protection program. (*Acts 1955, No. 552, p. 1208, §1.*)

### **Section 9-13-182**

#### **- Assessments against owners of forestlands for costs - Authorized; limitations.**

Any county commission which provides forest fire protection to the persons and property of its county by participating in the state forestry commission’s fire protection program may in the manner specified in this division assess the whole or any part of the cost of such fire protection program, not in excess of &dollar;.05 per acre, to the owners of forestland in the county; provided, that such assessment is not greater than the benefit accruing to such forestland due to the availability of such fire protection. (*Acts 1955, No. 552, p. 1208, §2.*)

### **Section 9-13-183**

#### **- Assessments against owners of forestlands for costs - Determination of need therefor; determination and establishment of amount.**

The need for special assessments to provide forest fire protection within the county shall be determined by the county commission after a public hearing is held thereon. Such hearing shall be

held by such body only after a petition signed by a majority of the total number of persons owning forestlands within the county has been presented thereto; provided, that such persons are the owners of more than one half of the forestland situated within the county. The county commission shall give 10 days' notice of the time and place at which they shall meet to determine the need for a program in such county to provide protection against forest fires, the manner of financing a fire protection program, the part of the cost of such program to be assessed against owners of forestland and the manner of assessing the cost of such protection proportionately to each parcel or tract of forestland in the county. The notice of the meeting hereby required shall be published in a newspaper of general circulation in the county and shall also be posted at the courthouse of the county and in every post office within the county. Any person owning forestland in the county may appear in person or by attorney at such time and place and make defense against such assessment or the amount thereof. After such hearing the county governing body shall determine the amount of such assessment and enter on the minutes of the governing body an order fixing such assessment. (*Acts 1955, No. 552, p. 1208, §3.*)

### **Section 9-13-184**

#### **- Assessments against owners of forestlands for costs - Time and manner of payment; reports to tax assessors; lien on property for payment.**

Any assessment fixed as provided in section 9-13-183 shall be payable at the same time and in the same manner as county taxes, and the owner of the forestlands, as defined in this division, in those counties becoming subject to the provisions of this division shall make report of same to the tax assessor of the county at the time fixed by law for making return of other property of such property owner. Assessments made pursuant to this division shall constitute a lien on the property against which they are assessed and, in case of default in the payment of such assessments, the land may be sold in the same manner and under the same conditions that lands are sold for the satisfaction of liens for county taxes. (*Acts 1955, No. 552, p. 1208, §4.*)

### **Section 9-13-185**

#### **- Assessments against owners of forestlands for costs - Disposition and expenditure.**

All moneys accruing to any county from the assessments as provided in this division shall be placed in the county treasury or depository, as the case may be, to the credit of a special fire protection fund, which fund shall be used or disbursed by said county commission only in participating in the state forestry commission's fire protection program within such county under such procedures and policies as may be prescribed by the state forestry commission. Any unexpended balance in said fund at the end of any fiscal year shall remain therein for use during the ensuing fiscal year. (*Acts 1955, No. 552, p. 1208, §5.*)

### **Section 9-13-186**

#### **- Assessments against owners of forestlands for costs - Compensation of officials making or collecting same,**

Any officer performing any duties relative to the assessing or collecting of assessments made pursuant to this division shall receive as compensation therefor the same fees and allowances that he would receive for the performance of similar duties relative to the collection of special county taxes. (*Acts 1955, No. 552, p. 1208, §6.*)

### **Section 9-13-187**

#### **- Assessments against owners of forestlands for costs - Removal.**

The county commission in any county where the assessment provided for in this division has been adopted may, upon its own motion, remove said assessment at any time; provided, that no county commission may remove said assessment without first having a public hearing relative to the removal of the assessment. (*Acts 1955, No. 552, p. 1208, §7.*)

## **State Assessment for Forest Fire Protection and Prevention**

### **Section 9-13-188**

#### **Legislative intent.**

The Legislature hereby declares that the threat of a spread of wildfire in our forest lands is a matter of major concern. The purpose of this article, therefore, is to provide forestry assistance and to secure the protection from, and the prevention of, forest fires. This article should be liberally construed to achieve these purposes. (*Acts 1989, No. 89-652, p. 1292, §1.*)

### **Section 9-13-189**

#### **Definitions.**

As used in this article, the following words shall have the meanings stated below, unless the context requires otherwise:

- (1) Commission:  
The Alabama Forestry Commission.
- (2) Forest Land:  
Any land which supports a forest growth or which is being used or reserved for any forest purpose and is classified as Class III forest property in Section 40-8-1(b)(1), but excludes land within the city limits of any incorporated municipality.
- (3) Owner:  
Any person who is engaged in and has an economic risk in the business of producing or causing to be produced, for market, forest or timber products.
- (4) Person:  
Any individual, partnership, corporation, company, society, or association, or other business entity.
- (5) Lessee:  
Any person who leases land for a period over five years for the purpose of producing or causing to be produced, for market, forest or timber products. (*Acts 1989, No. 89-652, p. 1292, §2.*)

### **Section 9-13-190**

#### **Administration; rules and regulations.**

The forestry and fire prevention program provided for in this article shall be administered by the Alabama Forestry Commission. The commission shall have the authority to adopt such rules and regulations as it deems necessary to effectuate the purposes of this article.  
(Acts 1989, No. 89-652, p. 1292, §3.)

### **Section 9-13-191**

#### **Finance charge, fee or assessment on forest land; disposition of proceeds.**

There is hereby levied in this state a finance charge, fee or assessment on forest land owned or leased by any person. proceeds generated in each county shall be earmarked for use in the respective county where raised to provide for forest fire protection and similar forestry services within the county. (Acts 2989, No. 89-652, p. 1292, §4.)

### **Section 9-13-192**

#### **Manner of collection of charge, fee, or assessment; distribution.**

The charge, fee, or assessment will be levied and collected in the same manner as ad valorem taxes are levied and collected. All revenues or moneys collected under the provisions of this article shall be distributed by the office of the county tax collector, or person charged with the collection of taxes, to the commission. The first assessment and collection of the levy provided for herein shall be during and for the fiscal (tax) year beginning October 1 next following the satisfaction of all prerequisites required herein for imposition of the levy herein provided.  
(Acts 1989, No. 89-652, p. 1292, §5.)

### **Section 9-13-193**

#### **Referendum; amount of assessment; payment and remission of assessment; notice of referendum.**

(a) The commission shall authorize a referendum among owners or lessees of forest land to determine whether an assessment shall be levied upon said owners or lessees to offset, in whole or in part, the cost of forestry and forest fire protection programs.

(b) The assessment levied against each owner or lessee under this article shall be ten cents per acre of forest land owned.

(c) All affected owners or lessees of forest land shall be entitled to vote in any such referendum. The commission shall determine any questions of eligibility to vote and shall establish rules and regulations pertaining to the vote.

(d) If a majority of those voting at the referendum vote in favor of the assessment, then the charge, fee or assessment shall be collected from the owners or lessees of forest land. The finance charge, fee or assessment levied by this article shall not be effective until a majority vote is obtained according to guidelines established by the commission.

(e) The finance charge, fee or assessment shall be due and payable at the same time as county ad valorem taxes. The assessments collected in each county under this article shall be promptly remitted to the commission under

such terms and conditions as the State Forester shall deem necessary to ensure that such assessments are used in a sound forestry program and for the prevention of and protection against forest fire.

(f) With respect to any referendum conducted under the provisions of this article, the duly certified organization shall, not less than 30 days before the date of such referendum, cause to be published at least once a week for three weeks in a newspaper of county-wide circulation the date, hours, polling places and rules for voting in the referendum, the amount and basis of the assessment proposed to be collected, the means by which such assessment shall be collected, and the general purposes to which said amount so collected shall be expended and applied. Such notice shall be published by the certified organization through the medium of an established forestry publication and written notice therefor shall be given to each county agent and Alabama Forestry Commission supervisor in this state. (*Acts 1989, No. 89-652, p. 1292, §6.*)

### **Section 9-13-194**

#### **Management of referendum.**

The arrangements for the place, time and management of any referendum held under this article shall be under the direction of the commission. The commission shall bear all expenses incurred in conducting the referendum, including the finishing of ballots and arranging for the necessary poll holders. (*Acts 1989, No. 89-652, p. 1292, §7.*)

### **Section 9-13-195**

#### **Referendum after failed referendum.**

In the event the referendum conducted under this article fails to receive the required number of affirmative votes, the commission may call another referendum after the expiration of two years. (*Acts 1989, No. 89-652, p. 1292, §8.*)

### **Section 9-13-196**

#### **Failure to pay assessment; penalty; lien on property.**

(a) An owner or lessee of forest land who fails to pay, upon reasonable notice, any assessment levied under this article shall, in addition to the assessment, be subject to a per acre penalty as established by the commission's rules and regulations.

(b) Any finance charge, fee, or assessment levied shall constitute a lien on the property against which it is levied. In case of default in the payment of such finance charge, fee, or assessment, the subject land may be sold in the same manner and under the same conditions that lands are sold for the satisfaction of liens for county ad valorem taxes, provided, however, no sale of the subject land may occur within three years from the date of said default, and redemption from such sale may be effected in the same manner as is provided by law for redemption where land is sold for nonpayment of ad valorem taxes. (*Acts 1989, No. 89-652, p. 1292, §9; Acts 1991, No. 91-670, p. 1306, §1.*)

### **Section 9-13-197**

#### **Change in finance charge, fee or assessment.**

Any county may, by local legislation, increase the amount of the finance charge, fee or assessment provided for in this article, but is hereby prohibited from decreasing said amount; provided, however, all local laws levying

acreage assessments are repealed retroactively effective October 1, 1990, except to the extent that they exceed ten cents per acre. (*Acts 1989, No. 89-652, p. 1292, §10; Acts 1991, No. 91-670, p. 1306, §1.*)

### **Section 9-13-198**

#### **Assessments, fees, etc., not a tax.**

Assessments, fees, or other charges collected as authorized under authority hereof shall not be considered as a tax within the meaning of the Constitution of Alabama of 1901, or any provision of this Code. (*Acts 1989, No. 89-652, p. 1292, §12.*)

## **Sale or Lease of Certain Real Property by the State**

### **Section 9-15-70**

#### **Applicability; reservation of rights.**

This article applies to all real property and interests therein owned by the State of Alabama and the departments, boards, bureaus, commissions, institutions, corporations, and agencies of the state with the exception of those sales, transfers, and reversions set out in Section 9-15-82. As used in this article, real property shall include land, lots, and all things and interests, including leasehold interests, pertaining thereto, and all other things annexed or attached to the land which would pass to a vendee by conveyance of the land or lot, including mineral and gas and oil interests. The state has the right to reserve all or any part of the mineral, oil, or gas interests and also the right of ingress and egress thereto. (*Acts 1995, No. 95-280, p. 507, §1.*)

### **Section 9-15-71**

#### **Sales and leases of real property with certain appraised value belonging to state entities to be sold by open competitive public auction or sealed bids.**

All sales and leases made by, or on behalf of, the State of Alabama, or any department, board, bureau, commission, institution, corporation, or agency, of real property or any interest therein owned by the State of Alabama having an appraised value of more than ten thousand dollars (\$10,000) shall be made by free and open competitive advertised public auction or advertised sealed bids to the highest bidder. (*Acts 1995, No. 95-280, p. 507, §2.*)

### **Section 9-15-72**

#### **Lands Division responsible for selling or leasing property.**

Each department, board, bureau, commission, institution, corporation, or agency which holds real property shall notify the Lands Division of the State Department of Conservation and Natural Resources of its desire and intention to sell or lease any of the real property and shall provide such information as may be specified by the Lands Division. The Lands Division shall be responsible for obtaining the appraisal, deed, and other documents needed for selling or leasing the property under this article and for handling the closing of the sale or lease. No sale or lease involving an amount of more than ten thousand dollars (\$10,000) shall be divided into smaller parcels involving less than ten thousand dollars (\$10,000) for avoiding the requirements of this article. (*Acts 1995, No. 95-280, p. 507, §3.*)

### **Section 9-15-73**

#### **Appraisal.**

The Lands Division shall have the real property or the interests in the real property appraised by a real estate appraiser selected by the Lands Division who is licensed by the State Board of Appraisers prior to the advertisement of the sale of the property. If the Lands Division is not satisfied with one appraisal, additional appraisals may be obtained. All appraisals shall be in writing. (*Acts 1995, No. 95-280, p. 507, §4.*)

### **Section 9-15-74**

#### **Minimum amount at which property may be sold or leased; determination as to selling or leasing; acceptance or rejection of bids; determination as to whether sale should be by auction or bids.**

After obtaining an appraisal on the real property and consulting with the chief executive officer of the department, board, bureau, commission, institution, corporation, or agency which desires to sell or lease the real property, the Lands Division shall establish and publish the minimum amount for which the real property may be sold or leased. The determination to sell or lease the real property shall be made by the chief executive officer of the department, board, bureau, commission, institution, corporation, or agency desiring to sell or lease the real property with the approval of the Governor after giving due consideration to the results of the appraisal made upon the real property. With the approval of the Governor, the chief executive officer shall have the right to accept or reject all bids submitted for the purchase of the real property under these provisions. The chief executive officer and the Governor in consultation with the Director of the Lands Division of the State Department of Conservation and Natural Resources shall determine if the sale or lease of real property is to be by free and open competitive advertised public auction or advertised sealed bids. (*Acts 1995, No. 95-280, p. 507, §5.*)

### **Section 9-15-75**

#### **Advertising.**

Every proposal to make a sale or lease under this article shall be advertised for at least once a week for four weeks in advance of the date fixed for receiving bids or public auction. The advertisement shall appear at least once a week for four consecutive weeks in a newspaper of general circulation in the county or counties where the property is located, and at least one time in three other newspapers of general circulation throughout the state. Property located outside the State of Alabama shall be advertised at least one time in three newspapers of general circulation throughout the state. A copy of the proposal shall simultaneously be posted on a readily accessible public bulletin board at the main office of the Lands Division of the State Department of Conservation and Natural Resources. Persons who request notification of the sale or lease of real property by the state and who provide their mailing address with the Lands Division shall be sent notice of the sale or lease. Advertisements for bids shall state the real property to be sold, by description, where the property is located and the dates and times when the property may be inspected. The advertisements shall further state the date, time, and place of auction or opening of sealed bids. The advertisements shall state that all bids may be rejected by the state. No bid shall be received at any time after the time advertised. (*Acts 1995, No. 95-280, p. 507, §6.*)

## **Section 9-15-76**

### **Binders.**

Each person or corporation submitting a bid on real property or an interest therein to be sold or leased by the State of Alabama under this article shall present with his or her bid, payable to the Lands Division of the State Department of Conservation and Natural Resources, a certified check or bank cashier's check in the amount to be determined by the Lands Division not to exceed 20 percent of his or her bid, as a binder on the real property upon which he or she has bid. If the property is being sold at public auction, the Lands Division shall determine the amount of the binder required. The binder shall be forfeited by the person or corporation to whom the bid is awarded if the person or corporation does not complete purchase by presenting to the state a cashier's check or certified check for the amount due less the amount of the binder previously submitted on the real property within 30 days after receiving notice in writing that he or she is the successful bidder. The binder shall be applied to the purchase price of the successful bid. The Director of the Lands Division for good cause shown may extend the period for completing the sale for one additional period of seven days. Certified checks submitted as binders by those persons or corporations not awarded the bid shall be returned to the persons or corporations. *(Acts 1995, No. 95-280, p. 507, §7.)*

## **Section 9-15-77**

### **Payment of expenses by department, board, bureau, etc., selling or leasing property; payment of fee to Lands Division.**

The expenses of the appraisal and contemplated sale or lease shall be paid by the department, board, bureau, commission, institution, corporation, or agency offering the property for sale. The Lands Division of the State Department of Conservation and Natural Resources shall receive a fee in reimbursement of its actual expenses for administering the sale of real property under this article. The fee shall be disbursed to the Lands Division in the final disposition of the funds received from the sale of the property. *(Acts 1995, No. 95-280, p. 507, §8.)*

## **Section 9-15-78**

### **Bids to be publicly taken by director; notice; bids to become public record.**

The bids shall be publicly taken or opened in Montgomery or such other place as may be designated by the Lands Division, in case of sealed bids, by the Director of the Lands Division of the State Department of Conservation and Natural Resources or his or her designee and the department, board, bureau, commission, institution, corporation, or agency selling the property may have a representative present. When a sale or lease is to be made, notice shall be given to the highest bidder within 30 days after taking the bids of the state's acceptance of his or her bid and of the state's intention to sell or lease the property to him or her. The bid of the successful bidder so marked, as well as the bids of the unsuccessful bidders in the case of sealed bids, shall be placed on file open to public inspection and shall become matters of public record. *(Acts 1995, No. 95-280, p. 507, §P.)*

## **Section 9-15-79**

### **Negotiation where no bids received or bids rejected; no sale or lease at price less than highest bid or minimum; payment; closing.**

In the event no bids are received or all the bids are rejected by the chief executive officer of the department, board, bureau, commission, institution, corporation, or agency selling or leasing the property and the approval of the Governor, the sale or lease of the real property may be negotiated. No sale or lease may be made at a price less than the highest bid received or the published minimum, whichever is highest, and the sale or lease shall require the approval of the Governor. All real property sold or leased under this article shall be paid for by the purchaser or his or her representative by cashier's check or certified check, and the sale or lease shall be closed not later than 30 days after the written notice of acceptance of the bid. (*Acts 1995, No. 95-280, p. 507, §10.*)

### **Section 9-15-80**

#### **Certain persons prohibited from bidding on or purchasing property.**

Officers and employees of the department selling or leasing the real property and officers and employees of the Department of Conservation and Natural Resources, as well as members of their families, shall be excluded from bidding on the property at a public auction or by sealed bids. Other officers or employees of the state shall not be excluded from bidding on or purchasing the real property at public sale or sealed bid. (*Acts 1995, No. 95-280, p. 507, §11.*)

### **Section 9-15-81**

#### **Criminal and civil actions and penalties for violations of article.**

Any sale or lease of real property or any interest therein of the state made in violation of this article shall be null and void, and the person or persons violating this article shall be subject to criminal prosecution by the Attorney General. In addition to the prosecution, damages for loss or injury to the state may be recovered for the State of Alabama by the Attorney General by civil action in the Circuit Court of Montgomery County. The expenses of investigation, or litigation and prosecution, or both, under this article shall be reimbursed from funds recovered to the Attorney General. All other moneys recovered by the Attorney General shall be deposited in the State General Fund. Violation of this article shall also constitute a Class C felony punishable as prescribed by law. (*Acts 1995, No. 95-280, p. 507, §12.*)

### **Section 9-15-82**

#### **Article not to apply to certain transfers, reversions, sales, etc.**

This article shall not apply to the transfers of real property between departments, boards, bureaus, commissions, institutions, corporations, or agencies of the state. These transfers may be made by mutual agreements between the chief executive officers of the respective departments with the approval of the Governor. This article shall not apply to the leasing or sale of timber from unused lands under Section 9-15-1 et seq.; to the leasing or sale of timber from school lands and swamp and overflowed lands under Section 9-15-30 et seq.; to the leasing of oil, gas, and other minerals under Section 9-17-60 et seq.; real property sold by the Department of Revenue under tax sales and redemptions; to the sale of property by the Alabama Historical Commission under Section 41-9249(7); to reversions made under Section 31-4-18; to the sale or conveyance of real property by the Alabama Housing Finance Authority or to property traded in Right of Way Negotiations or Sales of Excess Right of Way or uneconomic remnants by the State Department of Transportation. **Notwithstanding any other provisions of this article, the Alabama Forestry Commission shall have the authority to conduct real property sales in accordance with this article without going through the Lands Division. In so doing, the Alabama Forestry Commission shall comply with all other provisions of this article.** This article shall not apply to the granting of easements, rights-of-way for utilities, roads, streets, and sidewalks where there is no competitive market. Notwithstanding any other provision of this article, institutions and systems of higher education with separately constituted boards of trustees or those institutions of

higher education subject to the supervision and authority of the State Board of Education that have written policies and procedures governing transfers of interest in real property have the authority to conduct real property sales and leases by public auction or publicly sought sealed bid in accordance with procedures in the article for advertising and receiving bids, without going through the Lands Division of the State Department of Conservation and Natural Resources. Furthermore, in those cases in which it can be economically justified and it is deemed to be in the best interest of the institution or system and the State of Alabama to offer an interest in real property for sale or lease through a listing with a duly licensed real estate broker who shall publicize the offer in accordance with customary practices or through negotiation after publicly announced requests for proposals to sell or lease the property are made, rather than through a procedure otherwise described in this article, the institution or system may do so, provided that a written declaration setting forth the specific reasons why it is deemed to be in the best interest of the institution or system and the State of Alabama to make specific sale or lease in question in such manner is made by an agent of the institution authorized by the board of trustees or the State Board of Education, and subsequently ratified by the board of trustees or the State Board of Education and the document shall be retained and made a part of the permanent file and shall be open to public inspection. Sales and leases transacted as described in this section shall be deemed to be in compliance with all provisions of this article. Ground leases and leases of facilities by institutions of higher education to social or professional organizations, faculty members, employees, or for institution-related purposes which are designed to enhance the operation of the institution and are declared to be in the best interest of the institution by the board of trustees or the State Board of Education, are exempt from the provisions of this article. Such declaration shall be maintained as aforesaid.

Except as set out hereinafter, nothing herein contained shall be construed to apply in any manner to the sale or lease of any real property or any interest therein owned in whole or in part by any county or municipal board of education, any county or municipal government or any of their respective boards, agencies, departments, corporations or instrumentalities including corporations and/or boards in regard to which any county or municipal governing body is a determining or appointing authority. Provided that nothing herein contained shall be construed to apply in any manner to the sale or lease of any real property or interest therein owned by the State of Alabama and the departments, boards, bureaus, commissions, instrumentalities, corporations and agencies of the state to any county or municipal board of education, any county or municipal governing body or any of their respective boards, agencies, departments, corporations or instrumentalities including corporations and/or boards in regard to which any county or municipal governing body is a determining or appointing authority, subject to the condition that such property or any interest therein is not resold, leased or otherwise transferred in whole or in part to any private person, firm or corporation without compliance with the provisions of this article. Provided, however, that if the property is to be sold within five years from the date it was acquired, the state shall have the right to repurchase the property at the price it was sold by the state. Provided, further, that all such transactions between any county or municipal board of education, any county or municipal government or any of their respective boards, agencies, departments, corporations or instrumentalities including corporations or boards and the state or any department, board, bureau, commissions, instrumentalities, corporations and agencies of the state shall have the approval of the Governor and written notice of such transaction shall be given to the Lands Division of the Conservation Department at least 30 days before the closing of such transaction.

