CHAPTER 23

Forestry Generally

**SECTION 48‑23‑10.** State Commission of Forestry.

 There is created and established a State Commission of Forestry to consist of nine members, each of whom shall be a resident of this State and shall be appointed by the Governor. Of this commission, two members shall be practical lumbermen, one member shall be a farmer who is a landowner, three members shall be selected and appointed from the public at large, two members shall be appointed by the Governor from the public at large upon the advice and consent of the Senate and the ninth member shall be the President of Clemson University or the Dean of the School of Forestry to serve as his designee on the commission. The members of the commission shall be selected and appointed with reference to their knowledge of and interest in the forests of the State and the products derived therefrom. In making his appointments, the Governor shall make all reasonable effort to provide representation from every geographical section of the State and a reasonable balance between the interests of corporations and individuals.

HISTORY: 1962 Code Section 29‑1; 1952 Code Section 29‑1; 1942 Code Sections 3277, 3278; 1932 Code Sections 3277, 3278; 1927 (35) 367; 1972 (57) 2596; 1981 Act No. 178, Part II, Section 28.

**SECTION 48‑23‑20.** Terms of office of members of commission.

 The terms of office of the present members of the State Commission of Forestry are hereby extended from the thirtieth day of May to the thirtieth day of June of the year in which their present terms expire. The successor to the member whose term expires hereunder on June 30, 1953 shall be appointed for a term of five years from that date, and the successors to the members whose terms expire on June 30, 1954, 1955 and 1956, respectively, shall be for a period of six years, and thereafter all appointive members shall be appointed for a term of six years. The president of Clemson University shall continue a member of the Commission as long as he retains his office as president of the University.

HISTORY: 1962 Code Section 29‑2; 1952 Code Section 29‑2; 1942 Code Section 3278; 1932 Code Section 3278; 1927 (35) 367; 1953 (48) 147.

**SECTION 48‑23‑30.** Chairman of commission; meetings.

 The members of the Commission shall from their number select a chairman whose duty shall be to call the Commission together as often as the public interests and need demand. The place of the meeting shall be designated by the chairman, who shall likewise designate a place for the headquarters of the State Forester.

HISTORY: 1962 Code Section 29‑3; 1952 Code Section 29‑3; 1942 Code Section 3278; 1932 Code Section 3278; 1927 (35) 367.

**SECTION 48‑23‑40.** Payment of commission members' expenses.

 The members of the Commission shall be paid their actual expenses while in attendance upon the meetings of the Commission or while going to and from such meetings.

HISTORY: 1962 Code Section 29‑4; 1952 Code Section 29‑4; 1942 Code Section 3