Provided, further, that notwithstanding any other provision of this article, this article shall not apply to lease-leaseback transactions entered into by institutions and systems of higher education with separately constituted boards of trustees provided that any such institution or system of higher education shall at all times remain the owner of any real property the subject of any such lease-leaseback transaction. (*Acts 1995, No. 95-280, p. 507, §13; Acts 1997, No. 97-225, p. 348, §1.*)

### **Section 9-15-83**

#### **Proceeds from sale to be deposited to credit of fund of state entity.**

Whenever any real property is sold or leased under this article, the proceeds from the sale, less the expenses of the sale or lease, shall be deposited to the credit of the fund of the state department, commission, board, bureau, institution, corporation, or agency which offered the real property for sale. (*Acts 1995, No. 95-280, p. 507, §14.*)

### **Section 9-15-84**

#### **Promulgation of rules and regulations.**

The Lands Division is authorized to promulgate such rules and regulations as may be necessary to implement the provisions of this article. (*Acts 1995, No. 95-280, p. 507, §15.*)

## **Current Use Valuation**

### **Section 40-7-25.1**

#### **Current use value of Class III property - Definition; appraisal of property at request of owner; legislative intent; applicability of section; method of valuation; factors considered in appraisal; rules and regulations of Department of Revenue**

(a) For ad valorem tax years beginning on and after October 1, 1978, with respect to taxable property defined in Section 40-8- 1, as amended, as Class III property and upon request by the owner of such property as hereinafter provided, the assessor shall base his appraisal of the value of such property on its current use on October 1 in any taxable year and not on its fair and reasonable market value. Failure of an owner of Class III property to request appraisal at current use value shall mean that the property shall be valued on its fair and reasonable market value as otherwise provided in this title until such time as the owner thereof shall request valuation on the basis of current use value. As used in this chapter, "current use value" shall be deemed to be the value of eligible taxable property based on the use being made of that property on October 1 of any taxable year; provided, that no consideration shall be taken of the prospective value such property might have if it were put to some other possible use. It is not the intent of the Legislature to establish in this section any presumption as to the fair and reasonable market value of any property, or any minimum such value. This section shall govern only determination of the current use value of eligible property with respect to which a timely request for appraisal at current use value shall have been made.

(b) In determining the current use value, on and after October 1, 1981, of eligible taxable property the owner of which shall elect current use valuation of such property hereunder, the assessor shall utilize the standard value method of current use valuation outlined herein. (No new application form need be filed under Section 40-7-25.2 in order for this method to be utilized with respect to property the owner of which, prior to October 1, 1981, shall have elected to have had assessed at the ratio of its assessed value to its current use value, and which property was in fact so assessed; however, the tax assessor of the county in which the property is located may request of the owner such additional information as may be required to compute current use value hereunder.) To utilize the standard value method of current use valuation, the tax assessor shall first determine the character of the property with respect to which current use valuation is elected as agricultural (which characterization shall cover all of the types of real property described in subdivision (3) of subsection (b) of Section 40-8-I with the exception of real property used for the

growing and sale of timber and forest products), forest (meaning real property used for the growing and sale of timber and forest products), residential (as defined in subdivision (2) of subsection (b) of Section 40-8-1, or historic building and site (as defined in subdivision (6) of subsection (b) of Section 40-8-1). With respect to Class III property consisting of parcels of five acres or less, the owners of which shall have elected current use valuation respecting those parcels, the tax assessor may require the submission of additional data as may be necessary to establish that the use being made of the parcels of property in question is agricultural, forest, or residential or historic building and site, as the case may be, such data may include site management plans from the Alabama Forestry Commission, photographs and surveys, or verification of use from the county farm agent or the U.S. Soil Conservation Service.

(c) With respect to agricultural and forest property, the tax assessor shall determine, utilizing the soil groups defined herein, the productivity rating or ratings applicable to such property based on the following schedule:

<b>Soil Group</b>	<b>Agricultural Productivity Rating</b>	<b>Forest Productivity Rating</b>
1	Good	Good
2	Good	Good
3	Average	Average
4	Average	Average
5	Average	Average
6	Poor	Poor
7	Nonproductive	Poor
8	Good	Good
9	Poor	Average
10	Nonproductive	Nonproductive

The soil groups of agricultural and forest property shall be determined using the following general definitions (to fall within a particular soil group property need not exhibit all the general characteristics described herein for that group, but must generally be describable by a preponderance of those characteristics; the Department of Revenue prior to issuing any regulations further defining soil groups hereunder shall consult with the U.S. Soil Conservation Service and the Alabama Cooperative Extension Service):

(1) SOIL GROUP #1. Nearly level soils on uplands; mostly deep and well drained (zero to two percent slopes). Soils in this group have no limitations that significantly restrict their use for agriculture. They are well suited to a wide range of plants and may be used for cultivated crops, small grains, hay crops, pasture, or woodland. They have moderate to high available water capacity and are responsive to fertilization.

(2) SOIL GROUP #2. Nearly level soils on uplands; mostly deep, imperfectly drained (zero to two percent slopes). Soils in this group have a wetness limitation that restricts their use for agriculture. The choice of plants may be restricted on some soils but as a group they are suited for cultivated crops, small grains, hay crops, pasture, or woodland. The wetness limitation can be partially overcome by drainage. The soils have high available water capacity and are responsive to fertilization.

(3) SOIL GROUP #3. Nearly level soils on uplands; mostly deep, well drained with thick sandy surface layers (zero to five percent slopes). Soils in this group have a low available water capacity that restricts their use for agriculture. The choice of plants is restricted and the soils require special considerations when used for cultivated crops and small grains. Most soils in this group are well suited for hay crops, pasture, and woodland. Special practices must be used to prevent deterioration of soils and to maintain yields if used for cultivated crops. Most soils in this group have low fertility levels that are not easily corrected by fertilization.

(4) SOIL GROUP #4. Gently sloping to sloping soils on uplands (two to six percent slopes). Soils in this group have moderate limitations that restrict their use for agriculture. The choice of plants may be restricted on some soils but as a group they are well suited for cultivated crops, small

grains, hay crops, pasture, or woodland. Limitations can be overcome by conventional practices but the soils require careful management to prevent deterioration and maintain maximum crop yields. Limitations include one or more of the following: slopes of about two to six percent, a somewhat restricted rooting zone, very slow permeability of the subsoil, and low available water capacity. Most soils in this group are responsive to fertilization

(5) SOIL GROUP #5. Sloping to strongly sloping soils on uplands (six to 10 percent slopes). Soils in this group have severe limitations that restrict their use for agriculture. The choice of plants is restricted and the soils require special considerations when used for cultivated crops and small grains. Most soils in this group are well suited for hay crops, pasture, and woodland. Special practices must be used to prevent deterioration of the soils and to maintain yields if used for cultivated crops. Limitations include one or more of the following: slopes of about six to 10 percent, very slow permeability of the subsoil, shallow rooting zone, and low available water capacity. Some sandy soils in this group have low fertility levels that are not easily corrected by fertilization.

(6) SOIL GROUP #6. Moderately steep soils on uplands (10 to 15 percent slopes). Soils in this group have very severe limitations that restrict their use for agriculture. The choice of plants is restricted and very careful management is required to prevent soil deterioration, protect crops, and to maintain crop yields. Soils in this group are generally poorly suited for row crops and small grains. They are suited to pasture and woodland but steep slopes restrict their use for hay crops. Limitations include one or more of the following: slopes of about 10 to 15 percent, shallow rooting depth, low available water capacity, and surface stoniness that interferes with tillage. Some sandy soils in this group have low fertility levels that are not easily corrected by fertilization.

(7) SOIL GROUP #7. Steep soils on uplands (15+ percent slopes). Soils in this group have very severe limitations that make them unsuited for cultivated crops, small grains, or hay crops. They are suited for pasture only to a limited extent and are used mainly for woodland. Limitations include one or more of the following: slopes greater than 15 percent, shallow rooting depth, low available water capacity, and surface stoniness that seriously interferes with or prohibits tillage.

(8) SOIL GROUP #8. Bottomland soils that are well suited for cultivated crops, hay crops, and pasture. Subject to occasional water overflow with only slight damage to crops. Soil wetness is normally correctable by surface drainage. Soils in this group are well suited for woodland.

(9) SOIL GROUP #9. Bottomland soils subject to frequent overflow with severe crop damage. Excessive wetness that persists after drainage restricts the use of these soils to mainly pasture and woodland. Woodland growth potential is excellent but equipment limitations and seedling mortality limit intensive forest management.

(10) SOIL GROUP #10. Soils in this group have such severe limitations that they are capable of only limited production of vegetative growth. It includes soils that are normally covered with water, soils that are saline, soils that are severely gullied, and have extensive rock outcrops.

(d) The tax assessor shall then use, on and after October 1, 1981, the following formulas and methods to determine the assessed value of each type of Class III property, with respect to which a current use valuation election has been made:

(1) AGRICULTURAL PROPERTY. The current use standard value for agricultural property in the state shall be determined in the following manner. The owner of agricultural property desiring to elect current use valuation shall submit to the assessor satisfactory evidence indicating the soil group or groups, as defined herein, applicable to the property in question. Such evidence may, with respect to property located in counties for which countywide soil survey maps are not available from the U.S. Soil Conservation Service, include a soil survey map describing the soils of the property in question prepared by the U.S. Soil Conservation Service or other governmental or private soil mapping agency. The Department of Revenue, utilizing statistics from the Alabama Crop and Livestock Reporting Service, the Alabama Cooperative Extension Service and the Alabama Agricultural Experiment Station, shall determine annually not later than November 15 (except that, for the tax year beginning October 1, 1981, the determination shall be made 30 days after April 20, 1982), for use in assessing property for taxation as of the immediately preceding October 1, the current use standard value for agricultural property as follows:

- a. The state's top three crops in terms of acreage harvested (not including hay of all types) for the most recent calendar year for which statistics are available shall be determined,
- b. Total crop production in the state of the three crops shall be multiplied by the seasonal average price received for these crops in each of the 10 most recent calendar years since 1973 for which statistics are available, and divided by the acreage harvested for each crop for each year, giving the gross return per year per crop (provided, that if corn is determined to be one of the three crops for which such calculation is made, the same formula shall be followed, but utilizing southeastern United States statistics in determining average yields per acre);
- c. From the gross return figures thus obtained, costs of production for each crop (determined for each crop using U.S. Department of Agriculture cost of production data [excluding land costs and general farm overhead costs] or such similar data as may be available to the department) shall be subtracted, giving the net return to land per year per crop;
- d. The net return per year to land per crop shall be totalled, the total being weighted to give effect to the average number of acres of each crop being harvested in the state in the 10 most recent calendar years since 1973 for which statistics are available, such total yielding income flow per acre; and
- e. Income flow per acre shall be capitalized by dividing it by the average of the annual effective interest rates on new federal land bank loans (determined in the same manner as the effective interest rates utilized under Section 2032A(e)(7)(A)(ii) of the Internal Revenue Code of 1954, as presently determined pursuant to regulation Section 20.2032A+e) issued by the U.S. Department of the Treasury) charged by the New Orleans District Federal Land Bank for the 10 most recent calendar years since 1973 for which figures are available as of October 1 of each tax year, such rate to be reduced by four and one-half percent for determinations made for the first tax year to which the provisions of this chapter shall apply; with respect to tax years thereafter, the income flow per acre shall be divided by the average of said annual effective interest rates determined for the 10 most recent calendar years since 1973 for which figures are available, such rate to be reduced by the lesser of four and one-half percent or the difference between such rate and two percent.

The figure obtained using this formula, increased by 20 percent with respect to property having a productivity rating of good, decreased by 30 percent with respect to property having a productivity rating of poor, and by 75 percent with respect to property having productivity rating of nonproductive, and unchanged with respect to property having a productivity rating of average, shall be the current use standard values per acre of property in agricultural use in the state with respect to which current use valuation is elected by the owner thereof; provided, however, that such current use standard values per acre as computed hereunder shall, for the first tax year for which values are computed pursuant to the standard value method provided herein, be computed without utilizing any statistics or interest rates available for the calendar year 1981, and all calculations hereunder for the tax year beginning October 1, 1981, shall be made as if such 1981 statistics and interest rates were not available; and provided further that for each tax year following the first tax year for which values are computed pursuant to the standard value method provided herein, with respect to property of each productivity rating, the current use standard values per acre shall be adjusted so that such standard values shall not be less than 100 percent of such standard values as computed for the first tax year for which values are computed hereunder, and shall not be more than 100 percent of such standard values as computed for the first tax year for which values are computed hereunder plus, with respect to each such value, amounts equal to three percent of such values multiplied by the number of tax years elapsed since the tax year beginning October 1, 1981. Utilizing the department's determination of standard values, the tax assessor shall enter the standard value or values per acre determined hereunder, multiplied by the number of acres of agricultural property of each productivity rating included in the property with respect to which a current use valuation election is in effect, on his records and proceed to assess the property at that value for ad valorem tax purposes utilizing the assessment ratio or ratios then applicable to Class III property. In making the annual determination provided for in this

subparagraph (1), the statistics utilized by the Department of Revenue shall be (except as otherwise provided herein) those most current statistics available to the department (including preliminary statistics) at the time such determinations are made as required herein; the determinations so made by the department shall not be subject to change solely because such statistics are later revised, corrected, or otherwise altered by the Alabama Crop and Livestock Reporting Service, the Alabama Cooperative Extension Service, the Alabama Agricultural Experiment Station, the U.S. Department of Agriculture or the New Orleans District Federal Land Bank.

(2) FOREST PROPERTY. The current use standard value for forest property in the state shall be determined in the following manner. The owner of timberland desiring to elect current use valuation shall submit to the assessor satisfactory evidence indicating the soil group or groups, as defined herein, applicable to the property in question. Such evidence may, with respect to property located in counties for which county-wide soil survey maps are not available from the U.S. Soil Conservation Service, include a soil survey map describing the soils of the property in question prepared by the U.S. Soil Conservation Service or other governmental or private soil mapping agency. For each calendar year immediately preceding October 1 in each year the Alabama Forestry Commission shall determine the average pulpwood price per cord received by timber growers in the state by estimating the average pine pulpwood price per cord and the average hardwood pulpwood price per cord received in the state during such year and determining the weighted average of those two average prices, weighting those prices on the basis of the ratio that the approximate number of cords of each of those two types of pulpwood harvested in Alabama bears to the total cords of both of such types of pulpwood harvested in Alabama, and provide that information to the Department of Revenue. The Department of Revenue shall utilize timber yields of 1.38 cords per acre per year, 1.05 cords per acre per year, .75 cords per acre per year and .6 cords per acre per year for land having good, average, poor, and nonproductive productivity ratings respectively to establish annual yields per acre in cords and multiply the yields per acre of timber property of each rating by the average pulpwood price per cord as provided by the Alabama Forestry Commission. From the products thus obtained, 15 percent thereof shall be subtracted therefrom for expenses of ownership and management, and the result of that subtraction shall equal imputed timberland net income per acre for property of each productivity rating. The imputed net income per acre figures for property of each productivity rating shall then be divided by the average of the annual effective interest rates charged on new federal land bank loans (determined as in subsection (d)(1)e. of this section) by the New Orleans District Federal Land Bank for the 10 most recent calendar years since 1973 for which figures are available as of October 1 of each tax year, such rate to be reduced by four and one-half percent for determinations made for the first tax year to which the provisions of this act shall apply; with respect to tax years thereafter, the imputed net income per acre figures shall be divided by the average of said annual effective interest rates for the 10 most recent calendar years since 1973 for which figures are available, such rate to be reduced by the lesser of four and one-half percent or the difference between such rate and two percent. The results thus obtained shall be the current use standard values per acre for property of each of the timber productivity ratings with respect to which current use valuation is elected by the owner thereof; provided, however, that for each tax year following the first tax year for which values are computed hereunder, with respect to property of each productivity rating, the current use standard values per acre shall (a) be adjusted so that such standard values shall not be less than 100 percent of such standard values as computed for the first tax year for which values are computed hereunder, and (b) not be more than 100 percent of such standard values as computed for the first tax year for which values are computed hereunder plus, with respect to each such value, amounts equal to three percent of such values multiplied by the number of tax years elapsed since the tax year beginning October 1, 1981. Utilizing the department's determination of standard values, the tax assessor shall enter such standard values per acre, multiplied by the number of acres of forest property of each productivity rating with respect to which a current use valuation election is in effect, on his records and proceed to assess the property at that value for ad valorem tax purposes utilizing the assessment ratio or ratios then applicable to Class III property. In making the annual determinations provided for in this subparagraph (2), the statistics utilized by the Alabama Forestry Commission and the Department of Revenue shall be (except as otherwise provided herein) those most current statistics available to the commission and the department (including preliminary statistics) at the

time such determinations are made as required herein; the determinations so made by the commission and the department shall not be subject to change solely because such statistics are later revised, corrected, or otherwise altered by the sources thereof, including the commission and the New Orleans District Federal Land Bank.

(3) **RESIDENTIAL PROPERTY AND HISTORIC BUILDINGS AND SITES.** The current use standard values for individual parcels of residential property and historic buildings and sites in each county in the state shall be determined by each county tax assessor annually utilizing comparative fair and reasonable market values of comparable residential or historic building and site property located in the county, which property cannot ordinarily be used other than as residential property or as an historic building or site, the tax assessor to presume that there is no possibility of the property being used for any other purpose than as residential property or an historic building and site, as if there were a legal prohibition against its use for any other purpose. The Department of Revenue shall promulgate appropriate regulations and orders for use by tax assessors in determining such comparable values. The tax assessor shall enter the standard values so determined on his records concerning property with respect to which a current use valuation election is in effect and proceed to assess the property at that value for ad valorem tax purposes utilizing the assessment ratio or ratios then applicable to Class III property.

(e) Following notice to the owners of Class III property who shall request appraisal of such property at its current use value of the current use values thereof computed using the an-rent use standard values provided for herein, those owners may, within thirty days after receipt of such notice, submit to the assessor a statement outlining any errors asserted by the owner to have been made in such appraisal. The assessor shall review such statement and determine whether the value contained in the appraisal as submitted satisfactorily represents the current use value of the property with respect to which it is submitted, and he shall promptly forward the statement to the county board of equalization with his written determination and recommendation with respect thereto, for use by the board in carrying out its duties under Section 40-3-16 and hearing any properly filed objection to the current use valuation of any parcel of property computed using the standard current use value formulas provided in this section. Such objections shall be filed and heard, and final determinations of the board respecting such objections and assessments based on current use value appealed from, in the same manner as that provided in Section 40-3-19 regarding assessments, and objections filed with respect thereto, based on fair and reasonable market value. (*Acts 1978, 2nd Ex. Sess., No. 135, p. 1868, §4; Acts 1982, No. 82-302, p. 383.*)

### **Section 40-7-25.2**

#### **- Qualification procedure; appeal from denial of application; new owner required to reapply upon sale of property.**

(a) Any owner of eligible taxable property described in Section 40-7-25.1 may apply to have such property assessed for purposes of ad valorem taxation at the appropriate ratio of assessed value to the current use value of such property by filing a written application, in form as prescribed by the Department of Revenue, with the tax assessor of the county in which such property is located, on and after October 1 but not later than January 1 in any taxable year; provided, however, that with respect to assessments of eligible taxable property respecting the taxable year that began on October 1, 1981, such applications may be filed with said tax assessor not later than June 30, 1982.

(b) The application form for qualification of real property as agricultural property shall set forth a description of the real property, a general description of the use to which it is being put and such other information as the tax assessor may require to aid him in determining whether the real property qualifies for assessment based on its current use value.

(c) The application form for qualification of real property as forest property shall include a description of the real property, a general description of the uses to which it is being put, aerial photographs, if available, and such other information as the tax assessor may require to aid him in

determining whether the land qualifies for assessment based on its current use value.

(d) Any person aggrieved by the denial of any application for the qualification of eligible taxable property for assessment based on its current use value shall have the same rights and remedies for appeal and relief as are provided by law for taxpayers claiming to be aggrieved by the actions of tax assessors or boards of equalization.

(e) If any application for assessment of any taxable property based on its current use value is granted by the tax assessor, the owner of such property shall not be required to repeat the application for subsequent taxable years. Following the sale or other disposition of such property, the new owner thereof must apply for current use valuation for such property as provided in this section; otherwise, such property shall be assessed at its fair and reasonable market value. In the assessment book described in Section 40-7-33, the tax assessor shall show, in addition to the other information specified therein, that the owner of the taxable property eligible for current use valuation under this section has applied for and been granted current use valuation of that property for purposes of assessment. (*Acts 1978, 2nd Ex. Sess., No. 135, p. 1868, §5; Acts 1982, 1st Ex. Sess., No. 82-683, p. 124.*)

### **Section 40-7-25.3**

#### **-- Conversion of property to other taxable use.**

If the sale or other disposition of taxable property qualified for assessment based on its current use value results in or is followed by the conversion of such property, within two years from the date of sale or other disposition, to a use that is not so qualified, then with respect to such property, there shall be levied and collected, in the ad valorem tax year beginning on the October 1 next succeeding the conversion of such property, an amount of additional taxes to be computed in the manner provided by this section. If taxable property qualified for assessment at its current use value is converted to a use not so qualified, then the tax assessor shall thereupon appraise such property in accordance with the provisions of Section 40-7-15 and Section 40-7-25, as amended, and shall compute the amount of additional taxes payable with respect to such property in the manner provided in this section. The owner of taxable property qualified for assessment at its current use value which is converted to a use not so qualified shall so notify the tax assessor of the county in which such property is located, on and after October 1 but not later than January 1 in the taxable year next succeeding the taxable year in which such conversion is made. The tax assessor shall compute the amount of ad valorem property taxes that would have been payable with respect to such converted property if the sales price or the fair and reasonable market value of such property at the time of its conversion, whichever is greater, had been used instead of the current use value of such property in computing the amount of taxes payable with respect to such property for each of the three ad valorem tax years preceding the tax year beginning on the October 1 next succeeding the conversion of such property. Such amount shall be additional taxes to be levied and collected on the first assessment lists prepared subsequent to such conversion in the same manner and at the same time as other taxes and shall constitute a lien on such property to the same extent as other taxes, as provided in Section 40-1-3. If such converted property constitutes only a portion of a parcel so qualified on the assessment lists, the tax assessor shall apportion the assessment of such parcel on the first assessment lists prepared subsequent to the conversion and enter the apportioned amount attributable to the portion converted as a separately assessed parcel on the assessment lists. Such apportionment shall be made for each of the years to which additional taxes apply. (*Acts 1978, 2nd Ex. Sess., No. 135, p. 1868, §6.*)

# **ALABAMA FORESTS License Tags**

## **Section 32-6-410**

### **Issuance of distinctive tags and plates.**

Upon application to the judge of probate or license commissioner, compliance with motor vehicle registration and licensing laws, payment of regular fees required by law for license tags or plates for private passenger or pleasure motor vehicles, and payment of an additional fee of fifty dollars (\$50), owners of motor vehicles who are residents of Alabama shall be issued distinctive “Alabama Forests” license tags and plates. These tags or plates shall be valid for five years, and shall then be replaced with either conventional or personalized tags or plates. Payment of required license fees and taxes for the years during which a new tag or plate is not issued shall be evidenced as provided for in Section 32-6-63. The distinctive “Alabama Forests” license tags or plates shall be produced and designed by the Alabama Department of Revenue with the advice and consent of the Alabama Forestry Commission. The tags or plates shall be issued, printed, and processed like other distinctive and personalized tags or plates provided for in this chapter. (*Acts 1995, No. 95-553, p. 1156, §1.*)

## **Section 32-6-411**

### **Establishment of Forest Stewardship Education Fund; distribution of proceeds.**

(a) There is hereby established a separate special revenue trust fund in the State Treasury to be known as the “Forest Stewardship Education Fund,” whose purpose is to promote the professional management of trees and related resources and to educate the general public regarding the contribution that trees and related resources make to the economy and environmental quality of this state.

(b) Proceeds from the additional revenues generated by the fifty dollars (\$50) for the “Alabama Forests” tags or plates, less administrative costs, shall be submitted monthly by the Alabama State Comptroller to the Forest Stewardship Education Fund. Receipts collected under the provisions of this division are to be deposited in this fund and used only to carry out the provisions of this division. Such receipts shall be disbursed only by warrant of the State Comptroller upon the State Treasurer, upon itemized vouchers approved by the State Forester; provided that no funds shall be withdrawn or expended except as budgeted and allotted according to the provisions of Sections 41-4-80 through 41-4-96 and 41-19-1 through 41-19-12, and only in amounts as stipulated in the general appropriations bill or other appropriation bills. The additional fees represent a charitable contribution from the purchaser to the Alabama Forestry Commission. The funds may be used by the Alabama Forestry Commission or may be used through grants from the Alabama Forestry Commission to other organizations. (*Acts 1995, No. 95-553, p. 1156, §2.*)

## **Section 32-6-412**

### **Transfer of plates or tags.**

The distinctive license plates or tags issued pursuant to this division shall not be transferable between motor vehicle owners, and in the event the owner of a vehicle bearing the distinctive plates sells, trades, exchanges, or otherwise disposes of the motor vehicle, the tags or plates shall be retained by the owner to whom issued and returned to the judge of probate or license commissioner of the county, who shall receive and account for the tags or plates as provided in this section. In the event the owner acquires by purchase, trade, exchange, or otherwise a vehicle for which no standard tags or plates have been issued during the current license period, the judge of probate or license commissioner of the county shall, upon being furnished by the owner proper certification of the acquisition of the vehicle and the payment of the motor vehicle license tax due upon the vehicle, authorize the transfer of the distinctive license tags or plates previously purchased by the owner to the vehicle, which tags or plates shall authorize the operation of the

vehicle for the remainder of the then current license period. In the event the owner of the distinctive license tags or plates acquires by purchase, trade, exchange, or otherwise a vehicle for which standard plates have been issued during the current license year, the judge of probate or license commissioner shall, upon proper certification of the owner and upon delivery to the official of the standard plates previously issued for the vehicle, authorize the owner of the newly acquired vehicle to place the distinctive license tags or plates previously purchased on the vehicle and use the tags or plates for the remainder of the then current license period. The notice of transfer of ownership shall be recorded by the judge of probate or the license commissioner.

Any person acquiring by purchase, trade, exchange, or otherwise any vehicle formerly bearing the distinctive tags or plates may, upon certification of the fact to the judge of probate or license commissioner of the county and the payment of the fee now required by law, purchase standard replacement plates for the vehicle which shall authorize the operation of the vehicle by the new owner for the remainder of the license period. (*Acts 1995, No. 95-553, p. 1156, §3.*)

### **Section 32-6-413**

#### **Alabama Forest Stewardship Education Committee to administer fund.**

(a) The Alabama Forest Stewardship Education Fund shall be administered by the Alabama Forest Stewardship Education Committee. The committee shall be appointed by the Alabama Forestry Commission and composed of the following members:

- (1) One member of the Alabama Association of Consulting Foresters.
- (2) One member of the Alabama Treasure Forest Landowners Association.
- (3) One member of the Urban Forestry Association.
- (4) One member of the Society of American Foresters.
- (5) One member of the Alabama Farmer's Federation.
- (6) One member of the Alabama Forest Owners Association.
- (7) The chair of the Board of Registration for Foresters, or his or her designee.
- (8) The Dean of the Auburn University School of Forestry, or his or her designee.
- (9) The Executive Director of the Alabama Forestry Association, or his or her designee.
- (10) The State Forester, or his or her designee, who shall serve as chair of the committee.

(b) The first six members who are appointed to the committee shall initially serve two-year terms. At the expiration of the two-year terms, the members will serve staggered three-year terms as designated by the chair of the committee. Each of the members appointed from the association, society, or federation listed in subdivisions (1) through (6) of subsection (a) shall be appointed by the Alabama Forestry Commission from a list of three names submitted by the State Forester. (*Acts 1995, No. 95-553, p. 1156, §4.*)

## **National Forest Receipts**

### **Section 9-13-2**

#### **Distribution and expenditure of receipts from national forests.**

Promptly after receipt by the state of any moneys from the United States accruing from receipts from national forests within the state, the governor shall cause said moneys to be distributed among the several counties of the state proportional to the area of national forests located therein. Upon receipt of any such moneys by any county, the county commission of the county involved shall cause 50 percent of the amount so received to be paid to the board of education of such county to be used and expended by said board of education for the benefit of the public schools of such county, and 50 percent of the amount so received shall be expended by the county

commission of such county for the benefit of the public roads of the county. (*Acts 1943, No. 590, p. 595.*)

## **Alabama Forestry Commission - Forest Management Program**

### **State Forests**

#### **Section 9-13-1**

##### **Gifts of lands for state forests.**

The governor may, upon the recommendation of the state forestry commission, accept gifts of land to the state, the same to be held and administered by the state forestry commission as state forests and to be so used as to demonstrate the practical utility of timber culture. Such gifts must be absolute, except the mineral and mining rights over and under said lands (but no reservation of any timber rights in connection therewith) may be reserved and except for a stipulation that they be held and administered as state forests; and the attorney general shall see that all deeds of gift or other grants to the state of land mentioned above are properly executed and convey good title before the gift is accepted. (*Acts 1923, No. 486, p. 638; Code 1923, §991; Code 1940, T. 8, §188.*)

### **Auxiliary State Forests**

#### **Section 9-13-40**

##### **Declaration of public policy; deferred taxation of timber on lands designated as auxiliary state forests authorized and directed.**

It is the declared policy of the state to encourage reforestation of cutover lands and timber culture generally; and to that end and in consideration of the public benefits arising therefrom, the timber growing on lands which shall hereafter be designated by the state forestry commission as auxiliary state forests under the provision of this article shall not be taxable or assessed for taxation by any authority from the time that said lands are so designated until they are withdrawn as auxiliary state forests, and only the land on which said timber grows may be taxed or assessed for taxation as if the ownership of the timber growing thereon had been severed from the ownership of the land, and the valuation of the timber growing on auxiliary state forests shall not be included in the valuation of the shares of stock in any domestic corporation owning such timber in arriving at the valuation of the shares of stock of such corporation for taxation; provided, that said land shall be appraised jointly by the department of revenue and the state forestry commission with view to its use for timber production purposes, such appraisal being made with due regard to the fact that the timber yields from such lands require a considerable period of years for maturing and that the valuation determined by such appraisal for the purposes of taxation of the land independently of the timber shall not be increased during the continuance of such land as auxiliary state forests; and provided further, that when the land embraced within an auxiliary state forest does not exceed 160 acres, the land shall not be taxed or assessed for taxation. (*Code 1923, §992; Acts 1935, No. 23, p. 38; Acts 1935, No. 500, p. 1078; Acts 1936-37, ET. Sess., No. 14, p. 7; Code 1940, 1: 8, §189.*)

### **Section 9-13-41**

#### **Designation of lauds as auxiliary state forests - Applications.**

Any owner of lands desiring to devote the same to forest culture and to have the same designated as auxiliary state forests shall file with the state forestry commission an application in writing, which shall be signed by such owner, describing the lands which said owner desires to have designated as auxiliary state forests, stating his willingness to enter into the contract provided for in this article and such other information as the state forestry commission may require and praying that such lands shall be designated by the state forestry commission as auxiliary state forests. (*Acts 1923, No. 486, p. 638; Code 1923, §997; Code 1940, T. 8, §194.*)

### **Section 9-13-42**

#### **Designation of lands as auxiliary state forests - When abstract of title, etc., required; release of dower or homestead rights.**

The state forestry commission may, in its discretion, require the applicant to furnish an abstract of title of said lands showing him to be the owner in fee thereof or other satisfactory proof of title, and all rights of dower or homestead in said lands, as against the operation of said contract, shall be released before the same is approved. (*Acts 1923, No. 486, p. 638; Code 1923, §1000; Code 1940, T. 8, §197.*)

### **Section 9-13-43**

#### **Designation of lands as auxiliary state forests Inspection of lands; drafting and execution of contracts.**

Upon the filing of such application, the state forestry commission shall, as soon as practicable, inspect the said land or cause the same to be inspected by the state forester or some other competent and suitable person; and, if the state forestry commission shall find said lands to be suited for forest culture, it shall certify that fact, together with a copy of said application to the governor, who shall, if he deems it advisable to do so, thereupon cause the contract provided for in this article to be drawn by the attorney general, and, upon the execution of the same, by the owner of the land, the governor shall execute the same for and on behalf of and in the name of the state of Alabama.

Said contract shall be executed in quadruplicate. One copy shall be filed with the state forestry commission and one with the department of revenue or body exercising its jurisdiction and powers. One copy shall be delivered to the owner of the land, and the fourth shall be filed by the state forester for record in the probate office of the county or counties in which said land is situated, at the cost of the owner. The attorney general shall approve the execution of said contracts. (*Acts 1923, No. 486, p. 638; Code 1923, §§998,999; Code 1940, II: 8, §§195, 196.*)

### **Section 9-13-44**

#### **Designation of lands as auxiliary state forests - Contents of contracts.**

The governor may, at his discretion, upon designation of any lands as auxiliary state forests, under the provisions of this article, on behalf of and in the name of the state of Alabama, enter into a contract by and with the owner of said land and the successors and assigns of said owner, the said covenant to run with the land that, in consideration of the devotion of said land to reforestation and of the public benefits arising therefrom, the timber growing on said land shall not be taxable nor assessed for taxation, directly or indirectly, or by any authority, until said lands are withdrawn as auxiliary state forests and that only the land upon which said timber is grown may be taxed or assessed for taxation during said period and that, if said land is taxed or assessed for taxation, it shall be assessed and valued as if the ownership of the timber had been severed

from the ownership of the land; provided, that said land shall be appraised jointly by the department of revenue and the state forestry commission, such appraisal being made with due regard to the fact that the timber yields from such lands require a considerable period of years for maturing and that the valuation determined by such appraisal for the purposes of taxation of the land independently of the timber shall be the valuation of such lands upon and from the effective date of the approval of the contract and shall not be increased during the continuance of such lands as auxiliary state forests and that, if the land included under the contract does not exceed 160 acres, the land shall not be taxed or assessed for taxation.

It shall be agreed in said contract that the owner of said land will devote the same to forest culture and that no use shall be made of said land that will militate against the growth of the timber thereon; that the owner will use diligence in protecting the same against fire in accordance with rules established by the state forestry commission and that the owner will not withdraw said lands as auxiliary state forests for a period of five years after the same are entered as such and will not cut, turpentine or otherwise utilize the timber thereon before the withdrawal of the same as auxiliary state forests, except in accordance with rules formulated by the state forestry commission, which rules and other rules mentioned in this article it is authorized and directed to make.

Upon application of any owner of land comprised within auxiliary state forests heretofore established under contract of current effect, provisions authorized in this section but not included in the original contract may, with the approval of the governor, be included in a supplemental contract modifying the terms of the original contract. (*Acts 1923, No. 486, p. 638; Code 1923, §993; Acts 1935, No. 23, p. 38; Acts 1935, No. 500, p. 1078; Code 1940, T. 8, §190.*)

### **Section 9-13-45**

#### **Abrogation of contracts.**

If any owner or the successor in title of any such owner shall violate the provisions of his contract, the governor may, in his discretion, abrogate the same by a written order to be filed with the department of revenue, the state forestry commission and the said owner or his successor in title. Upon such abrogation, the privilege tax provided for in this article shall at once become due and payable in all respects as if said lands had been Legally withdrawn as auxiliary state forests. (*Acts 1923, No. 486, p. 638; Code 1923, §1003; Code 1940, T. 8, §200.*)

### **Section 9-13-46**

#### **Withdrawing of lands as auxiliary state forests; harvesting or use of timber without withdrawing of lands; payment of privilege tax generally.**

(a) Any owner of land designated as auxiliary state forests may, after the lapse of five years from the designation of the said lands as such, file with the state forestry commission an application in writing to withdraw the same or any part thereof, and thereupon the value of the timber on the land desired to be withdrawn shall be appraised and the privilege tax thereon computed as provided for in this article; and, on the payment of said privilege tax, the state forestry commission shall make an order withdrawing the same as an auxiliary state forest, a copy of which shall be filed with the department of revenue, a copy entered in a book to be kept for that purpose by the state forestry commission, a copy delivered to the said owner and a copy filed by the state forestry commission at the cost of the owner in the probate office in the county or counties in which said land is situated.

(b) The owner of such lands shall have the right to harvest or otherwise use parts of said timber without withdrawing the land under the rules which said state forestry commission is directed to make.

(c) In either event, the privilege tax provided for in this article shall be paid on the value of the

timber withdrawn or harvested at the time of said withdrawal or harvesting. (*Acts 1923, No. 486, p. 638; Code 1923, §1001; Code 1940, T. 8, §198.*)

### **Section 9-13-47**

#### **Appraisal of timber upon withdrawal of lands as state harvests, etc.; privilege tax.**

Upon withdrawal of said lands or any part thereof as auxiliary state forests or harvesting or other use of parts of timber on said land without withdrawing the land, the value of the timber thereon shall be appraised separately in each county where such timber is located by the department of revenue and the state forestry commission as of the date of such withdrawal or harvesting, whereupon the owner of such timber shall pay as a privilege tax for the entry and withdrawal of such lands as auxiliary state forests or for the harvesting of the timber on such lands a sum of money equal to eight percent of the appraised value of the timber. (*Acts 1923, No. 486, p. 638; Code 1923, §995; Acts 1935, No. 23, p. 38; Acts 1935, No. 500, p. 1078; Code 1940, T. 8, §192; Acts 1945, No. 131, p. 132.*)

### **Section 9-13-48**

#### **Lien on timber for payment of privilege taxes; collection of other taxes, etc.**

The state shall have a lien upon the timber on land designated as auxiliary state forests for the payment of the privilege tax provided for in this article, and no other privilege or other tax, except that provided for in this section, shall be collected by or for the state or any subdivision thereof. (*Acts 1923, No. 486, p. 638; Code 1923, §1002; Code 1940, T. 8, §199.*)

### **Section 9-13-49**

#### **Disposition of privilege taxes.**

Said privilege tax shall be paid to the state forestry commission and by it reported to the comptroller and paid into the treasury, whereupon the comptroller shall draw and transmit to the tax collector of each county wherein such timber has been appraised and with respect to which such tax has been paid a warrant payable to such tax collector for the full amount of tax paid as to such county. Thereupon the tax collector shall treat and consider the payments so made to himself as if he had collected the same for and on account of state and county taxes duly assessed by the tax assessor upon the timber appraised as provided in this article and shall proceed to apportion, distribute and pay the same as if such taxes were ad valorem taxes assessed against the owner of the timber, after deducting therefrom for himself a commission of two percent upon the amount of such taxes and paying also the tax assessor a commission of two percent thereon. In all counties in which officials are paid on a salary basis, the commissions authorized in this section shall by said officials be paid into the treasury of said county. (*Acts 1923, No. 486, p. 638; Code 1923, §996; Code 1940, T. 8, §193; Acts 1945, No. 131, p. 132.*)

### **Section 9-13-50**

#### **Maintenance of records as to auxiliary state forests.**

The state forestry commission shall keep a book in which shall be recorded all applications for the designation of lands as auxiliary state forests, contracts entered into upon such applications and withdrawals or forfeitures thereof (*Acts 1923, No. 486, p. 638; Code 1923, §1004; Code 1940, T. 8, §201.*)

## **Cutting, Removal and Purchase of Forest Products**

### **Section 9-13-60**

#### **Unauthorized cutting, removal, transportation, etc., of timber or other forest products.**

Any person or persons who shall

- (1) Willfully and knowingly cut, kill, destroy, girdle, chop, chip, saw or otherwise damage timber or forest products not his own or without authority of the legal owner;
- (2) Willfully and knowingly remove timber or other forest products other than his own or without authority of the legal owner;
- (3) Willfully and knowingly transport timber or other forest products which have been severed or removed in violation of subdivisions (1) or (2) of this section;
- (4) Willfully and knowingly purchase or contract to purchase or otherwise obtain timber or forest products severed, removed or transported in violation of subdivisions (1), (2) or (3) of this section; and,
- (5) WilltUly and knowingly sell, contract to sell or otherwise dispose of logs, poles, piling, crossties, pulpwood, veneer bolts, staves or other unmanufactured or semimanufactured forest products not his own or without authority of the legal owner

shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than \$10.00 nor more than \$1,000.00 and may also be imprisoned in the county jail or sentenced to hard labor for not less than 10 days nor more than 12 months. (*Acts 1939, No. 626, p. 993, §1; Code 1940, T. 8, §218(1).*)

### **Section 9-13-61**

#### **Charges in affidavits, information or indictments under article; proof of title, etc.**

In any affidavit, information or indictment under this article, the person or persons accused may be charged with commencing or conspiring to commence at some particular time to commit any of the acts hereby made punishable and of continuing to commit the same at divers times and on divers days between that day and some other day to be therein stated. It shall not be necessary, in order to convict, to prove title of the lands on which the alleged violation of section g-13-60 occurred, but it shall be sufficient to prove title, legal, equitable or colorable, in the state of Alabama or any corporation or any person or persons other than the accused; and it shall not be necessary to allege in the affidavit, information or indictment or prove on the trial the kind of timber or forest products which are the subject of the action. (*Acts 1939, No. 626, p. 993, §2; Code 1940, T. 8, §218(2).*)

### **Section 9-13-62**

#### **Liability of violators to owners of timber, etc.; entitlement of defendants to exemptions.**

Any person or entity who damages, destroys, cuts, or removes timber or other forest products not owned by that person or without the authority of the legal owner, and any person or entity who shall supervise any other persons in so doing, regardless of whether the act was done knowingly or intentionally, shall be jointly and severally liable to the owner for double the fair market value of the timber or other forest products that were damaged destroyed, cut, or removed. However, any person or entity possessing the power of eminent domain and any employee, agent, or contractor of the person or entity who while clearing a utility right of way or easement mistakenly cuts, damages, destroys, or removes timber or other forest products from lands adjacent to the

utility right of way or easement shall only be liable for the reasonable fair market value of the damaged timber or forest products and no more, unless it is shown by clear and convincing evidence that the acts were done with the intent to wrongfully injure or remove the timber or forest products, in which case the entity or person shall be liable to the owner for double the fair market value of the timber or other forest products that were damaged, destroyed, cut, or removed. (*Acts 1939, No. 626, p. 993, §3; Code 1940, T. 8, §218(3), Acts 2000, No. 806, §1*)

### **Section 9-13-63**

#### **Record of purchases, etc., of manufactured or semimanufactured forest products; provision of false information to purchasers, etc.; failure to maintain record, etc.**

Any person, firm, or corporation buying, contracting to buy, or otherwise acquiring logs, poles, piling, crossties, pulpwood, veneer bolts, stave bolts, or other unmanufactured or semimanufactured forest products shall keep a written record in this state of every such purchase. The record shall contain the name of the person or persons from whom the product was acquired, the county from which the timber or other forest product was severed, the amount thereof and the date of delivery, which information shall be obtained from the person or persons from whom the product was acquired. This record shall be a true, accurate, and correct statement of the transaction as provided for in this section. Any person who knowingly gives false information to the purchaser of the product or who willfully misstates the facts with intent to defraud is guilty of a misdemeanor and shall be punished by a fine of not less than \$100 nor more than \$1000, or a jail sentence of not less than 10 days nor more than one year or both fine and imprisonment. The purchaser shall be entitled to rely upon the information furnished by the seller. The information given under this section shall be kept by the person or persons acquiring the forest products and shall be available, during business hours, to a duly authorized agent or employee of the State Forestry Commission. The record shall be kept available for a period of not less than three years. Any person, firm, or corporation failing to keep the record or in any manner falsifying it is guilty of a misdemeanor and shall be punished by a fine of not less than nor more than \$1000, or a jail sentence of not less than 10 days nor more than a year or both fine and imprisonment. (*Acts 1939, No. 626, p. 993, §4; Code 1940, T. 8, §218(4); Acts 1993, 1st Ex. Sess., No. 93-888, p. 158, §2.*)

### **Section 9-13-64**

#### **Powers of state forestry commission employees as to enforcement of article, etc.**

All employees of the state forestry commission shall have the powers of peace officers in the enforcing of the provisions of this article. They shall be allowed to enter any lands and to do any work necessary in the performance of their duties without liability for trespass or damage therefrom. (*Acts 1939, No. 626, p. 993, §5; Code 1940, T. 8, §218(5).*)

### **Section 9-13-65**

#### **Disposition of fines.**

All fines collected from violations of sections 9-13-60 and 9-13-63 shall go to the Alabama Forestry Commission fund. (*Acts 1939, No. 626, p. 993, §6; Code 1940, T. 8, §218(6).*)

# **Timber Theft Equipment Condemnation**

## **Section 9-13-220**

### **Short title.**

This article shall be known as the Timber Theft Equipment Condemnation Act. (Acts 1987, No. 87-711, §1.)

## **Section 9-13-221**

### **Seizure of vehicle and equipment when timber or lumber stolen; delivery to district forester.**

It shall be the duty of any sheriff, policeman, forestry officer, or other peace officer or law enforcement officer in the state of Alabama, arresting any person who is charged with violating or attempting to violate any felony theft laws of the state of Alabama, wherein timber or lumber are items stolen, to seize any vehicle and equipment used, which is in the possession or under control of the person or persons charged with violating said laws, and to deliver any such seized vehicle and equipment, to the district forester (employed by the Alabama forestry commission) of the forestry district in which the arrest is made. The person receiving any vehicle and equipment from the arresting officer shall keep it in a safe place and in as good condition as when received, until disposed of as hereinafter provided. (Acts 1987, No. 87-711, §2.)

## **Section 9-13-222**

### **Report of seizure to district attorney; description of equipment; statement of circumstances.**

Within five days after the arrest of any person for violating any of such felony theft laws of the state of Alabama outlined in this article, the person receiving possession of any vehicle and equipment, seized as aforesaid, shall report the seizure and detention of said vehicle and equipment to the district attorney or other prosecuting official, giving a full description of such vehicle and equipment, any identification number, make and model thereof, the name of the person in whose possession it was found when seized, the person, if any, making claim to same or any interest therein if the name can be ascertained or is known, and the date and place of such seizure and a statement of the circumstances surrounding the seizing of the property. (Acts 1987, No. 87-711, §3.)

## **Section 9-13-223**

### **Report to district attorney after conviction of person for theft of timber or lumber.**

Within five days after the final conviction of any person for violating any of such felony theft laws of the state of Alabama, wherein timber or lumber were items stolen, or intended to be stolen, the person receiving possession of any vehicle and equipment, seized as aforesaid, shall report the seizure and detention of said vehicle and equipment to the district attorney or other prosecuting official, giving a full description of such vehicle and equipment, any identification number, make and model thereof, the name of the person in whose possession it was found when seized, the person, if any, making claim to same or any interest therein if the name can be ascertained or is known, and the date and place of such seizure and a statement of the circumstances surrounding the seizing of the property. (Acts 1987, No. 87-711, §4.)

### **Section 9-13-224**

#### **Notice to creditors; institution of condemnation proceedings; legal title to equipment.**

At least 60 days prior to the institution of condemnation proceedings as herein provided, notice shall be given by the court to any creditor who is known to have a secured interest, a judgment, lien or other interest in any vehicle or equipment seized pursuant to this article. Such creditors may claim their property during said 60-day period. Thereafter, the district attorney or other prosecuting officer of the judicial circuit upon receiving such report shall at once institute, or cause to be instituted, condemnation proceedings in the circuit court, in the same manner that he is directed by law to institute proceedings for the condemnation and forfeiture of automobiles and other vehicles used in the illegal transportation of alcoholic beverages. The legal title to any vehicle and other equipment seized under this article shall be presumed to be vested with the person, firm, or corporation that last purchased a vehicle tag for said vehicle or equipment. (Acts 1987, No. 87-711, §5.)

### **Section 9-13-225**

#### **Forfeiture of equipment upon judgment; costs of proceedings; state forester to keep records.**

When any judgment of condemnation or forfeiture is made in any case filed under the provisions of this section, the judge making such judgment shall order and direct that said vehicle and equipment be forfeited or awarded to the state forester to be sold or used by him in the enforcement of the law.

And said order, in the event that no appeal is taken within 15 days from the rendition thereof, shall be carried out and executed. The court, at its discretion, shall direct in said judgment that the cost of the proceedings be paid by the person(s) in whose possession said vehicle and equipment were found when seized, or by any party or parties that claim to own said vehicle and equipment, or any interest therein, and who contested the condemnation and forfeiture thereof. The state forester shall keep a permanent record of all such vehicles and equipment awarded to him as provided for herein, to be accounted for as other public property. (Acts 1987, No. 87-711, §6.)

### **Section 9-13-226**

#### **Use of proceeds from sale of equipment; award and distribution determined by state forester.**

In the event the seized items are sold, the proceeds from the sale shall be used, first, for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance or of custody, advertising and court costs; and the remaining proceeds from such sale shall be in the property of the Alabama forestry commission or other entities whose law enforcement agencies or departments are determined by the Alabama forestry commission to have been participants in the investigation resulting in the seizure. Such award and distribution shall be made on the basis of the percentage(s) as determined by the state forester which the respective agencies or departments contributed to the police work resulting in the seizure. (Acts 1987, No. 87-711, §7.)

### **Section 9-13-227**

#### **Provisions cumulative.**

The provisions of this article are cumulative and should not be construed to repeal or supersede

any laws not directly inconsistent herewith; provided, however, those laws or parts of law which are in direct conflict are specifically repealed only to the extent that there is such conflict. (Acts 1987, No. 87-711, §8.)

## **Protection of Forest Trees from Insect Infestation or Tree Disease Infection**

### **Section 9-13-120**

#### **Definitions.**

As used in this article, the following words and phrases shall have the following meanings, respectively, unless the context clearly indicates otherwise:

(1) Person.

An individual, partnership, corporation, company, society or association.

(2) Forest trees.

Only those trees which are a part of and constitute a stand of potential, immature or mature commercial timber trees; provided, however, that such term shall be deemed to include shade trees of any species around houses, along highways and within cities and towns if the same constitute an insect or disease menace to nearby timber trees or timber stands.

(3) Forestland.

Land on which forest trees occur.

(4) Control zone.

An area of potential or actual infestation or infection, the boundaries of which are fixed and clearly described in a manner definitely identifying the zone.

(5) Infestation.

Infestation by means of any insect which is dangerously injurious to forest trees; such term shall mean infection by any disease affecting forest trees which is dangerously injurious to same. (*Act 1967, No. 723, p. 1558, §1.*)

### **Section 9-13-121**

#### **Investigations as to existence of insect infestations or disease infections; notice to landowners of existence of same; recommended control measures, etc.**

Where an insect infestation or disease infection is believed to exist on forestland within the state, the state forester shall cause an investigation to be made. Whenever, upon investigation, he finds that an infestation or infection exists, he shall give notice in writing, by mail or otherwise, to each forest landowner within the affected area, advising him of the nature of the infestation or infection, the recommended control measures to be taken and offering him technical advice for methods of carrying out the recommended control measures. (*Acts 1967, No. 723, p. 1558, §2.*)

### **Section 9-13-122**

#### **Declaration of existence of control zones, etc.**

Whenever the state forester determines that there exists an infestation or infection injurious to timber or forest growth on privately owned lands and that said infestation or infection is of such a nature as to be a menace to the timber on forestlands of adjacent owners, the state forester, with the approval of the state forestry commission, may declare the existence of a control zone and describe and fix the control zone boundaries. (*Acts 1967, No. 723, p. 1558, §3.*)

### **Section 9-13-123**

#### **Notice to landowners upon establishment of control zones; powers of state forester where landowner fails or refuses to initiate control measures.**

On the establishment of a control zone, the state forester shall give notice in writing by registered or certified mail, return receipt requested, in the case of an absentee owner, and in writing or otherwise in the case of a resident owner, advising him of the nature of the infestation or infection, the recommended control measures to be taken and offering him technical advice for methods of carrying out the recommended control measures. Should the forest landowner refuse or fail to initiate reasonable and practicable control measures within a period of two weeks after having been notified as prescribed in this section, the state forester or his agents shall have the power to go upon the land within said control zone and cause the forest insect infestation or forest tree disease infection to be suppressed, eradicated or destroyed in any reasonable manner he deems to be proper. (*Acts 1967, No. 723, p. 1558, §4.*)

### **Section 9-13-124**

#### **Dissolution of control zones.**

Whenever the state forestry commission determines that insect or disease control work within the designated control zone is no longer necessary or feasible, then the state forestry commission shall instruct the state forester by written order to dissolve the control zone. (*Acts 1967, No. 723, p. 1558, §5.*)

### **Section 9-13-125**

#### **Cooperative agreements with federal government, public or private agencies and landowners.**

In order to accomplish the suppression, eradication and destruction of such tree infestation or infection as outlined in this article, the state forestry commission may enter into cooperative agreements with the federal government and other public or private agencies and with forest landowners using any such funds as may be pledged in such agreements for the suppression of infestation or infection in forest trees. (*Acts 1967, No. 723, p. 1558, §6.*)

### **Section 9-13-126**

#### **Control of forest tree insects and diseases fund.**

There is hereby created in the state treasury a special fund to be known as the "control of forest tree insects and diseases fund." Such fund shall consist of all moneys appropriated thereto by the legislature; all revenues collected under the provisions of this article; and any moneys paid into the state forestry commission by the federal government or any agency thereof to be used for the purpose of this article. All such moneys are hereby appropriated to the state forestry commission to be used to carry out the purposes of this article. No portion of such fund shall revert to the general fund of the state at the end of any fiscal year, and any surplus shall be allowed to accumulate from year to year and be disbursed as exigencies of the state's insect infestation or disease infection programs may require. (*Acts 1967, No. 723, p. 1558, §7.*)

# Alabama Agricultural and Conservation Development Commission

## Section 9-8A-1

### **Definitions.**

The following words and phrases used in this chapter, and others evidently intended as the equivalent thereof, shall, in the absence of clear implication herein otherwise, have the following respective meanings:

- (1) Allocated funds  
That portion of the funds appropriated to the commission that are allocated by the commission to the soil and water conservation district in each county of the state.
- (2) Authorized investments.  
Bonds or other obligations of, or guaranteed by, the United States of America or the state, or interest bearing bank and savings and loan association deposits or obligations, obligations of any agency of the United States of America, any obligations in which a state chartered savings and loan association may invest its funds, any agreement to repurchase any of the foregoing, or any thereof
- (3) Commission.  
The Alabama agricultural and conservation development commission organized pursuant to the provisions of the Constitution of Alabama of 1901, as amended, and this chapter.
- (4) Cost-share grant.  
An award of money made pursuant to the terms of this chapter with no requirement that such money be repaid except in the events outlined herein.
- (5) Eligible land:
  - a. Privately-owned land within the state;
  - b. Land owned by the state or a political subdivision of the state;
  - c. Lands owned by corporations which are partly owned by the United States;
  - d. Lands temporarily owned by the United States or a corporation wholly owned by it, which were not acquired or reserved for conservation purposes, including lands administered by the Farmers Home Administration, the U.S. Department of Defense, or by any other government agency;
  - e. Any cropland farmed by private persons which is owned by the United States or a corporation wholly owned by it;
  - f. Noncropland owned by the United States on which practices are performed by private persons where such practices directly conserve or benefit nearby or adjoining privately-owned lands of the persons performing the practices and such persons maintain and use such federally-owned noncropland under agreement with the federal agency having jurisdiction thereof.
- (6) Eligible person.  
An individual, partnership, family-owned corporation the owners of all the stock of which are related by blood or marriage, estate, or trust who, as an owner, landlord, lessee, tenant or sharecropper, participates in the operation of (1) a farm lying within a soil and water conservation district, or (2) a tract of land devoted to the growth of timber lying within a soil and water conservation district.
- (7) Governor.  
The governor of the state.
- (8) Landowner.  
Any person, firm, or corporation holding title to land lying within a soil and water

conservation district.

(9) Program year.

The period from October 1 to September 30.

(10) Soil and water conservation district

A governmental subdivision of this state and a public body corporate and politic organized pursuant to article 2 of chapter 8 of Title 9.

(11) Soil and water conservation practices.

The measures approved by the commission and applied to the land that prevent soil erosion in the state or improve the quality of water from agricultural sources in the state or improve the forest resources of the state.

(12) State.

The state of Alabama.

(13) State soil and water conservation committee.

The agency of the state established and existing pursuant to section 9-8-22.

(14) Herein, hereby, hereunder, hereof, and other equivalent words refer to this chapter as an entirety and not solely to the particular section or portion thereof in which any such word is used. Where used in the chapter, words in the present tense shall be construed to include the future tense, the singular shall be construed to include the plural and the plural shall be construed to include the singular, and nouns and pronouns shall be construed to include all *genders*. (*Acts 1985, 1st Ex. Sess., No. 85-123, p. 169, §1; Acts 1986, No. 86-426, p. 775, §1.*)

### **Section 9-8A-2**

#### **Legislative findings and declaration of purpose.**

It is hereby found and declared to be the policy of the state to provide for the restoration and conservation of the soil resources of this state, to provide for the improvement of water used in agriculture, and for the control and prevention of soil erosion and for the prevention of floodwater and sediment damages, and for the establishment or improvement of stands of forest trees, all of which will preserve natural resources, control floods, prevent impairment of dams and reservoirs, preserve wildlife, protect the tax base, protect public lands and promote the health, safety and public welfare of the citizens of the state. It is further declared that at the present time, due to cutbacks in federal soil conservation and reforestation programs there exists an inadequate supply of funds in the state to enable the financing of much needed soil conservation, agricultural water quality and forestry improvement programs; that the inability to finance such programs impedes the economic and physical development of the state, adversely affects the welfare and prosperity of all of the people of the state and accordingly creates and fosters conditions adverse to the general health and welfare of the citizens of the state; and that the making available in the manner provided in this chapter of appropriated moneys to assist the financing of much needed soil conservation, agricultural water and forestry improvement programs will result in the alleviation or reduction of the adverse consequences which have resulted. (*Acts 1985, 1st Ex. Sess., No. 85-123, p. 169, §2; Acts 1986, No. 86-426, Jo. 775, §2.*)

### **Section 9-8A-3**

#### **Commission - Members and officers; terms of office; vacancies; compensation and expenses; meetings; quorum; record of proceedings; copies of proceedings as evidence; members and officers not personally liable.**

(a) The members of the commission shall consist of the Governor; the Commissioner of Agriculture and Industries; the President of the Alabama Farmers Federation; the President of the Alabama Cattlemen's Association; the Chair of the State Soil and Water Conservation Committee; a member of the Alabama Forestry Commission designated by the Governor; the

President of the Alabama Association of Conservation Districts; and two citizens of the state of good reputation who are active farmers or timberland owners or involved in environmental protection appointed by the Governor. Each voting member of the commission, except the two citizens appointed by the Governor, may appoint a designee to represent him or her at all commission meetings. The members of the commission may request that a member replace his or her designee if the designee has been absent from three or more consecutive meetings without good cause. The Chair of the Senate Agriculture, Conservation and Forestry Committee, the Chair of the House Agriculture and Forestry Committee, two members of the House, and two members of the Senate appointed by the Speaker of the House and the Lieutenant Governor, respectively, shall also serve as nonvoting ex officio members of the commission and as an oversight committee to review and report to the Legislature respecting the programs and activities of the commission. The members of the commission appointed by the Governor shall be appointed at the beginning of each organizational session of the Legislature to serve until the next organizational session of the Legislature; provided, however, that the initial appointed members will be appointed promptly following ratification by the qualified electors of the state of the amendment to the Constitution of Alabama of 190 1 that was proposed by House Bill 10 introduced at that Special Session of the Legislature that convened on January 23, 1985. Each member shall hold office for the term of his or her appointment, if he or she is appointed, or as long as he or she serves in one of the positions listed above, and until his or her successor shall have been appointed and qualified.

(b) The Governor shall serve as chair of the commission and the commission shall elect from among its members a vice-chair, a secretary, and such other officers as it may determine. The State Treasurer of Alabama shall serve as treasurer of the commission.

(c) If at any time there is a vacancy among the appointed members of the commission, a successor member shall be appointed to serve for the unexpired term applicable to the vacancy. The appointment of each appointed member of the commission, other than those initially appointed, whether for a full term or to complete an unexpired term, shall be made by the same officer of the state who appointed the member of the commission whose term has expired or is to expire or in whose position on the commission the vacancy otherwise exists. The appointment shall be made not earlier than 30 days prior to the date on which the member of the commission is to take office. Each appointed member of the commission shall hold office from the effective date of his or her appointment until the expiration of the term, or portion thereof, for which he or she was appointed, and if the term of any member of the commission expires prior to the reappointment of the member of the commission or prior to the appointment of his or her successor, the member of the commission shall continue to serve until his or her successor is appointed, and if the member of the commission is reappointed for a new term after the expiration of the immediately preceding term which he or she has been serving, his or her new term of office shall be deemed to have commenced at noon on the date on which the immediately preceding term shall have expired. Members of the commission shall be eligible for reappointment without limit as to the number of terms previously served.

(d) Each member of the commission shall, at the time of his or her appointment or otherwise becoming a member and at all times during his or her term of office, be a qualified elector of the state, and a failure by any member of the commission to remain so qualified during the term shall cause a vacancy of the office of the member of the commission. Any member of the commission may be impeached and removed from office as a member of the commission in the same manner and on the same grounds provided in Section 173 of the Constitution of Alabama of 190 1, or successor provision thereof, and the general laws of the state for impeachment and removal of the officers of the state subject to Section 173 or successor provision thereof. The Governor and the Commissioner of Agriculture and Industries may not be impeached and removed from office as members of the commission apart from their impeachment and removal from the respective

offices by virtue of which, ex officio, they serve as members of the commission.

(e) Regular meetings of the commission shall be held at the time and place fixed by resolution or by law of the commission. Special meetings of the commission shall be held at the call of the chair or whenever three members of the commission so request, in each case upon two days' notice to each member of the commission given in person or by registered letter or telegram. The notice to each member of the commission may be waived by the member of the commission, either before or after the meeting with respect to which notice would otherwise be required. A majority of the voting members of the commission shall constitute a quorum for the transaction of business, and decisions shall be made and resolutions adopted on the basis of a majority of the quorum then present and voting, with each voting member of the commission having a single vote. No vacancy in the membership of the commission or the voluntary disqualification or abstention of any member of the commission shall impair the right of a quorum to exercise all of the powers and duties of the commission. No member or officer of the commission shall receive any salary therefor, but may be reimbursed for necessary travel and the reasonable expenses of performing the duties of office. All proceedings of the commission shall be reduced to writing by the secretary, signed by the chair and at least three members of the commission, recorded in a substantially bound book, and filed in the office of the commission. All proceedings of the commission shall be open to the public, except that executive or secret sessions may be held when the character or good name of a person is involved, and all records of the commission shall be subject to public inspection during business hours. Copies of the proceedings, when certified by the secretary under the seal of the commission, shall be received in all courts as prima facie evidence of the matters and things therein certified.

(f) No member, officer, or employee of the commission shall be personally liable for the obligations or acts of the commission. (Acts 1985, 1st Ex. Sess., No. 85-123, p. 169, §3; Acts 1986, No. 86-426, p. 775, §3; Acts 1992, No. 92-108, p. 178, §6; Acts 1995, No. 95-578, p. 1215, §1.)

#### **Section 9-8A-4**

##### **Commission - Powers.**

The commission shall have the following powers:

- (1) To have succession by its corporate name until it shall have been dissolved as provided herein;
- (2) To sue and be sued and to prosecute and defend in any court having jurisdiction of the subject matter and of the parties thereof;
- (3) To adopt and use a seal and to alter the seal at pleasure;
- (4) To designate and maintain a principal office in the city of Montgomery;
- (5) To adopt, and from time to time amend and repeal, bylaws and rules and regulations, not inconsistent with this chapter, to carry into effect the powers and purposes of the commission in the conduct of its business;
- (6) To allocate funds through the state soil and water conservation committee to the soil and water conservation districts of the state for use by them in making cost-share grants and approving technical assistance to eligible persons as provided herein;
- (7) To appoint, employ, contract with, and provide for the compensation of, such employees, attorneys, fiscal advisers, technical personnel and agents as the business of the commission may require;
- (8) To establish, with the advice of the state soil and water conservation committee, standards and specifications for soil and water conservation practices eligible for cost-share grants of allocated Grids;
- (9) To designate, delegate and assign to the state soil and water conservation committee any clerical, administrative and record-keeping responsibilities required in carrying out the purposes of this chapter that the commission may designate;
- (10) To invest in authorized investments any funds of the commission that the commission

may determine are not presently needed for other uses, purposes of functions of the commission;

(11) To enter into a management agreement or agreements with any person, &m, corporation or other state agency for the performance by said person, firm, corporation or other state agency for the commission of any of its delegable functions or powers upon such terms and conditions as may be mutually agreeable;

12) To sell, exchange and convey any or all of its properties whenever the commission shall find any such action to be in furtherance of the purposes for which the commission was organized,

(13) To establish a private endowment fund. The commission may receive and accept from any source gifts, grants and contributions of money. Said money shall be deposited as part of the corpus of the private endowment fund and invested by the commission. The commission shall not allocate any of the corpus of said private endowment fund but shall be authorized to distribute the interest earned by the fund to the cost-share grant program. Appropriations of the legislature shall not be considered funds which are required to be placed in the private endowment fund; and

(14) To make, enter and execute such contracts, agreements, leases and other instruments and to take such other actions as may be necessary or desirable to accomplish any purpose for which the commission is organized or to exercise any power granted hereunder. (*Acts 1985, 1st Ex. Sess., No. 85123, p. 169, §4; Acts 1986, No. 86-426, p. 775, §4.*)

### **Section 9-8A-4.1**

#### **Commission- Revolving fund established; expenditure of funds; appropriation of funds to commission.**

(a) There is hereby established the Alabama agricultural and conservation development commission revolving fund to consist of all moneys received by the commission from legislative appropriations or Tom any other source, including any and all interest earned from such funds. Any funds remaining in the Alabama agricultural and conservation development commission t%nd at the end of any fiscal year shall remain in said find and is hereby reappropriated to the commission in each subsequent year.

(b) The state budget officer shall allocate to the commission its entire state appropriation for any fiscal year prior to January 2 of that fiscal year.

(c) The commission is hereby authorized to expend funds in the Alabama agricultural and conservation development commission revolving fund to pay expenses of the commission, to pay salaries of any personnel employed or contracted with by the commission, to reimburse the state soil and water conservation committee for expenditures and expenses incurred in its support of the agricultural and conservation development commission, to support the operations of the state soil and water conservation committee, and to perform any other legitimate power of the commission. The remainder of funds may be allocated to the soil and water conservation districts in the manner prescribed in section 9-8A-5. (*Acts 1986, No. 86-426, p. 775, §5.*)

### **Section 9-8A-5**

#### **Allocation of funds to soil and water conservation districts.**

(a) Funds allocated to the soil and water conservation districts by the commission shall be used only to pay the costs of installing soil and water conservation practices of the types listed in section 9-8A-7. Soil and water conservation district supervisors shall designate which soil and water conservation practices will be eligible for cost-share grants in their district, subject to approval by the agricultural and conservation development commission. The commission will, through the state soil and water conservation committee, allocate any available appropriations and other moneys received by the commission for cost-share grants to the soil and water conservation

districts in steps identified as original allocation, reversion of allocated funds, and reallocation of reverted funds.

(b) Original allocation.-The commission will allocate funds to the state's 67 soil and water conservation districts at the beginning of each fiscal year following June 4, 1985, in accordance with formulas established by the commission taking into account the percentage of the state's highly erosive areas in, the reforestation needs and the agricultural water pollution problems of, each soil and water conservation district in the state, subject to a minimum base allocation of 1 percent of available funds for each soil and water conservation district. The minimum is imposed to assure that each district receives an allocation that will allow a workable program.

(c) Reversion of allocated funds.-Any allocated funds allocated in a fiscal year that the soil and water conservation districts have not obligated by March 1 of that fiscal year, and any allocated funds that were obligated during the previous year for projects respecting which disbursements have not been begun by March 1 will revert to the commission for reallocation.

(d) Reallocation of reverted funds. -The soil and water conservation districts shall submit requests for reallocation of reverted funds identifying valid applications and cost estimates, if any, to the commission by February 1 of each year. The allocation to any district will be the lesser of:

- (1) The amount of available moneys less reserve fund divided by the number of districts applying for a reallocation, or
- (2) The amount requested.

(e) Reserve funds. -The commission shall administer a reserve fund for each program year that shall not exceed &dollar; 10,000.00 to be set aside and used only to meet contingencies that occur in the districts or within the commission. Each time a reallocation is made to the districts an allocation will be made to the reserve fund if necessary to return the reserve fund balance to the appropriate level. (*Acts 1985, 1st Ex. Sess., No. 85-123, p. 169, §5; Acts 1986, No. 86-426, p. 775, §6.*)

## **Section 9-8A-12**

### **Reporting and accounting by soil and water conservation districts.**

Since appropriations made by the legislature to the commission are anticipated to be made to the commission with respect to each fiscal year, each soil and water conservation district committee will maintain separate control ledgers and prepare separate reports of work accomplished with allocated funds for each fiscal year. The district supervisor will submit a monthly report to the state soil and water conservation committee indicating the unobligated balance of allocated funds as shown on each ledger at the close of the last day of each month. Quarterly compilation of the reports shall be submitted by the state to the commission. The districts will also submit through the state committee an annual progress report to the commission. These reports will reflect accomplishments "to date" by program year Curds. Annual reports shall be submitted to the commission on or before November 4 each year.

Each district will, based on estimated cost, maintain a record of allocated funds obligated for approved applications. (*Acts 1985, 1st Ex. Sess., No. 85-123, p. 169, 914; Acts 1986, No. 86-426, p. 775, §13.*)

## **Section 9-SA-13**

### **Exemption of commission from taxation.**

The property and income of the commission, conveyances by or to the commission, and leases, mortgages and deeds of trust or trust indentures by or to the commission shall be exempt from all taxation in the state. The commission shall be exempt from all taxes levied by any county, municipality or other political subdivision of the state, including, but without limitation license and excise taxes imposed in respect of the privilege of engaging in any of the activities in which the commission may engage. Nothing in this section shall be construed to exempt any private person, firm or corporation from payment of any ad valorem, mortgage or deed taxes or recording fees notwithstanding the fact that the commission shall have acquired an interest in the property or instrument subject to such taxes or fees. (*Acts 1985, 1st Ex. Sess., No. 85-123, p. 169, §15; Acts 1986, No. 86-426, p. 775, §14.*)

## **Section 9-SA-15**

### **Independence of commission; incorporation and exercise of powers; Alabama Administrative Procedure Act inapplicable.**

This chapter is intended to aid the state through the furtherance of the purposes of the chapter by providing an appropriate and independent instrumentality of the state with full and adequate powers to fulfill its functions. Except as expressly provided in this chapter, no proceeding, notice or approval shall be required for the incorporation of the commission, or the exercise of any of its powers by the commission. The provisions of the Alabama Administrative Procedure Act shall not be applicable to the commission or to the promulgation of its rules and regulations. (*Acts 1985, 1st Ex. Sess., No. 85-123, p. 169, §17; Acts 1986, No. 86-426, p. 775, §16.*)

## **AACDC Cost Share Program**

### **Section 9-8A-6**

#### **Application for cost-share grant.**

In order to qualify for a cost-share grant, an eligible person shall file, accompanied by the applications specified in this section, a conservation plan approved by the soil and water conservation district in which the eligible person's eligible land is located. Cost-share grants shall be available only with respect to those soil and water conservation practices determined to be needed by the soil conservation district to reduce erosion, improve agricultural water quality and improve forest resources in the district. Such determination of need shall be made by a qualified soil and water conservation or forestry technician. All application forms and agreements for allocated funds shall be available from and completed forms shall be submitted to the local soil and water conservation district office located in the county where such practices are proposed to be implemented. If an applicant's land is in more than one soil and water conservation district, the respective district committees will review the application and agree to obligate all funds from one district or prorate the funding between districts. All applications and agreements shall be signed by the eligible person unless a power of attorney has been obtained. Applications and agreements may be signed by any person designated to represent the eligible person, provided an appropriate power of attorney has been filed with the soil and water conservation district office. The power of attorney requirement may be met by submitting a properly executed and notarized durable power of attorney to the soil and water conservation district office. In the case of estates, letters of

administration or letters testamentary designating the responsible person or administrator may be submitted to the district in lieu of a power of attorney. (*Acts 1985, 1st EC Sess., No. 85-123, p. 169, §8; Acts 1986, No. 86-426, p. 775,97.*)

### **Section 9-8A-7**

#### **Eligible soil and water conservation practices.**

The following soil and water conservation practices shall be eligible for cost-share grants of the allocated funds:

- (1) Reduced tillage systems. (Reduced tillage practices, used in conjunction with row crop production to reduce sediment damage and soil depletion caused by wind or water, including planting of seasonal noncash cover crops.)
- (2) No-till systems. (A form of noninversion tillage that retains protective amounts of residue on the surface throughout the year.)
- (3) Critical area plantings. (Establishment of vegetative planting to control sediment movement from severely eroding areas by stabilizing the soil. These plantings would include vegetation such as trees, shrubs, vines, grasses or legumes.)
- (4) Diversions. (A channel with a supporting ridge on the lower side constructed across the slope to conduct excess runoff water to a suitable outlet.)
- (5) Field windbreaks. (A strip or belt of trees or shrubs established within or adjacent to a field to reduce sediment damage and soil depletion caused by wind.)
- (6) Grade stabilization structures. (An earthen dam or embankment with a mechanical outlet (pipe conduit, drop spillway or chute outlet) to stabilize the flowing grade or control head cutting in a natural or constructed channel.)
- (7) Grass strips. (A strip of crossgrowing perennial vegetation within or adjacent to a field to reduce sediment damage and soil depletion caused by wind)
- (8) Grassed waterway or outlets. (A natural or constructed waterway or outlet, shaped and graded on which suitable vegetation is established, to conduct excess surface runoff water from terraces, diversions or natural watershed basins.)
- (9) Pasture and hayland plantings. (The establishment of long-term stands of adapted species of perennial forage plants, to control excessive water erosion, by converting land from row crop production to permanent vegetative cover.)
- (10) Terraces. (An earthen barrier or embankment constructed across the field slope using a combination of a ridge and channel to reduce field erosion, and trap sediment. Types of terraces commonly referenced to as broad based, narrow based, grassed backslope, basin, level, gradient and parallel are eligible for allocated funds..)
- (11) Underground outlets. (A conduit installed beneath the ground surface to collect surface water from terraces, diversions, water and sediment basins, and convey the water to a suitable outlet.)
- (12) Water and sediment control basins. (A short earthen embankment with an underground outlet, constructed across the slope in minor watercourses to reduce erosion and trap sediment.)
- (13) Watershed and lagoon projects.
- (14) Reforestation of unproductive or highly erodable lands.
- (15) Establishment and improvement of tree nurseries and cultivation and protection of permanent forest stands and of seedlings for use in reforestation projects.
- (16) Animal waste control facilities. (A facility for storing and handling livestock and poultry waste and controlling surface run-off water to permit the recycling of animal waste onto the land in a manner that will abate pollution that would otherwise result from existing livestock or poultry operations.)
- (17) Other practices conducive to soil and water conservation in the state as approved by the commission. (*Acts 1985, 1st Ex. Sess., No. 85-123, p. 169, §9; Acts 1986, No. 86-426, p. 775, §8.*)

## **Section 9-8A-8**

### **Ineligible lands.**

Allocated funds shall not be used to reimburse other units of government for implementing soil and water conservation practices. Privately-owned land not used for agricultural or timber production shall not qualify for allocated funds. Tracts of land used for agricultural or timber production smaller than 20 acres in size from which less than \$1,000.00 of agricultural products are sold annually shall not qualify for allocated funds. (*Acts 1985, 1st Ex. Sess., No. 85-123, p. 169, §10; Acts 1986, No. 86426, p. 775, §9.*)

## **Section 9-8A-9**

### **Cost-share grant processing procedures.**

Applicants for cost-share grants for soil and water conservation practices shall complete and submit an application for allocated funds as described herein to the soil and water conservation district office located in their counties. Assistance in completing the form shall be made available from technical personnel of the soil and water conservation district office. Applicants shall specify the anticipated total cost of the practice to be implemented and the percentage, if any, of such cost which the applicant proposes to bear, which percentage shall not be less than the minimum specified by the commission for cost-share grants to assist in implementation of the particular practice.

Applications for allocated funds which are denied by the soil and water conservation district supervisors shall be retained in the district to the end of the program year. Written notification of the denial shall be provided to the applicant along with the reason(s) that the application was denied. Application denial as used herein refers to those applications which cannot be approved for reasons other than lack of allocated funds.

Those applications that meet the eligibility requirements will be given initial approval by the soil and water conservation district. The applications that have received initial approval by the district shall be evaluated under the priority system adopted by the district for disbursement of allocated funds. The high priority applications that can possibly be funded by the district's allocated funds will be identified and successful applicants may be requested to provide such additional information as the supervisors may specify in order to assist the district supervisors in determining proper priority of the various applications.

Upon receipt of such additional information as may be requested, the soil and water conservation district supervisor, in accordance with guidelines developed by the commission, may give the application final approval and obligate allocated funds for the project in the amount of the project cost estimate identified on the application. Following approval of an application, the district supervisor may obligate allocated funds for the project or, as appropriate, secure obligation of funds from the commission for the amount of the project cost estimate identified on the application. In those cases where funds are not available, the application will be held by the soil and water conservation district until allocated funds become available or until the end of the program year. Upon obligation of allocated funds the soil and water conservation district shall not@ the applicant.

An application may be withdrawn by the applicant at any time prior to receipt of cost-share grant by notifying the district in writing that withdrawal is desired. Applications withdrawn by the applicant shall be retained in the records of the district until the end of the program year.

A case file shall be assembled and maintained for each application approved. The file will contain the approved application for allocated funds, any amendment to application for allocated funds; a copy of the estimated cost sheet; certification of practice quantities and cost, voucher and bills or receipts; receipt of payment, maintenance agreement, or performance agreement; a map and legal description locating the practice. Case files shall be filed by program year.

The commission shall establish the minimum cost-share grant from year to year that may be made under the program and the maximum cost-share grant that an eligible person may receive under the program in any one program year. There shall be no limit to the number of cost-share grants an applicant can receive. (*Acts 2985, 1st Ex. Sess., No. 85-123, p. 169, §11; Acts 1986, No. 86-426, p. 775, §10.*)

### **Section 9-8A-10**

#### **Designing of proposed soil and water conservation practices.**

A qualified technician of, or technician designated by, the soil and water conservation district in which a particular project is located shall design and lay out proposed soil and water conservation practices for which allocated funds have been obligated. Such technician shall be responsible for determining compliance with applicable design standards and specifications. (*Acts 4985, 1st Ex. Sess., No. 85-123, p. 169, §12; Acts 1986, No. 86-426, p. 775, §11.*)

### **Section 9-8A-11**

#### **Agreement to maintain conservation practices; sale of land with respect to which agreement is in effect.**

As a condition for receipt of a cost-share grant of allocated funds for soil and water conservation practices, the eligible person receiving the benefit of such grant shall agree to maintain those practices for the expected life of the practice as established by the commission and outlined in the applicable conservation plan. Agreement to maintain practices for which allocated funds are being paid shall be accomplished by completing and signing a maintenance agreement. Specific conditions of the maintenance agreement shall be detailed on a form specified by the commission, and may include provisions for repayment of cost-share grants. Completion of the form and signature of the eligible person is required prior to transfer of the payment from the district to the recipient.

Agreements to perform soil and water conservation practices for which allocated funds are being paid shall be by completing and signing a performance agreement. Specific conditions of the performance agreement shall be detailed on a form specified by the commission. Completion of the form and signature of the eligible person is required prior to transfer of the payment from the district to the recipient(s).

The soil and water conservation district shall establish and maintain in the case file the maintenance agreement and any amendments to the maintenance agreement. The maintenance agreements shall be accessible for review by the public. The soil and water conservation district shall also establish and maintain in the case file any performance agreement and amendment to performance agreement. The case file shall be accessible for review by the public.

In the event that adjustment to the project cost estimate is necessitated by the final design, the applicant shall either agree to assume the additional cost or complete and submit amendment to application for allocated funds to the district for approval or denial by the district.

The soil and water conservation district shall adjust the amount of allocated funds obligated for the project or secure adjusted obligation from the commission for funds obligated by the commission. In the event that additional funds are not available, the project may be redesigned, if possible, to a level commensurate with available allocated funds, provided the redesign still meets standards established by the commission, or the applicant can agree to assume full financial responsibility for the portion of the project cost in excess of the amount obligated.

The successful applicant shall be responsible for securing any contractor(s) needed and for all contractual or other agreements necessary to construct or perform the approved practice(s). The designated technician will determine if the completed practice is in compliance with applicable standards and specifications. The designated technician shall attest to completion and compliance to the standards by completing and signing a certification of practice quantities and cost. The completed certification will be retained in the district case file for the appropriate landowner.

A seller of agricultural or timber land with respect to which a maintenance agreement is in effect may request the soil and water conservation district to inspect the practices. If the practices have not been removed, altered, or modified, the district shall issue a written statement that the seller has satisfactorily maintained the permanent practice as of the date of the statement.

The buyer of lands covered by a maintenance agreement may also request that the district inspect the lands to determine whether any practice has been removed, altered, or modified as of the date of the inspection. If so, the district will provide the buyer with a statement specifying the extent of noncompliance as of the date of the statement. The seller and the buyer, if known, shall be given notice of the time of inspection so that they may be present during the inspection to express their views as to compliance. (*Acts 1985, 1st Ex. Sess., No. 85-123, p. 169, §13; Acts 1986, No. 86-426, p. 775, §12.*)

#### **Section 9-8A-14**

##### **Exemption of cost-share grants from taxation.**

The gross income for Alabama income tax purposes of an eligible person receiving a cost-share grant from the commission pursuant to this chapter shall not include the amount of such cost-share grant. The commission shall take such steps as may be necessary to qualify the cost-share grant program provided herein with the United States Secretary of the Treasury and the United States Secretary of Agriculture as a program qualifying under section 126(a)(10) of the Internal Revenue Code of 1954, as amended. (*Acts 2985, 1st Ex. Sess., No. 85123, p. 169, §16; Acts 1986, No. 86-426, p. 775, §15.*)

## Alabama Forestry Study Committee

### Section 9-13-25

#### **Forestry study committee established; membership; meetings; duties; powers; expenses; reports.**

(a) There is hereby established the forestry study committee. Such committee shall be composed of fifteen members. The speaker of the house and the president of the senate each shall appoint three members from the respective houses; the state forester shall be a member and serve as secretary and the Alabama cooperative extension service extension forester shall be a member; and the governor shall appoint seven members. The appointees shall represent forest land ownership, forest industries, education, other forest-related interests and other citizens whose knowledge will be valuable to the committee's work.

(b) The committee shall hold an organizational meeting at the state capitol, within ten days after the appointments are made, and elect a chairman from among its members. Thereafter, the committee shall meet on the call of the chairman or a majority of its members and shall adopt its own rules of procedure for the conduct and transaction of business.

(c) The duty of the committee shall be to make a complete study and needs assessment of all facets of the Alabama forestry program, including but not limited to:

- (1) Problems related to forest fires, their occurrences, causes, acreage burned, damages and whether legally or illegally set;
- (2) Fire prevention and control in the state forests, the adequacy of prevention, detection, reporting, suppression and law enforcement measures;
- (3) Resource management practices and industrial development related to the forestry program; and
- (4) The effects and impact of both state and federal environmental legislation and regulations on forestry practices and landowner prerogatives and options.

(d) Nonlegislative members shall be entitled to per diem and travel expenses, now provided by law, for each day of actual attendance at committee meetings, legislative members shall be entitled to their regular legislative compensation, per diem and travel expenses for each day of actual attendance at committee meetings, upon warrants drawn on the state comptroller upon requisitions signed by the committee's chairman provided, however, that members shall not receive additional legislative compensation or per diem when the legislature is in session.

(e) The chairman and committee may employ such clerical, legal, technical and expert assistance as the committee may find necessary in performing its duties.

(f) The committee shall publish a report of its findings and recommendations for distribution to the public.

(g) At the conclusion of its annual study and evaluation, the committee shall report its findings and recommendations to the governor, lieutenant governor, and speaker of the house on the fifteenth day of January each year. (*Acts 1979, No. 79-711, p. 1264.*)

## **Forestry Advisory Committee**

### **Section 9-3-16**

#### **Advisory committee on general forestry matters.**

The state forester is further authorized to establish a committee and call meetings of such committee to advise him on general forestry matters in Alabama. It shall consist of not more than 15 members. Section 9-3-15 shall apply in its entirety to this committee. (*Acts 1978, No. 515, p. 569, §6.*)

# Alabama Forestry Commission - Prescribed Burning

## Alabama Prescribed Burning Act

### Section 9-13-270

#### Short title.

This article may be cited as the “Alabama Prescribed Burning Act.” (Acts 1995, No. 95-609, p. 1304, §1.)

### Section 9-13-271

#### Legislative findings.

(a) The Legislature hereby finds and declares that the application of prescribed burning is a landowner property right and a land management tool that benefits the safety of the public, the environment, the natural resources, and the economy of Alabama. Therefore, the Legislature finds that:

- (1) Prescribed burning reduces naturally occurring vegetative fuels within wildland areas. The reduction of the fuel load reduces the risk and severity of major catastrophic wildfire, thereby reducing the threat of loss of life and property, particularly in urbanizing areas.
- (2) Many of Alabama’s natural communities require periodic fire for maintenance of their ecological integrity. Prescribed burning is essential to the perpetuation, restoration, and management of many plant and animal communities. Significant loss of the state’s biological diversity will occur if fire is excluded from fire-dependent ecosystems.
- (3) Forest lands constitute significant economic, biological, and aesthetic resources of statewide importance. Prescribed burning on forest land prepares sites for reforestation, removes undesirable competing vegetation, improves wildlife habitat, expedites nutrient cycling, and controls or eliminates certain forest pathogens.
- (4) The state manages hundreds of thousands of acres of land for parks, wildlife management areas, forests and other public purposes. The use of prescribed burning for management of public lands is essential to maintain the specific resource values for which these lands were acquired.
- (5) Proper training in the use of prescribed burning is necessary to ensure maximum benefits and protection for the public.
- (6) As the population of Alabama continues to grow, pressures from liability issues and nuisance complaints inhibit the use of prescribed burning.

(b) The purpose of this article is to authorize and promote the continued use of prescribed burning for ecological, silvicultural, agricultural and wildlife management purposes. (Acts 1995, No. 95-609, p. 1304, §2.)

## **Section 9-13-272**

### **Definitions.**

As used in this article, the following words shall have the following meanings:

An individual who successfully completes a certification program approved by the Alabama Forestry Commission.

(1) Certified Prescribed Burn Manager:

An individual who successfully completes a certification program approved by the Alabama Forestry Commission.

(2) Prescribed Burning:

The controlled application of fire to naturally occurring vegetative fuels for ecological, silvicultural, agricultural and wildlife management purposes under specified environmental conditions and the following of appropriate precautionary measures which cause the fire to be confined to a predetermined area and accomplishes the planned land management objectives.

(3) Prescription:

A written plan for starting and controlling a prescribed burn to accomplish the ecological, silvicultural, and wildlife management objectives. (Acts 1995, No. 95-609, p. 1304, §3.)

## **Section 9-13-273**

### **Liability for damage caused by fire; requirements; rules and guidelines; fees for certification or training.**

(a) No property owner or his or her agent, conducting a prescribed burn in compliance with this article, shall be liable for damage or injury caused by fire or resulting smoke unless it is shown that the property owner or his or her agent failed to act within that degree of care required of others similarly situated.

(b) Prescribed burning conducted in compliance with this article shall be considered in the public interest if it meets all of the following requirements:

(1) It is accomplished only when at least one certified prescribed burn manager is supervising the burn or burns that are being conducted.

(2) A written prescription is prepared and witnessed or notarized prior to prescribed burning.

(3) A burning permit is obtained from the Alabama Forestry Commission.

(4) It is conducted pursuant to state law and rules applicable to prescribed burning.

(c) The Alabama Forestry Commission may promulgate rules for the certification of prescribed burn managers and guidelines for a prescribed burn prescription.

(d) The Alabama Forestry Commission may charge and collect fees and other payments from persons applying for certification or training as a prescribed burn manager as may be necessary to provide training required for certification as a prescribed burn manager and to carry out other administrative aspects of this article; however the expenditure of any fees charged by the Forestry Commission under this subsection shall be budgeted and allotted pursuant to the Budget Management Act and Article 4 of Chapter 4 of Title 41. (Acts 1995, No. 95-609, p. 1304, §4.)

## **Section 9-13-274**

### **No certification as prescribed burn manager required in certain circumstances.**

Nothing in this article shall be construed as requiring certification as a prescribed burn manager in order to conduct burning operations on one's own property or on the lands of another with the landowner's permission as long as applicable state laws and rules relating to prescribed burning are complied with. (Acts 1995, No. 95609, p. 1304, §5.)

## **Burn Permits**

### **Section 9-13-11**

(c) (1) Burning permits may be obtained from the district operations center when the center is in active operation. The following criteria must be met:

- a. The person requesting the permit must have adequate tools, equipment, and manpower to stay with and control the fire during the entire burning period.
- b. The person requesting the permit is responsible to keep the fire confined.
- c. In no case will the person requesting the permit allow the fire to be unattended until it is dead out.

(2) Burning permits will be issued if the individual requesting the permit states that the above criteria will be met unless the State Forester shall declare a fire alert. Under fire alert conditions the State Forester may allow issuance of permits at his or her discretion, taking into account the number of fires burning in the district, current and projected weather conditions, the ability of the person seeking the permit to contain the fire and that individual's knowledge of fire behavior, and other factors which may affect fires and fire behavior. A fire alert will be issued by the State Forester for any district or portion of a district that in the opinion of the State Forester, has existing conditions which produce extraordinary danger from fire or smoke.

(3) If subsequent to issuance of a permit a lawfully authorized fire escapes to the lands of another and an investigation reveals that the permit holder did not meet all the criteria as set forth above, the fire will be treated as if no legal authorization had been obtained.

(4) A burning permit once issued may be revoked if the person requesting the permit fails to comply with proper burning procedures or if weather conditions develop which may result in erratic fire or smoke behavior.

# ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

## Air Division Regulations

### Chapter 335-3-3

## Control of Open Burning and Incineration

### Regulation 335-3-3-01

#### Open Burning.

No person shall ignite, cause to be ignited, permit to be ignited, or maintain any open fire except as follows:

- (a) Open fires for the cooking of food for human consumption on other than commercial premises;
- (b) Fires for recreational or ceremonial purposes;
- (c) Fires to abate a fire hazard, providing the hazard is so declared by the fire department or fire district having jurisdiction;
- (d) Fires for prevention or control of disease or pests;
- (e) Fires for training personnel in the methods of fighting fires;
- (f) Fires for the disposal of dangerous materials where there is no practical alternate method of disposal and burning is approved by the Director;
- (g) Fires set for recognized agricultural, silvicultural, range, and wildlife management practices;
- (h) Fires set in salamanders or other devices, utilizing only wood, vegetation, coal, propane, kerosene, fuel oil or used oil (used oil as defined in ADEM Admin Code Chapter 335-14-17) as fuel, and used by construction or other workers for heating purposes;
- (i) Fires for the burning of trees, brush, grass, and other vegetable matter in the clearing and maintenance of rights-of-way if such burning is done by the air-curtain incinerator method, properly constructed and maintained, or by an equivalent method specifically approved by the Director. Such fires shall not be approved by the Director during the months of June, July, and August of each year in Jefferson County;
- (j) Open fires specifically or expressly approved by the Director.

**Author:** James W. Cooper and John E. Daniel

**Statutory Authority:** Code of Alabama 1975, §§22-28-14,22-22A-5,22-22A-6, and 22-22A-8.

**History:** Effective Date: January 18, 1972.

**Amended:** November 21, 1996; September 25, 1997; September 7, 2000.

PROCLAMATION 3

Proclamation Approving Open Fires Under Certain Conditions

By the Director  
Alabama Department of Environmental Management

A Proclamation

WHEREAS, the Alabama Environmental Management Act of 1982 authorized the Alabama Department of Environmental Management (ADEM) beginning October 1, 1982 to “administer and enforce the provisions and execute the functions of the Alabama Air Pollution Control Act of 1971...”; and

WHEREAS, ADEM Admin. Code R.3353-3-.01 provides as follows: “Open Burning. No person shall ignite, cause to be ignited, permit to be ignited, or maintain any open fire except as follows: . . . 3353-3-.01(10) Open fires specifically or expressly approved by the Director.”

NOW, THEREFORE, I, James W. Warr, Director of the Alabama Department of Environmental Management, acting under and by virtue of the authority vested in me as Director, and in furtherance of Section 335-3-3-.01(10), do hereby proclaim as follows:

1. Open burning may be conducted if it meets all the requirements set forth in the following paragraphs. Such open burning being sanctioned by this agency is meant to provide an exemption to ADEM Admin. Code R 335-3-3-.01, only. Authority to conduct open burning under the provisions of this Proclamation does not exempt or excuse a person from the consequences, damages, or injuries which may result from such conduct, nor does it excuse or exempt any person from complying with all applicable laws, ordinances, regulations, and orders of governmental entities having jurisdiction, even though the open burning is conducted as specified in this Proclamation.
2. This Proclamation authorizes, on the property from which the material originates, subject to the conditions set forth below, only the open burning of untreated wood, tree trimmings, brush or plant growth generated by clearing or maintenance of land, or from demolition or other practices conducted for any of the following purposes:
  - a. Erection of any structure.
  - b. Construction of any transportation, utility, or communications line.
  - c. Maintenance of rights of way.
  - d. Development or modification of a recreational area or park.
  - e. Plant husbandry practices.
3. Burning qualifying for this exemption from ADESI Admin. Code R 335-3-3-01 must also meet the following conditions:
  - a. THE LOCATION OF THE BURING MUST BE 500 FEET FROM THE NEAREST

OCCUPIED DWELLING OTHER THAN DWELLING LOCATED ON THE PROPERTY ON WHICH THE BURING IS CONDUCTED.

b. The burning must be controlled so as to avoid creating a traffic hazard on any public road, street, or highway as a result of the air contaminants emitted.

c. ONLY THE WOOD AND PLANT GROWTH MATERIALS SPECIFICALLY AUTHORIZED BY PARAGRAPH 2 ABOVE MAY BE BURNED. UNDER NO CIRCUMSTANCES SHALL HEAVY OILS, ASPHALTIC MATERIALS, ITEMS CONTAINING NATURAL OR SYNTHETIC RUBBER, PLASTICS, OR REFUSE BE BURNED.

d. Initial burning may be commenced only between the hours of 8:00 a.m. and 3:00 p.m. No combustible material is to be added to the fire between 3:00 p.m. and 8:00 a.m. the following day.

e. Burning shall be conducted only when there is good ventilation and when the prevailing wind direction is away from any built-up area in the vicinity, No burning shall be conducted in areas under a current air stagnation advisory issued by the National Weather Service or during a "Drought Emergency" declared by the Governor.

f. The fire shall be attended at all times.

4. The Director or his authorized representative may impose additional conditions to cover specific open burning situations where additional controls are deemed necessary to minimize air pollution.

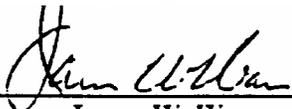
5. No open burning of the materials discussed in Paragraph 2 above may be conducted in Baldwin, Jefferson, Madison, Mobile, and Shelby Counties during the months of May, June, July, August and September.

6. The issuance of this Proclamation shall not relieve any person from securing permits from or otherwise complying with the requirements of the Alabama Forestry Commission, appropriate fire codes, instructions from fire marshals, or local air pollution control programs.

7. Approval granted by the Director under this Proclamation shall be subject to continuing review and may be withdrawn should disposal of wastes from particular operations or in particular areas by means other than open burning be found practicable or necessary.

8. The provisions of this Proclamation shall become effective upon its execution. It shall replace Proclamation 3, as executed on April 2nd, 1999.

IN WITNESS WHEREOF, I hereunto set my hand this 3rd day of April, 2000.

  
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James W. Warr

# **Alabama Forestry Commission - Fire Management Program**

## **Law Enforcement / Fire Suppression Powers**

### **Section 9-13-10**

#### **Powers of state forestry commission employees as to enforcement of laws, prevention and suppression of forest fires, etc.**

All employees of the state forestry commission appointed as forest law enforcement officers by the state forester are hereby constituted peace officers of the state of Alabama with full police power and may exercise such powers anywhere within the state. They are hereby authorized to carry firearms or other weapons when they are actually in the discharge of their duties as such officers as provided by law. They shall be clothed with the power to arrest with or without warrant any person who shall violate any of the laws of the state of Alabama or any rule or regulation of the Alabama Forestry Commission and take him before a proper court for trial. All employees of the state forestry commission and all duly appointed officers of the United States whose duty it is to prevent and suppress forest fires are empowered to enter any lands and to construct thereon fire lines, fire lanes or fire breaks, to set back fires thereon if necessary to prevent the further spread of fire then actually burning and to do all other work necessary in the performance of their duties, including the right to enter any lands for the purpose of making investigations for the cause or causes of fires, without liability for trespass or damage therefrom. (*Acts 1939, No. 492, p. 711; Code 1940, T. 8 §206; Acts 1967, No. 724, p. 1560; Acts 1980, No. 80-507, p. 786.*)

## **State Assistance in Suppression of Wildfires**

### **Section 9-13-10.1**

#### **Assistance of state forestry commission in control and suppression of wildfires by other state agencies.**

All state agencies, in the performance of their duties and responsibilities to the people of Alabama, are authorized to aid and assist the state forestry commission in the control and suppression of wildfires, on request of the governor of Alabama, with such requested resources that are reasonably available and needed to cope with the specific situation. (*Acts 1976, No. 102, p. 99.*)

## **Alabama Fire Laws**

### **Section 9-13-11**

#### **Willful, malicious or intentional setting on fire, etc.; of woodlands, grasslands, etc.; burning permits; fire alerts; placement of areas under organized forest fire protection; disposition of tines, etc.**

(a) It shall be a Class C felony for every person, firm, association, or corporation who:

(1) Willfully, maliciously or intentionally burns, sets fire to, or causes to be burned or any fire to be set to any forest, grass, woodlands, or other inflammable vegetation on any lands not owned, leased, controlled, or in the lawful possession of the person, firm, association, or corporation setting such fire or burning such lands or causing such fire to be set or lands to be burned;

(2) Shall have in his or her possession or shall set, throw or place any device, instrument, or paraphernalia in or adjacent to any forest, grass, woodlands, or other inflammable vegetation, which forest, grass, woodland or other inflammable vegetation is not owned, leased, controlled, or in the lawful possession of the person possessing such device, instrument, or paraphernalia.

(b) It shall be a Class B misdemeanor for any person, firm, association, or corporation:

(1) Who allows a fire to escape from land owned, leased, or controlled by him or her, whereby any property of another, is injured or destroyed;

(2) Who shall burn any brush, stumps, logs, rubbish, fallen timber, grass, stubble, or debris of any sort, whether on one's own land or that of another, without taking reasonably necessary precautions, both before lighting the fire and all times thereafter to prevent the escape thereof;

(3) Who shall set fire to any brush, stumps, logs, rubbish, fallen timber, grass, stubble, or debris of any sort within or near any forest or woodland, unless the area surrounding said material to be burned shall be cleared of all inflammable material for a reasonably safe distance in all directions and maintained free of all inflammable material so long as such fire shall continue to burn;

(4) Who shall set a fire within or near any forest, woodland, or grassland without clearing the ground immediately around it free from material which will carry fire, or shall leave such fire before it is totally extinguished or start a fire in any forest, woodland, or grassland by throwing away a lighted cigar, cigarette, match or by the use of firearms or in any other manner and leave the same unextinguished;

(5) Who shall destroy, remove, injure, or deface any fire warning or notices or deface any inscription or devices comprising such notices;

(6) Who shall burn any new ground, field, grasslands, or woodlands, or adjoining woodlands or grasslands of another within any area which has been placed under organized forest fire protection by the State Forestry Commission without first obtaining verbal authorization from the State Forestry Commission by obtaining a burning permit number.

## **Bum Permits**

- (c) (1) Burning permits may be obtained from the district operations center when the center is in active operation. The following criteria must be met:
- a. The person requesting the permit must have adequate tools, equipment, and manpower to stay with and control the fire during the entire burning period.
  - b. The person requesting the permit is responsible to keep the fire confined.
  - c. In no case will the person requesting the permit allow the fire to be unattended until it is dead out.

(2) Burning permits will be issued if the individual requesting the permit states that the above criteria will be met unless the State Forester shall declare a fire alert. Under fire alert conditions the State Forester may allow issuance of permits at his or her discretion, taking into account the number of fires burning in the district, current and projected weather conditions, the ability of the person seeking the permit to contain the fire and that individual's knowledge of fire behavior, and other factors which may affect fires and fire behavior. A fire alert will be issued by the State Forester for any district or portion of a district that in the opinion of the State Forester, has existing conditions which produce extraordinary danger from fire or smoke.

(3) If subsequent to issuance of a permit a lawfully authorized fire escapes to the lands of another and an investigation reveals that the permit holder did not meet all the criteria as set forth above, the fire will be treated as if no legal authorization had been obtained.

(4) A burning permit once issued may be revoked if the person requesting the permit fails to comply with proper burning procedures or if weather conditions develop which may result in erratic fire or smoke behavior.

(d) An area shall be deemed legally placed under organized forest fire protection by the State Forestry Commission of the State of Alabama upon proclamation of the State Forester. Such proclamation shall describe the lands placed in said area and shall be published once a week for two consecutive weeks in a newspaper published in the county where the lands composing said area are located. If there are no newspapers published in the county where said lands are located, then said proclamation shall be published in a newspaper of an adjoining county. In the event the lands composing said area are located in more than one county, such proclamation shall be so published in a newspaper in each county where said lands are located. Beginning with the twelfth day after the first publication of said proclamation in said newspaper or newspapers, the lands described in the proclamation shall be deemed in an area under organized forest fire protection. Upon the trial of any person, firm, or corporation for the violation of any provision of this section, a certified copy of said proclamation executed by the State Forester shall be admissible in evidence and shall be conclusive evidence of the fact that the lands described in said proclamation constitute an area under organized forest fire protection within the meaning of this section.

(e) All moneys collected for any violation of this section as fines, forfeitures, etc., shall go to the Alabama Forestry Commission Fund and shall be used in defraying the expense of the administration of such State Forestry Commission. (*Acts 1939, No. 492, p. 711; Code 1940, T. 8, §204; Acts 1943, No. 464, p. 426; Acts 1980, No. 80-743, p. 1512; Act 98-603, §1.*)

## **Section 9-13-12**

**Uncontrolled fires declared public nuisances; liability for refusal or neglect to control or extinguish same.**

Any fire burning uncontrolled on any forested, cutover, brushland or grassland area is hereby declared to be a public nuisance by reason of its menace to life and property. Any person, firm, association or corporation responsible either for the starting or the existence of such fire is hereby required to make a reasonable effort to control or extinguish it as soon as he has knowledge thereof, and if such person, firm, association or corporation shall refuse or neglect to do so, any organized fire suppression force may suppress the nuisance thus constituted by controlling and extinguishing the fire, and the cost thereof may be recovered from said person, firm, association or corporation responsible for the starting or existence of such fire. (*Acts 1939, No. 429, p. 711; Code 1940, T. 8, §205.*)

### **Section 9-13-13**

#### **Setting on fire, etc., of woods, etc., without written notice to adjacent landowners.**

Any person or corporation who shall set fire to or procure another to set fire to any woods, logs, brush, weeds, grass or clearing upon his or its own land without giving adjacent landowners five days' written notice of such intention to do so, unless he or it shall have taken all possible care and precaution against the spread of such fire, shall be guilty of a misdemeanor. (*Acts 1923, No. 486, p. 638; Code 1923, §4114; Code 1940, T. 8, §207.*)

### **Section 9-13-14**

#### **Equipping of locomotives, etc., with appliances to prevent escape of fire.**

Logging and railroad locomotives, donkey and threshing engines and other engines and boilers operated in, through and near forest or brush which do not burn oil as fuel shall be provided with appliances to prevent the escape of fire and sparks from the smoke stacks thereof and with devices to prevent the escape of fire from ashpans and fire boxes. Failure to comply with the requirements of this section shall be a misdemeanor punishable, upon conviction, by a fine of not less than \$10.00 nor more than \$100.00 for each and every offense thus committed; but the escape of fire accidentally from engines equipped with the standard appliances to prevent the escape of fire shall not constitute an offense against the section. (*Acts 1923, No. 486, p. 638; Code 1923, §4115; Code 1940, T. 8, §208.*)

### **Section 9-13-15**

#### **Attachment of wires, etc., to trees in towns or cities by lighting or power companies.**

No electric lighting or power company shall attach any wires or other lighting appliances to any trees along any street of any town or city in this state. In towns and cities where such wires and lighting appliances are already attached to trees, the persons, firms or corporations owning the same shall remove the same. Any person, firm or corporation violating any of the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$25.00 nor more than \$100.00 for each and every offense so committed. (*Acts 1923, No. 486, p. 638; Code 1923, §4118; Code 1940, T. 8, §2211.*)

### **Section 9-13-22**

#### **District attorneys to prosecute violators of provisions of chapter.**

The district attorneys of the several counties shall prosecute all violators of the provisions of this chapter. (*Acts 1923, No. 486, p. 638; Code 1923, §4117; Code 1940, T. 8, §210.*)

### **Section 9-13-23**

#### **Jurisdiction of prosecutions under chapter.**

The district courts of this state shall have jurisdiction to hear and determine all cases and prosecutions originating under the provisions of this chapter and shall impose and collect fines not exceeding the amount of \$100.00, except as otherwise provided in this chapter. (*Acts 1923, No. 486, p. 638; Code 1923, §4116; Code 1940, T. 8, §209.*)

### **Section 9-13-24**

#### **Fees of arresting officers, etc.; informers' fees.**

When an arrest for a violation of the provisions of the forestry laws is made by a salaried officer or salaried employee of the state forestry commission and the defendant is convicted, there shall be taxed as costs the same fee as the sheriff in this state is entitled to for similar services and, if collected from the defendant, shall be immediately remitted by the trial court directly to the state forester, and said fee shall be used for the purpose of the administration of the state forestry commission. If the person making the arrest shall be a nonsalaried officer or not an employee of the state forestry commission and if said fee is collected from the defendant, such person shall be entitled to said fee and shall receive in addition thereto an informer's fee of one-half the fine in each case where the information furnished by him results in a conviction and the fine is collected and paid into court; provided, however, that in no case shall the amount paid to the informant or party making the affidavit as to the commission of any offense embraced in this chapter exceed the sum of \$25.00. All amounts in excess of \$25.00 shall be remitted to the state forester as provided in this section. No fee shall be allowed in cases of acquittal. (*Acts 1936-37, ET. Sess., No. 161, p. 183; Code 1940, T. 8, §218; Acts 1951, No. 984, p. 1659.*)

## **Fire Prevention in Emergency Drought Conditions**

### **Section 9-13-140**

#### **Declaration of drought emergency conditions.**

Whenever conditions exist in any county or counties in this state which produce extraordinary danger from fire, the state forestry commission, with approval of the governor, may by regulation declare a drought emergency condition in such county or counties. (*Acts 1967, No. 727, p. 1562, §1.*)

### **Section 9-13-141**

#### **Setting fires, building campfires or burning trash during drought emergencies; backfires.**

At such time as the state forestry commission has declared by regulation a drought emergency in any county or counties, it shall be unlawful in such county or counties for any person to set fire to any forest, grass, woods, wildlands or marshes or to build a campfire or bonfire or to burn trash or other material that may cause a forest, grass or woods fire. This prohibition does not apply to any

backfire set by an official representative or agent of the state forestry commission. Nor does this prohibition apply when a backfire is set by any person for the purpose of saving life or property; provided, that such person shall have the burden of proving the necessity for setting such backfire if he claims same as a defense. (*Acts 1967, No. 727, p. 1562, §2,*)

### **Section 9-13-142**

#### **Penalties for violations of provisions of article.**

Any person violating any provision of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$250.00 nor more than \$500.00 and, at the discretion of the court, may be sentenced to the county jail for a period not exceeding six months. (*Acts 1967, No. 727, p. 1562, §3.*)

## **Forest Fire Wardens**

### **Section 9-13-5**

#### **Designation or appointment of forest wardens; duties.**

All sheriffs, deputy sheriffs, constables, marshals and such other persons as may be designated or appointed by the governor or by the state forester are hereby declared to be forest wardens, and they shall report to the said state forester and to the district attorney for the county in which the same occur any violations of any provisions of this chapter. (*Acts 1923, No. 486, p. 638; Code 1923, §1007; Acts 1935, No. 23, p. 38; Acts 1935, No. 500, p. 1078; Code 1940, T 8, §203.*)

### **Section 9-13-6**

#### **Forest fire wardens- Appointment; duties generally.**

The state forester shall have the power to appoint any person in any area of the state who is skilled in forestry work or fire prevention as a forest fire warden, on a volunteer status, whose duties shall be to prevent and suppress forest fires in his respective locale. All persons so appointed shall receive a duly executed commission signed by the state forester stating on the face thereof the appointee's name and title. (*Acts 1955, No. 366, p. 886, §1.*)

### **Section 9-13-7**

#### **Forest fire wardens- Right of entry upon lands for construction of fire lines, etc,**

Persons so appointed as forest wardens shall be empowered to enter any lands and to construct thereon fire lines, fire lanes or fire breaks, to set back fires thereon if necessary to prevent the further spread of fire then actually burning and to do other work necessary in the performance of their duties without liability for trespass or damages there from. (*Acts 1955, No. 366, p. 886, §2.*)

### **Section 9-13-8**

#### **Forest fire wardens- Issuance to and use of fire-fighting equipment.**

At the discretion of the state forester, such forest fire wardens may be issued firefighting equipment from such equipment as may be available for such purposes to the state forestry commission, and any such equipment so issued may be used only for the suppression of forest fires. (*Acts 1955, No. 366, p. 886, §3.*)

### **Section 9-13-9**

#### **Forest fire wardens - Compensation.**

The state forester, with the approval of the state merit board, shall have the power to provide for the compensation to be received by such forest fire wardens if, in his judgment, he deems such compensation necessary; provided, that they shall receive compensation only for such hours as are spent on fire fighting and for any actual expenses incurred by them in the performance of such duties. (*Acts 1955, No. 366, p. 886, §4.*)

## **Southeastern Interstate Forest Fire Protection Compact**

### **Section 9-13-200**

#### **Authorized; form.**

The governor on behalf of this state is hereby authorized to execute a compact in substantially the following form with any one or more of the states of Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia and West Virginia, and the legislature hereby signifies in advance its approval and ratification of such compact, which compact is as follows: (*Acts 1955, No. 384, p. 917, §1.*)

### **Section 9-13-201**

#### **Payment of expenses of advisory committee in attending meetings.**

The expenses incurred by the advisory committee in attending meetings of the Southeastern interstate forest fire protection compact shall be payable out of the Alabama forestry commission fund. Such expenses shall include travel costs and other necessary expenses of the advisory committee members of the state of Alabama to and from meetings of the compact or its duly constituted sections or committees. (*Acts 1955, No. 384, p. 917, §2.*)

SOUTHEASTERN INTERSTATE FOREST FIRE  
PROTECTION COMPACT

*Article I.*

The purpose of this compact is to promote effective prevention and control of forest fires in the Southeastern region of the United States by the development of integrated forest fire plans, by the maintenance of adequate forest fire fighting services by the member states, by providing for mutual aid in fighting forest fires among the compacting states of the region and with states which are party to other regional forest fire protection compacts or agreements, and for more adequate forest protection.

*Article II.*

This compact shall become operative immediately as to those states ratifying it whenever any two or more of the states of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia and West Virginia, which are contiguous, have ratified it and congress has given consent thereto. Any state not mentioned in this article which is contiguous with any member state may become a party to this compact, subject to approval by the legislature of each of the member states.

*Article III.*

In each state, the state forester or officer holding the equivalent position who is responsible for forest fire control shall act as compact administrator for that state and shall consult with like officials of the other member states and shall implement cooperation between such states in forest fire prevention and control.

The compact administrators of the member states shall coordinate the services of the member states and provide administrative integration in carrying out the purposes of this compact.

There shall be established an advisory committee of legislators, forestry commission representatives, and forestry or forest products industries representatives which shall meet from time to time with the compact administrators. Each member state shall name one member of the senate and one member of the house of representatives who shall be designated by that state's commission on interstate cooperation, or if said commission cannot constitutionally designate the said members, they shall be designated in accordance with laws of that state; and the governor of each member state shall appoint two representatives, one of whom shall be associated with forestry or forest products industries, to comprise the membership of the advisory committee. Action shall be taken by a majority of the compacting states, and each state shall be entitled to one vote.

The compact administrators shall formulate and, in accordance with need, from time to time, revise a regional forest fire plan for the member states.

It shall be the duty of each member state to formulate and put in effect a forest fire plan for that state and take such measures as may be necessary to integrate such forest fire plan with the regional forest fire plan formulated by the compact administrators.

*Article IV.*

Whenever the state forest fire control agency of a member state requests aid from the state forest fire control agency of any other member state in combating, controlling or preventing forest fires, it shall be the duty of the state forest fire control agency of that state to render all possible aid to the requesting agency which is consonant with the maintenance of protection at home.

*Article V.*

Whenever the forces of any member state are rendering outside aid pursuant to the request of another member state under this compact, the employees of such state shall, under the direction of the officers of the state to which they are rendering aid, have the same powers (except the power of arrest), duties, rights, privileges and immunities as comparable employees of the state to which they are rendering aid.

No member state or its officers or employees rendering outside aid pursuant to this compact shall be liable on account of any act, or omission on the part of such forces while so engaged, or on account of the maintenance, or use of any equipment or supplies in connection therewith: Provided, that nothing herein shall be construed as relieving any person from liability for his own negligent act or omission, or as imposing liability for such negligent act or omission upon any state.

All liability, except as otherwise provided hereinafter, that may arise either under the laws of the requesting state or under the laws of the aiding state or under the laws of a third state on account of or in connection with a request for aid, shall be assumed and borne by the requesting state.

Any member state rendering outside aid pursuant to this compact shall be reimbursed by the member state receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost of all materials, transportation, wages, salaries, and subsistence of employees and maintenance of equipment incurred in connection with such request; provided, that nothing herein contained shall prevent any assisting member state from assuming such loss, damage, expense or other cost or from loaning such equipment or from donating such service to the receiving member state without charge or cost.

Each member state shall provide for the payment of compensation and death benefits to injured employees and the representatives of deceased employees in case employees sustain injuries or are killed while rendering outside aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within such state.

For the purposes of this compact the term employee shall include any volunteer or auxiliary legally included within the forest fire fighting forces of the aiding state under the laws thereof.

The compact administrators shall formulate procedures for claims and reimbursement under the provisions of this article, in accordance with the laws of the member states.

#### *Article VI.*

Ratification of this compact shall not be construed to affect any existing statute so as to authorize or permit curtailment or diminution of the forest fire fighting forces, equipment, services or facilities of any member state.

Nothing in this compact shall be construed to limit or restrict the powers of any state ratifying the same to provide for the prevention, control and extinguishment of forest fires, or to prohibit the enactment or enforcement of state laws, rules or regulations intended to aid in such prevention, control and extinguishment in such state.

Nothing in this compact shall be construed to affect any existing or future cooperative relationship or arrangement between any federal agency and a member state or states.

#### *Article VII.*

The compact administrators may request the United States Forest Service to act as a research and coordinating agency of the Southeastern Interstate Forest Fire Protection Compact in cooperation with the appropriate agencies in each state, and the United States Forest Service may accept responsibility for preparing and presenting to the compact administrators its recommendations with respect to the regional fire plan. Representatives of any federal agency engaged in forest fire prevention and control may attend meetings of the compact administrators.

#### *Article VIII.*

The provisions of articles IV and V of this compact which relate to mutual aid in combating, controlling or preventing forest fires shall be operative as between any state party to this compact and any other state which is party to a regional forest fire protection compact in another region; provided, that the legislature of such other state shall have given its assent to such mutual aid provisions of this compact

#### *Article IX.*

This compact shall continue in force and remain binding on each state ratifying it until the legislature or the governor of such state, as the laws of such state shall provide, takes action to withdraw therefrom. Such action shall not be effective until six months after notice thereof has been sent by the chief executive of the state desiring to withdraw to the chief executives of all states then parties to the compact. (Acts 1955, No. 381. p. 917. § 1.)

# Volunteer Fire Departments

## Certification

### Section 9-3-17

#### **Certification of fire departments of political subdivisions as “volunteer fire department.”**

(a) The term “volunteer fire department” shall apply to and be used to define an organized group of area residents who meet the following requirements for personnel, training and equipment:

(1) The group shall be organized and incorporated under the laws of the state of Alabama as a nonprofit organization or as an authority of a legal subdivision. All persons who are members of said group shall be known as “volunteer fire fighters,” and shall have been qualified as such by participating in organized fire protection and suppression training programs. All fire fighters must attend regularly scheduled meetings, drill, and training classes within the department and same shall be documented and kept on file at the department location for one year.

(2) A “volunteer fire department” shall have no less than 80 percent unsalaried membership.

(3) Each volunteer fire department shall have as a minimum of fire fighting apparatus the following:

a. One tanker truck capable of carrying and pumping no less than 500 gallons of water with adequate nozzle pressure to suppress wildfire, structural fire and other fires.

b. Motorized apparatus shall be equipped with the following minimum required equipment:

1. One booster reel with 150 feet of 3/4 or one inch rubber hose with suitable nozzle attached; or

2. 150 feet of pre-connected 1 1/2 inch fire hose with suitable fog/stream nozzle attached.

c. In areas where a sufficient number of fire hydrants are provided, the tanker shall also carry 200 feet of 2 1/2 inch fire hose together with a 2 1/2 to 1 1/2 inch wye connector for use with smaller hose and other equipment.

d. One 24 foot extension ladder with a 12 foot roof ladder.

e. Hand tools- spanner wrenches, axes, pike pole, bolt cutter, flashlights, a first aid kit and one each pressure water and a chemical fire extinguisher.

(4) An alerting system must be set up and maintained, which will be capable of alerting the greatest number of fire fighters in the shortest possible time.

(5) Communications between the tanker and other units, including the base station are to be installed at the earliest possible time; however, the use of citizen band radio equipment is not recommended.

(6) Housing for motorized equipment shall be provided at the department location of such type and size as to provide virtually freezeproof conditions for vehicles. A training room should also be provided at the earliest possible time.

(b) All of the aforementioned items shall consummately define a “volunteer fire department,” for purposes of legal recognition, but are not to be construed as standards set for any insurance classification by insurance services office or any other local, state or other agency.

(c) The Alabama Forestry Commission may assist any fire department needing additional equipment to meet the standards for certification.

(d) The Alabama Forestry Commission shall be the state agency delegated as certifying authority under this section and shall certify all departments which are cooperators with that commission.

(e) All noncooperating departments which request certification shall be reviewed by the Alabama Association of Volunteer Fire Departments and a recommendation for certification shall be made by the association to the Alabama Forestry Commission.

(f) The provisions of this section shall supersede and take precedence over any local law or municipal ordinance in conflict herewith. All laws or parts of laws in conflict herewith are hereby repealed. (Acts 1980, No. 80-393, p. 549.)

## **Municipal Fire Departments**

### **Section 11-43-140**

#### **Authorized; management and control.**

Cities and towns may maintain and operate a volunteer or paid fire department and may do any and all things necessary to secure efficient service. The council may delegate to commissioners by ordinance the power to control and manage such fire department under such rules and regulations as the commissioners or the council may prescribe. (*Code 1907, §1265; Code 1923, §2013; Code 1940, T. 37, §450.*)

### **Section 11-43-141**

#### **Operation, etc., beyond corporate limits and police jurisdiction - Emergencies; liabilities, exemptions, etc.**

Whenever the necessity arises during any emergency resulting from fire or other public disaster, the firemen of any city or town may, together with all necessary equipment, lawfully go or be sent beyond the corporate limits and police jurisdiction of such city or town to any point within the state of Alabama to assist in meeting such emergency.

In such event the acts performed for such purpose by such firemen and the expenditures made for such purpose by such city or town shall be deemed conclusively to be for a public and governmental purpose and all of the immunities from liability enjoyed by a city or town when acting through its firemen for a public or governmental purpose within its corporate limits and police jurisdiction shall be enjoyed by it to the same extent when such city or town is so acting under this section or under other lawful authority beyond its corporate limits and police jurisdiction.

The firemen of any city or town when acting under this section or under other lawful authority beyond the corporate limits and police jurisdiction of such city or town shall have all of the immunities from liability and exemptions from laws, ordinances and regulations and shall have all of the pension, relief; disability, workmen's compensation and other benefits, enjoyed by them while performing their respective duties within the corporate limits and police jurisdiction of such city or town. (Acts 1955, No. 558, p. 1219, §1.)

## **Section 11-43-142**

### **Operation, etc., beyond corporate limits and police jurisdiction - Contracts with municipalities, counties, manufacturing or industrial concerns, etc.; liability for injuries.**

The governing body of any city or town may, in its discretion, authorize or require the fire department thereof to render aid in cases of fire occurring beyond their corporate limits and police jurisdiction, and may prescribe the conditions on which such aid may be rendered and may enter into a contract or contracts with other cities or towns, with counties or county boards, manufacturing or industrial concerns or residential or business areas for rendering aid in fire protection in such places on such terms as may be agreed upon by such governing body and the governing body of such city or town, county or county boards, or the management of such manufacturing or industrial concerns or the residents of such residential or business areas, and when the fire department of any city or town is operating under such permission or contract or contracts on any call beyond the corporate limits and police jurisdiction of the city or town, it shall be deemed to be operating in a governmental capacity and subject only to such liability for injuries as it would be if it were operating within the corporate limits and police jurisdiction of such city or town. (*Acts 1955, No. 558, p. 1219, §2.*)

## **Fire Department Support**

### **Section 9-3-18**

#### **Counties, municipalities, etc. authorized to donate money, property, etc. to organizations deemed public in nature.**

(a) It is the intent of the Legislature that this section provides assistance to organized volunteer fire departments and organized rescue squads including South Alabama Air Rescue, Incorporated, and other nonprofit organizations which provide air rescue services to the public. The Legislature deems these organizations public in nature, as they protect the health, safety and welfare of the public.

(b) The state, any county, any municipality, any fire, water, sewer, garbage, or school district, or any other public governmental entity or political subdivision may donate money, property, equipment, or other thing of value to those organizations deemed public in nature as specified in subsection (a). If disposed of, it will return to the agency where it was obtained. (*Acts 1981, No. 81-555, p. 935; Acts 1996, No. 96-612, p. 965, §1.*)

### **Section 9-3-19**

#### **Donation of fire control property.**

(a) As used in this section, the term “fire control or fire rescue equipment” includes, but is not limited to, a motor vehicle, fire fighting tools, protective gear, breathing equipment, and other vehicles, supplies, and tools used in fire fighting or fire rescue.

(b) Any person, corporation, partnership, association, or governmental entity may donate or give away used or obsolete fire control or fire rescue equipment to the Alabama Forestry Commission for its use or for distribution to certified volunteer fire departments. Any person, corporation, partnership, association, or governmental entity that donates fire control or fire rescue equipment shall not be liable for civil damages for personal injury, property damage, or death resulting from

a defect in the equipment, if the property was donated in good faith and the defect was unknown to the person making the donation. The Alabama Forestry Commission and its commissioners and other officers and employees shall not be liable for civil damages for personal injury, property damage, or death resulting from a defect in equipment sold, loaned, donated, or otherwise made available in good faith by the commission to certified volunteer fire departments pursuant to this section. A breathing apparatus that is donated to the commission shall be recertified to the manufacturer's specifications by a technician certified by the manufacturer before it is made available to a volunteer fire department. Any cost incurred by the commission in recertifying a breathing apparatus shall be reimbursed to the commission by the volunteer fire department which received the breathing apparatus. (Act 98-291, §1.)

## **Exemptions from Liability**

### **Section 6-5-332**

#### **Doctors, nurses, policemen, firemen, rescue squad members, etc., rendering first aid or emergency care at scene of accident, etc.**

(a) When any doctor of medicine or dentistry, nurse, member of any organized rescue squad, member of any police or fire department, member of any organized volunteer fire department, Alabama-licensed emergency medical technician, intern or resident practicing in an Alabama hospital with training programs approved by the American Medical Association, Alabama state trooper, medical aidman functioning as a part of the military assistance to safety and traffic program, chiropractor, or public education employee gratuitously and in good faith, renders first aid or emergency care at the scene of an accident, casualty, or disaster to a person injured therein, he or she shall not be liable for any civil damages as a result of his or her acts or omissions in rendering first aid or emergency care, nor shall he or she be liable for any civil damages as a result of any act or failure to act to provide or arrange for further medical treatment or care for the injured person.

(b) Any member of the crew of a helicopter which is used in the performance of military assistance to safety and traffic programs and is engaged in the performance of emergency medical service acts shall be exempt from personal liability for any property damages caused by helicopter downwash or by persons disembarking from the helicopter.

(c) When any physician gratuitously advises medical personnel at the scene of an emergency episode by direct voice contact, to render medical assistance based upon information received by voice or biotelemetry equipment, the actions ordered taken by the physician to sustain life or reduce disability shall not be considered liable when the actions are within the established medical procedures.

(d) Any person who is qualified by a federal or state agency to perform mine rescue planning and recovery operations, including mine rescue instructors and mine rescue team members, and any person designated by an operator training a mine rescue team to supervise, assist in planning or provide service thereto, who, in good faith, performs or fails to perform any act or service in connection with mine rescue planning and recovery operations shall not be liable for any civil damages as a result of any acts or omissions. Nothing contained in this subsection shall be construed to exempt from liability any person responsible for an overall mine rescue operation, including an operator of an affected facility and any person assuming responsibility therefor under federal or state statutes or regulations. (Acts 1966, Ex. Sess., No. 253, p. 377; Acts 1975, No. 1233, p. 2594; Acts 1981, No. 81-804, p. 1427; Acts 1987, No. 87-390, p. 558, §1; Acts 1993, No. 93-373, §1.)

### **Section 6-5-335**

#### **Volunteer firemen or rescue squad members entering burning buildings, etc., and attempting to preserve and protect said buildings, property therein, etc.**

When any member of any organized rescue squad or volunteer nonprofit fire department, gratuitously and in good faith, enters any building, house, or structure which is burning or endangered by fire and makes efforts to preserve and protect said property and any other property contained therein or located on the premises thereof, such members shall not be liable for any civil damages for such entering or as result of any acts or omissions in rendering such efforts; nor shall such members be liable for any civil damages in rendering such efforts for their acts or omissions causing injuries to fellow volunteers or to owners of said property; provided, however, that this section shall not apply to civil damages for wanton misconduct. (*Acts 1976, No. 675, p. 925; Acts 2979, No. 79-625, p.1107.*)

### **Section 6-5-336**

#### **Volunteers.**

(a) This section shall be known as “The Volunteer Service Act.”

(b) The legislature finds and declares that:

- (1) The willingness of volunteers to offer their services has been increasingly deterred by a perception that they put personal assets at risk in the event of tort actions seeking damages arising from their activities as volunteers;
- (2) The contributions of programs, activities, and services to communities is diminished and worthwhile programs, activities, and services are deterred by the unwillingness of volunteers to serve either as volunteers or as officers, directors, or trustees of nonprofit public and private organizations;
- (3) The provisions of this section are intended to encourage volunteers to contribute their services for the good of their communities and at the same time provide a reasonable basis for redress of claims which may arise relating to those services.

(c) For the purposes of this section, the meaning of the terms specified shall be as follows:

(1) Governmental Entity:

Any county, municipality, township, school district, chartered unit, or subdivision, governmental unit, other special district, similar entity, or any association, authority, board, commission, division, office, officer, task force, or other agency of any state;

(2) Nonprofit Corporation:

Any corporation which is exempt from taxation pursuant to Section 501(a) of the Internal Revenue Code, 26 U.S.C. Section 501(a);

(3) Nonprofit Organization:

Any organization which is exempt from taxation pursuant to Section 501(c) of the Internal Revenue Code, 26 U.S.C. Section 501(c), as amended,

(4) Volunteer:

A person performing services for a nonprofit organization, a nonprofit corporation, a hospital, or a governmental entity without compensation, other than reimbursement for actual expenses incurred. The term includes a volunteer serving as a director, officer, trustee, or direct service volunteer.

(d) Any volunteer shall be immune from civil liability in any action on the basis of any act or omission of a volunteer resulting in damage or injury if:

(1) The volunteer was acting in good faith and within the scope of such volunteer's official functions and duties for a nonprofit organization, a nonprofit corporation, hospital, or a governmental entity; and

(2) The damage or injury was not caused by willful or wanton misconduct by such volunteer.

(e) In any suit against a nonprofit organization, nonprofit corporation, or a hospital for civil damages based upon the negligent act or omission of a volunteer, proof of such act or omission shall be sufficient to establish the responsibility of the organization therefor under the doctrine of "respondeat superior," notwithstanding the immunity granted to the volunteer with respect to any act or omission included under subsection (d). (*Acts 1991, No. 91-439, p. 781, §§1-4; Acts 1993, No. 93-614, §1(1).*)

## **Volunteer Fire Departments Exempt from Taxes**

### **Section 40-9-13**

**Volunteer fire departments, Alabama Society of D.A.R, Annual Shrine Circus, Episcopal Foundation of Jefferson County, Alabama Heart Association and Presbyterian Apartments, Inc.**

(a) All volunteer fire departments in this state, and all real and personal property of all volunteer fire departments in this state, ..., when such real and personal property shall be used as provided in Section 40-9-12, are exempt from the payment of any and all state, county and municipal taxes, licenses, fees and charges of any nature whatsoever, including any privilege or excise tax heretofore or hereafter levied by the State of Alabama or any county or municipality thereof,

(b) All volunteer fire departments in this state, the Alabama Society of the Daughters of the American Revolution, the Annual Shrine Circus as well as all other charitable Shrine amusement and fund raising events, the Episcopal Foundation of Jefferson County, the Alabama Heart Association and the Presbyterian Apartments, Incorporated, shall be subject to all the provisions of Section 40-9-12, as are all other organizations named therein. (*Acts 1973, No. 1204, p. 2026; Acts 1984, 1st Ex. Sess.. No. 84-739, p. 80.*)

## **Volunteer Fire Departments can receive State Excess Property**

### **Section 41-4-33.1**

**State-owned surplus property transferred to volunteer fire departments; determination by forestry commission; approval by department; penalty for unauthorized use; final disposition of property.**

(a) All surplus property owned by the state to be disposed of by sale at auction by the finance department shall first be screened by the forestry commission to determine if such property may be of use by volunteer fire departments for specific use in fire suppression activities. If the forestry commission finds such property to be useful for such purposes, then, with the approval of the state finance director, such property shall be transferred to the forestry commission. All such property shall be loaned to the volunteer fire departments.

(b) Any property transferred to a volunteer fire department under the provisions of this section shall be used exclusively for fire protection purposes. The use of any such property other than on the business of the volunteer fire department is expressly prohibited. Any violation of the provision of this section shall be a Class A misdemeanor punishable as provided under Title 13A.

(c) Final disposition of all properties loaned by the forestry commission as a result of this section shall rest with the finance department of the state. (*Acts 1980, No. 80-364, p. 483.*)

## **Rural Community Fire Steering Committee**

### **Section 9-3-11**

#### **Steering committee to represent rural community fire departments - Creation.**

The state forester is hereby authorized and required to create a steering committee to represent rural community fire departments. (*Acts 1978, No. 515, p. 569, §1.*)

### **Section 9-3-12**

#### **- Membership; appointment, qualifications and term of office of members; filling of vacancies in office.**

Said steering committee shall be composed of 13 members; one from each of the 10 administrative districts of the Alabama Forestry Commission, one member from the Alabama Association of Volunteer Fire Departments, one member from the Alabama Association of Fire Chiefs and one member from the Alabama Firemen's Association. The president of the Alabama Association of Fire Chiefs shall appoint one member of his association to serve on the committee, the president of the Alabama Association of Volunteer Fire Departments shall appoint one member of his association to serve on the committee, and the president of the Alabama Firemen's Association shall appoint a member of his association to serve on the committee. The state forester shall appoint the remaining committee members from each administrative district of the Alabama Forestry Commission, with each such member being a volunteer fireman. All members shall serve at the pleasure of their appointing authority. Vacancies on the committee shall be filled by the same appointing authority who appointed the vacating member. (*Acts 1978, No. 515, p. 569, §3; Acts 1984, No. 84-474, p. 1095.*)

### **Section 9-3-13**

#### **- Recommendations to state forester.**

The steering committee shall make recommendations to the state forester regarding how to improve the rural community fire program and how to solve immediate problems including parts exchange, training and financial assistance through federal grants. (*Acts 1978, No. 515, p. 569, §2.*)

## Section 9-3-14

### **- Meetings; quorum.**

The committee shall meet semiannually, with the members of the committee setting the date. The state forester shall have the authority to call special meetings. A majority of members shall constitute a quorum. (*Acts 1978, No. 515, p. 569, §4.*)

## **Alabama Fire Fighters' Personnel Standards and Education Commission**

### Section 36-32-1

#### **Definitions.**

For the purpose of this chapter, the following words and phrases shall have the following meanings, respectively, unless the context clearly indicates the contrary:

(1) Fund.

The Alabama fire fighters' personnel standards and education fund provided for in section 36-32-9.

(2) Commission.

The Alabama fire fighters' personnel standards and education commission established by this chapter.

(3) Fire-fighting agency.

Any agency charged with the responsibility of detecting, combating and preventing damage to property and lives by fires, **but excluding the Alabama State Forestry Commission.**

(4) Fire protection personnel and fire fighter.

Any person permanently employed in fire administration, fire prevention, fire suppression, fire education, arson investigation, and emergency medical services, **but excluding employees of the Alabama State Forestry Commission.**

(5) Volunteer fire fighter.

Any person who is not permanently employed as fire protection personnel or fire fighter.

(6) Trainee.

A fire fighter who has not been certified by the commission as having met the minimum basic training as set forth by section 36-32-7 and by the rules and regulations adopted by the commission.

(7) School.

Any school located within the state of Alabama whether privately or publicly owned which offers a course in fire protection training or related subjects and which has been approved by the commission.

(8) State.

The state of Alabama. (*Acts 1975, No. 863, p. 1701, §1; Acts 1979, No. 79-759, p- 1352, §1; Acts 1980, No. 80-809, p. 1669; Acts 1988, No. 88-663, p. 1064, §1.*)

## **Section 36-32-2**

### **Creation; composition; qualifications of members; appointment; terms of office; adoption of bylaws.**

The Alabama fire fighters' personnel standards and education commission/Alabama State Fire College Shelton State Community College is hereby created and established. The commission shall consist of seven members, each of whom must be a qualified elector of the state who is over the age of 18 years. The Professional Fire Fighters Association of Alabama shall designate one member of the commission to serve for a term of four years; the Alabama Firemen+ Association shall designate one member to serve for a term of four years; the state fire marshal or his designee shall serve as a member; and the governor shall designate four members of the commission. The members appointed by the governor shall each serve for terms of four years; provided, that the members first appointed by the governor shall serve for terms of one, two, three and four years, respectively, as the governor shall designate. The members may adopt bylaws to govern the organization of the commission, its meetings and activities; provided, that the bylaws shall not conflict with this chapter. (*Acts 1975, No. 863, p. 1701, §2; Acts 1980, No. 80-809, p. 1669; Acts 1988, No. 88-663, p. 1064, §2.*)

## **Section 36-32-3**

### **Officers; executive director; clerical assistants.**

The commission shall elect a chairman and a vice-chairman horn among its members at its first meeting and thereafter at its first meeting following the appointment of a new member. The commission may employ an executive director who shall serve at the discretion of the commission. The commission may employ assistants to assist the executive director as required to coordinate training and to conduct investigations pursuant to section 36-32-5 and any technical assistance programs. The assistants shall serve at the discretion of the commission. The commission shall set the salaries of the executive director and assistants subject to the salary schedules adopted by the Alabama state board of education for the Alabama state community, junior, and technical colleges. The commission may employ such clerical assistants as functions and duties may require Final approval of hiring or dismissal of employees shall rest with the president of Shelton State Community College. Members of the commission shall receive \$50.00 per diem for attending meetings of the commission, plus travel expenses as provided for by state travel law, provided funds are available. (*Acts 1975, No. 863, p. 1701, §3; Acts 1978, No. 778, p. 1140; Acts 1980, No. 80-809, p. 1669; Acts 1988, No. 88-663, p. 1064, §3.*)

## **Section 36-32-4**

### **Meetings; seal; quorum.**

The commission shall meet in regular session quarterly at a time and place in the state of Alabama to be designated in its bylaws. Special meetings may be called by the chairman, the vice-chairman or any three members by giving notice of the time, place and purpose of such special meeting at least five days before it is to be held, to each member of the commission. Such notice may be waived by all members of the commission, either before or after a special meeting. The commission shall adopt an official seal and the executive director shall be custodian of the seal and shall have authority to affix the seal to agreements and obligations of the commission. A quorum shall be a majority of the commission members. The governor shall summon the commission to its first meeting. (*Acts 1975, No. 863, p. 1701, §4; Acts 1978, No. 778, p. 1140; Acts 1980, No. 80-809, p. 1669.*)

## **Section 36-32-5**

### **Functions and duties.**

The commission shall have the following functions and duties together with all powers necessary or convenient for the performance thereof:

- (1) To study, obtain data, statistics and information and make reports concerning the recruitment, selection and training of fire-protection personnel in the state; to make recommendations for improvement in methods of recruitment, selection and training of such personnel;
- (2) To recommend minimum curriculum requirements for schools operated for the specific purpose of training fire-fighter recruits or fire-protection personnel;
- (3) To consider, hold public hearings on, adopt and promulgate such standards relating to trainees as fire-protection personnel as set forth by the commission;
- (4) To consult and coordinate with any fire-fighting agency, university, college, community college, the Alabama State Fire College, or other educational institution concerning the development of firefighter training schools and programs of courses of instruction, including, but not limited to, education and training in the areas of fire science, fire technology, fire administration, and all allied and supporting fields;
- (5) To encourage the establishment of fire-fighting training schools and courses on fire fighting in the educational institutions in the state;
- (6) To gather statistics and data and make reports concerning the training of fire-protection personnel and their accomplishments;
- (7) To certify fire-fighting training and education programs as having attained the minimum required standards prescribed by such commission;
- (8) To certify fire-protection personnel in respect to their competence to perform fire service duties at various defined levels of responsibility as prescribed by such commission;
- (9) To direct research in the field of fire fighting and prevention and to accept gifts and grants for such purposes.
- (10) To consult with national fire service organizations or agencies concerning the training and certification of fire-protection personnel in the state;
- (11) To establish and utilize testing procedures and levels of grading which are consistently uniform with the standard prescribed by such commission;
- (12) To make investigation to determine whether the requirements of this chapter and the rules, regulations and standards of the commission issued pursuant to this chapter are being observed and followed,
- (13) To recommend to the attorney general, the district attorneys and other appropriate officials measures for the enforcement of the requirements of this chapter and the rules, regulations and standards issued by the commission pursuant to this chapter;
- (14) To enter into cooperative agreements with state and local fire-fighting agencies for the effective coordination of fire-fighting training in the state;
- (15) To obtain the services and advice of experts in the field of fire-fighting for the purpose of aiding the commission in its studies, consideration, reports and recommendations, and the adoption of standards, rules and regulations; and
- (16) To encourage the participation of local fire-fighting agencies in the programs established by the commission. (*Acts 1975, No. 863, p. 1701, §5; Acts 1979, No. 79-759, p. 1352, §2; Acts 1980, No. 80809, p. 1669.*)

### **Section 36-32-6**

#### **Approval of regulations; regulations and bylaws to be kept current; public inspection of regulations and bylaws.**

Regulations proposed by the commission shall, before becoming effective, be distributed to each firefighting agency, the Professional Fire Fighters' Association of Alabama, the Alabama Association of Fire Chiefs, the Alabama Firemen's Association, and such other organizations of fire-fighting personnel as may be formed or organized from time to time. Such agencies and organizations shall be given a period of at least 45 days to comment upon such regulations before their final adoption by the commission. All bylaws of the commission and its regulations shall be kept current and shall be available to the public at all times. (*Acts 1975, No. 863, p. 1701, §6; Acts 1980, No. 80-809, p. 1669.*)

### **Section 36-32-7**

#### **Minimum standards for fire fighters.**

(a) Applicability.-The minimum standards provided in this section shall apply to trainees who are to be employed as fire-protection personnel by a public fire-fighting agency. No city or fire-fighting agency who provides fire protection to the public shall permanently employ any trainee as fire-protection personnel who has not met the requirements of this section.

(b) Employment and qualifications.-The trainee shall be certified by a licensed practicing physician as satisfactory by the appointing authority designated as in good health and physically fit for the performance of his duties as a fire fighter and shall meet the employment qualifications of the appointing authority.

(c) Training.

(1) Fire-protection personnel. -

Prior to permanent employment, or a period not exceeding 12 months after the date of employment, the trainee shall have met the requirements for certification as prescribed by the commission. Training shall be given by an instructor certified by the Alabama fire fighters personnel standards and education commission and the training may be administered within the department in which the applicant seeks to serve, if the department meets the requirements of the commission for a training center. Upon the completion of training, the commission shall administer a comprehensive written test to each applicant; and each applicant must pass said test as a condition of completion of such training.

(2) Volunteer fire fighter. -

A volunteer fire fighter may be certified by the commission as a volunteer fire fighter if the volunteer fire fighter shall have met the training requirements prescribed by the commission. Provided, the training is conducted by an instructor certified by and in facilities approved by the commission. Said training need not be during continuous sessions but may be scheduled at different intervals during a period not exceeding 24 months for a total of 160 hours. This subdivision shall not be construed as to mandate training for volunteer fire fighters, except for purposes of certification. (*Acts 1975, No. 863, p. 1701, §7; Acts 1977, No. 700, p. 1238; Acts 1978, No. 778, p. 1140; Acts 1979, No. 79-759, p. 1352, §3; Acts 1980, No. 80-809, p. 1669.*)

### **Section 36-32-S**

#### **Penalty for employing fire fighter failing to meet standards.**

Any person who shall permanently employ any trainee who, to the knowledge of the employer,

fails to meet the minimum standards provided in section 36-32-7 or the standards, rules and regulations issued by the commission under this chapter, shall be guilty of a misdemeanor and upon conviction shall be subject to a fine not exceeding \$1,000.00 (*Acts 1975, No. 863, p. 1701, §8; Acts 1980, No. 80-809, p. 1669.*)

### **Section 36-32-9**

#### **Fund- Creation; acceptance and disposition of grants and appropriations.**

There is hereby established and created in the treasury of the state the Alabama fire fighters' personnel standards and education fund.

The commission may accept grants from the federal government, its departments and agencies as well as grants and appropriations by the state, any county or municipality or any individual, corporation or fund. All grants and appropriations to the state for work within the functions and duties of the commission and all grants and appropriations to the commission shall be paid into the fund. (*Acts 1975, No. 863, §9.*)

### **Section 36-32-10**

#### **Fund- Municipalities and counties authorized to make appropriations and grants.**

The governing body of each incorporated city or town and the governing body of each county of the state is hereby authorized to appropriate any funds not otherwise appropriated to or for the benefit of the commission and its work. All such appropriations shall be paid into the fund. (*Acts 1975, No. 863, §10.*)

### **Section 36-32-11**

#### **Fire-fighting agencies authorized to make mutual assistance agreements.**

Each fire-fighting agency in the state is hereby authorized to make agreements and arrangements for cooperation and mutual assistance in fire-fighting training, with the commission and with each other. (*Acts 1975, No. 863, p. 1701, §11; Acts 1980, No. 80-809, p. 1669.*)

### **Section 36-32-12**

#### **Powers and duties of municipal governments.**

Except as expressly provided in this chapter, nothing contained in this chapter shall be deemed to limit the powers, rights, duties and responsibilities of municipal governments, nor to affect other laws now in effect. (*Acts 1975, No. 863, §12.*)

# Compensation for Death or Disability of Peace Officers or Firefighters

## Section 36-30-1

### **Definitions; persons deemed dependents or partial dependents; parents eligible for compensation where no dependents.**

(a) For the purposes of this chapter, the following words and phrases shall have the following meanings:

(1) Awarding Authority.

The State Board of Adjustment, created and existing pursuant to Article 4, Chapter 9 of Title 41.

(2) Dependent Child.

An unmarried child under the age of 18 years, or one over the age of 18 who is physically or mentally incapacitated from earning.

(3) Fireman or Firemen

A member or members of a paid, part-paid or volunteer fire department of a city, town, county, or other subdivision of the state or of a public corporation organized for the purpose of providing water, water systems, fire protection services, or fire protection facilities in the state; and shall include the chief, assistant chief, wardens, engineers, captains, firemen, and all other officers and employees of such departments who actually engage in fire fighting or in rendering first aid in case of drownings or asphyxiation at the scene of action.

(4) Peace Officer.

All sheriffs, deputy sheriffs, constables, municipal police officers, municipal policemen, state and town marshals, members of the highway patrol, state troopers, Alcoholic Beverage Control Board Enforcement Division agents, revenue agents, and persons who are required by law to comply with the provisions of the Peace Officers' Minimum Standards, employees of the Board of Corrections, highway camp guards, law enforcement officers of the Department of Conservation and Natural Resources, all law enforcement officers of the Alabama Forestry Commission, livestock theft investigators of the Department of Agriculture and Industries, Capitol security guards, narcotic agents and inspectors of the State Board of Health, any other state, county, or municipal officer engaged in quelling a riot, or civil disturbance, and university police officers.

(b) For the purposes of this chapter the following described persons shall be conclusively presumed to be wholly dependent:

(1) Wife, unless it be shown that she was voluntarily living apart from her husband at the time of his death, or unless it be shown that the husband was not in any way contributing to her support and had not in any way contributed to her support for more than 12 months next preceding the occurrence of the injury causing his death.

(2) Minor children under the age of 18 years and those over 18 if physically and mentally incapacitated from earning.

(3) Wife, child, husband, mother, father, grandmother, grandfather, sister, brother, mother-in-law, and father-in-law who were wholly supported by the deceased peace officer or fireman at the time of his or her death and for a reasonable period of time prior thereto shall be considered his or her dependents and payment of compensation may be made to them as hereinafter authorized.

If a peace officer, certified police officer, or reserve law enforcement officer is killed while engaged in the performance of his or her duties and there are no dependents or partial dependents, then his or her mother or father shall be eligible for compensation and payment of compensation may be made to them.

(c) Any member of the class named in subdivision (3) of subsection (b) of this section who regularly derived part of his or her support from the earnings of the deceased peace officer or the deceased fireman, as the case may be, at the time of his or her death and for a reasonable time immediately prior thereto shall be considered his or her partial dependent and payment of compensation may be made to such partial dependent as hereinafter authorized. (*Acts 1966, Ex. Sess., No. 208, p. 256, §1; Acts 1967, No. 731, p. 1566; Acts 1969, No. 1130, p.2004; Acts 1975, No.1234, §1; Acts 1989, No. 89-742, p. 1471; Acts 1991, No. 91-682, p. 1327, §1; Acts 1995, No. 95-559, p. 1168, §1.*)

## **Section 36-30-2**

### **Deaths deemed compensable; compensation for total disability; amount of compensation.**

In the event a peace officer, or a fireman, or a volunteer fireman, who is a member of an organized volunteer fire department registered with the Alabama forestry commission, is killed, either accidentally or deliberately, or dies as a result of injuries received while engaged in the performance of his duties, his dependents shall be entitled to compensation in the amount of \$50,000.00 to be paid from the state treasury as provided in section 36-30-3, unless such death was caused by the willful misconduct of the officer or was due to his own intoxication or his willful failure or refusal to use safety appliances provided by his employer or his willful refusal or neglect to perform a statutory duty or any other willful violation of a law or his willful breach of a reasonable rule or regulation governing the performance of his duties or his employment of which rule or regulation he had knowledge. Any peace officer, or any fireman, or volunteer fireman whose death results proximately and within 10 years from an injury received while performing his duties shall, for the purposes of this article, be deemed to have been killed while in the performance of such duties. If the state health officer determines on all available evidence that a volunteer fireman, who is a member of an organized volunteer fire department registered with the Alabama forestry commission, has become totally disabled as a result of any injury such fireman received while engaged in the performance of his fire-fighting duties and said disability is likely to continue for more than 12 months from the date the injury is incurred, then such fireman shall be entitled to receive disability compensation in the amount of \$50,000.00 to be paid from the state treasury as provided in section 36-30-3. The term total disability shall be interpreted to mean that the injured party is medically disabled to the extent that he cannot perform the duties of the job occupation or profession in which he was engaging at the time the injury was sustained. The state health officer may seek the assistance of any state agency in making the determination of disability and said state agencies shall cooperate with the state health officer in such regard. The state health officer shall render a decision within 30 days of the time a claim is filed. If such volunteer fireman disagrees with any officer, he may appeal such determination to the state board of adjustment in accordance with such board's procedures for such appeals. (*Acts 1966, Ex. Sess., No. 208, p. 256, §2; Acts 1980, No. 80-571, p. 884; Acts 1984, No. 84-659, p. 1322; Acts 1986, No. 86-524, p. 1015; Acts 1989, No. 89-919, p. 1822.*)

## **Section 36-30-3**

### **Payment of compensation - Generally.**

The compensation payable to surviving dependents of peace officers and firemen who are killed under the circumstances prescribed in section 36-30-2 shall be paid to the persons entitled thereto without administration or to a guardian or such other person as the awarding authority may direct for the use of the persons entitled thereto, as follows:

- (1) If the deceased peace officer or fireman leaves a dependent widow or a dependent husband and no other dependents or partial dependents, the total amount of the compensation provided for in section 36-30-2 shall be paid to such widow or such husband.

(2) If the deceased peace officer or fireman leaves a dependent widow or a dependent husband and a dependent child or dependent children and no other dependents or partial dependents, then the total amount of the compensation provided for in section 36-30-2 shall be paid to such widow or husband for the benefit of herself or himself and such child or children, or, in its discretion, the awarding authority may determine what portion of the compensation shall be applied for the benefit of such child or children and may order the same paid to a guardian and then order only the remainder of such compensation paid to such widow or husband.

(3) If the deceased peace officer or fireman leaves a dependent child or children and no dependent widow or dependent husband or other dependents or partial dependents, then such child or children shall be entitled to the total amount of the compensation authorized in section 36-30-2, and such compensation shall be paid to a duly appointed guardian of such child or children or, in the discretion of the awarding authority, such sum may be paid to the probate judge of the county of residence of said child or children. Any probate judge who receives any moneys due any child or children under this article shall handle and administer all such kids in the manner prescribed in sections 26-7-2 through 26-7-5.

(4) If the deceased peace officer or fireman leaves no dependent wife, dependent husband or dependent child or children but leaves other dependents or partial dependents, then such dependents and partial dependents jointly shall be entitled to the total amount of the compensation provided in section 36-30-2, and subject to the limitations prescribed hereinbelow such compensation shall be paid to them in the amounts and manner ordered by the awarding authority.

(5) If a deceased peace officer or fireman leaves a dependent widow or a dependent husband and other dependents or partial dependents but no dependent child or children, then such widow or husband and the other dependents and partial dependents jointly shall be entitled to the total compensation provided in section 36-30-2; and, subject to the limitations prescribed hereinbelow, such compensation shall be paid to such dependents in the proportions and in the manner ordered by the awarding authority; provided, however, that at least 50 percent of such compensation must be awarded to the dependent widow or dependent husband.

(6) If a deceased peace officer or fireman leaves a dependent widow or dependent husband and a dependent child or children and other dependents and partial dependents, then the awarding authority shall determine what portion of such compensation shall be paid to such widow or husband and child or children and, in its discretion, may order all such compensation paid to such widow or husband and child or children, but must provide that at least 70 percent thereof is paid to them.

(7) If a deceased peace officer or fireman leaves a dependent child or children and other dependents and partial dependents but no dependent widow or dependent husband, then the awarding authority shall determine what portion of such compensation such child or children are entitled to receive and, in its discretion, may order all such compensation awarded to such child or children, but must award at least 60 percent thereof to such child or children.

(8) If a deceased peace officer or fireman leaves no dependent wife, husband or child or children but leaves other dependents and partial dependents, the awarding authority shall determine what portion of such compensation each dependent and each partial dependent shall be entitled to receive, but such authority may not award to a partial dependent a greater percent of such compensation than the percent of the deceased peace officer's or fireman's average monthly income which was regularly contributed toward such partial dependent's support for a reasonable time immediately prior to the death of such officer. In its discretion the awarding authority may award all of the compensation provided for in section 36-30-2 to such total dependents of the deceased officer or fireman to the exclusion of partial dependents. (*Acts 1966, Ex. Sess., No. 208, p. 256, §3.*)

#### **Section 36-30-4**

**Payment of compensation- Compensation to be paid only to residents of United States.**

Compensation pursuant to this article for the death of a peace officer or a fireman shall be paid only to his dependents who at the time of such officer's death were actually residents of the United States. (*Acts 1966, Ex. Sess., No. 208, p. 256, §4.*)

### **Section 36-30-5**

#### **Limitation period for presentation of claims for compensation; form and manner for presentation of claims and proof of facts; adoption of forms and rules of evidence and procedure for determination of claims to compensation authorized.**

(a) All claims for compensation as provided in this article shall be presented to the awarding authority within one year from the date of the death of the peace officer or fireman on whom the claimant was dependent; else they are forfeited. All such claims shall be presented in the form prescribed by the awarding authority, and proof of the facts and circumstances of the peace officer's or fireman's death and the claimant's relationship to and dependence upon such peace officer or fireman shall be made in the manner prescribed by the awarding authority.

(b) The awarding authority is hereby authorized to prescribe such forms and adopt such rules of evidence and procedure as it deems necessary or proper, not inconsistent with the provisions of this article, for the proper determination of all claims for compensation under this article. (*Acts 1966, Ex. Sess., No. 208, p. 256, §5.*)

### **Section 36-30-6**

#### **Hearing and determination of claims by board of adjustment; entry of judgment and order for payment of compensation.**

The board of adjustment when serving as the awarding authority under this article shall hear and determine claims for compensation under this article in the same manner prescribed by law for the hearing and determination by such board of other claims against the state. IC when acting as the awarding authority, it determines that an applicant for compensation under this article is entitled thereto, it may adjudge and order that such compensation shall be paid out of the appropriation made by Acts 1966, Ex. Sess., No. 208, p. 256 to the board of adjustment for the purposes of this article and, if the funds in such appropriation have been exhausted, then out of any fund or funds appropriated to the board of adjustment for the purposes of article 4, chapter 9 of Title 41. (*Acts 1966, Ex. Sess., No. 208, p. 256, §6.*)

### **Section 36-30-7**

#### **Construction of article; decision of awarding authority final.**

(a) This article shall not be construed to give any person a right of action against the state of Alabama in any court for the recovery of the compensation authorized by this article. This article shall not be construed to take away any right of action in any court under any other law for the recovery of damages for the death of a peace officer or a fireman; nor, in the event of the death of a peace officer or a fireman who was an employee of the state of Alabama at the time of the injury which proximately caused his death, shall this article be construed to take away the right or privilege of the surviving dependents of such peace officer or fireman to file a claim for damages with the state board of adjustment pursuant to any other law.

(b) The decision of the awarding authority shall be final and shall not be subject to appeal or review by any court. (*Acts 1966, Ex. Sess., No. 208, p. 256, §7.*)

## **Fire Fighter License Taps**

### **Section 32-6-270**

#### **“Fire fighter” and “retired volunteer fire fighter” defined.**

(a) As used in this division, unless the context clearly requires a different meaning: “Fire fighter” means a current member or members of, or a retired member or members horn, a paid, part-paid or volunteer fire department of a city, town, county or other subdivision of the state or civilian federal fire fighters or of a public corporation organized for the purpose of providing water, water systems, fire protection services or fire protection facilities in the state; and such words shall include the chief; assistant chief, wardens, engineers, captains, firemen and all other officers and employees of such departments who actually engage in fire fighting or in rendering first aid in case of drownings or asphyxiation at the scene of action.

(b) As used in this division, the term “retired volunteer fire fighter” means someone that has retired from performing the required duties of a fire fighter on a voluntary basis at a certified volunteer fire department, wherein, those duties were performed for at least 10 years and said person has attained the age of 55 years old. (*Acts 1982, No. 82-550, p. 909, §1; Acts 1989, No. 89-917; Acts 1991, No. 91-579. p. 1066, §1.*)

### **Section 32-6-271**

#### **Distinctive plate or tag authorized; form.**

A fire fighter may, upon application and subject to the provisions of this division be issued a distinctive motor vehicle license plate or tag as identification as a fire fighter. In addition to the proper numbers, words and insignias used on the standard license plate or tag issued for motor vehicles, the distinctive plates or tags so issued fire fighters shall bear a red Maltese cross emblem on each side to the left and right of the regular tag numbers. The words “Fire Fighter” should be centered at the bottom of the tag. (*Acts 1982, No. 82-550, p. 909, §2.*)

### **Section 32-6-272**

#### **Preparation and issuance of plates or tags; lists of eligible fire fighters; additional fee; use of plates or tags.**

The distinctive license plates here provided for shall be prepared by the Commissioner of Revenue and shall be issued through the judge of probate or license commissioner of the several counties of the state in like manner as are other motor vehicle license plates or tags and such officers shall be entitled to their regular fees for such service. The chief of each certified volunteer fire department and each federal fire department shall submit to the Alabama Forestry Commission by October 1 of each year a list of fire fighters from his department who are eligible for the distinctive license plate or tag. The Fire Fighters’ Personnel Standards and Education Committee shall submit to the Alabama Forestry Commission by October 1 of each year a list of certified fire fighters who are members of paid or part-paid fire departments and who are eligible for such distinctive license plates or tags. The Forestry Commission shall submit to the probate judge or license commissioner of each county by December 1 of each year a list of the certified fire fighters in the county who are eligible for the distinctive license plate or tag under this division. Applicants for such distinctive plates shall present to the issuing official proof of their identification. If such applicant’ s name is on the list furnished by the Alabama Forestry Commission to the probate judge or license commissioner, the fire fighter shall be issued the requested number of distinctive license plates or tags upon the payment of the regular license fee for tags, as provided by law, but shall not be required to pay the \$3.00 fee.

The distinctive license plates or tags so issued shall be used only upon and for personally-owned, private, passenger vehicles (to include station wagons and pick-up trucks) registered in the name of the fire fighter making application therefor, and when so issued to such applicant shall be used upon the vehicle for which issued in lieu of the standard license plates or license tags normally issued for such vehicle. (*Acts 1982, No. 82550, p. 909, §3; Acts 1986, No. 86-456, p. 833; Acts 1989, No. 89-944; Acts 1991, No. 91-579, p. 1066, §2.*)

### **Section 32-6-273**

#### **Nontransferability of plates as between motor vehicle owners; transfer of plates to newly acquired vehicle.**

The distinctive license plates issued hereunder shall not be transferable as between motor vehicle owners and in the event the owner of a vehicle bearing such distinctive plates shall sell, trade, exchange or otherwise dispose of same such plates shall be retained by the owner to whom issued and by him returned to the judge of probate or license commissioner of the county who shall receive and account for same in the manner stated below. In the event such owner shall acquire by purchase, trade, exchange or otherwise a vehicle for which no standard plates have been issued during the current license period, the judge of probate or license commissioner of the county shall, upon being furnished by the owner thereof proper certification of the acquisition of such vehicle and the payment of the motor vehicle license tax due upon such vehicle, authorize the transfer to said vehicle of the distinctive license plates previously purchased by such owner, which plates shall authorize the operation of said vehicle for the remainder of the then current license period. In the further event the owner of such distinctive plates shall acquire by purchase, trade, exchange or otherwise a vehicle for which standard plates have been issued during the current license year the judge of probate or license commissioner shall, upon proper certification of such owner and upon delivery to such official of the standard plates previously issued for such vehicle, authorize the owner of such newly-acquired vehicle to place the distinctive plates previously purchased by him upon such vehicle and use same thereon for the remainder of the then current license period. Such notice of transfer of ownership shall be made of record by the judge of probate or the license commissioner.

Provided further, that any person acquiring by purchase, trade, exchange or otherwise any vehicle formerly bearing such distinctive plates shall be authorized, upon certification of such fact to the judge of probate or license commissioner of the county and the payment of the fee now required by law, to purchase standard replacement plates for such vehicle which shall authorize the operation of such vehicle by the new owner for the remainder of the license period. (*Acts 1982, No. 82-550, p. 909, §4.*)

### **Section 32-6-274**

#### **Plates to be furnished for licensing year commencing January 1, 1984 and thereafter.**

Such distinctive plates or tags shall be prepared and furnished for the licensing year commencing January 1, 1984, and thereafter as is provided by law for the issuance of other license plates. (*Acts 1982, No. 82-550, p. 909, §5.*)

## **Operation of Emergency Vehicles**

### **Section 32-5A-7**

#### **Authorized emergency vehicles.**

(a) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.

(b) The driver of an authorized emergency vehicle may:

- (1) Park or stand, irrespective of the provisions of this chapter;
- (2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
- (3) Exceed the maximum speed limits so long as he does not endanger life or property;
- (4) Disregard regulations governing direction of movement or turning in specified directions.

(c) The exemptions herein granted to an authorized emergency vehicle shall apply only when such vehicle is making use of an audible signal meeting the requirements of section 32-5-2 13 and visual requirements of any laws of this state requiring visual signals on emergency vehicles.

(d) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (*Acts 1980, No. 80-434, p. 604, §1-106.*)

### **Section 32-5-213**

#### **Horns and warning devices.**

(a) Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order capable of emitting a sound audible under normal conditions for a distance of not less than 200 feet.

It shall be unlawful for any vehicle to be equipped with or for any person to use upon a vehicle any siren or for any person at any time to use a horn otherwise than as a reasonable warning or to make any unnecessary or unreasonably loud or harsh sound by means of a horn or other warning device.

(b) Every police and fire department and fire patrol vehicle and every ambulance used for emergency calls shall be equipped with a siren, bell, ululating multi-toned horns or other electronic siren type device approved by the director of public safety.

(c) Any person violating any of the provisions of this section shall be guilty of a misdemeanor. (*Acts 1927, No. 347, p. 348; Code 1940, T. 36, §36; Acts 1966, Ex. Sess., No. 432, p. 578.*)

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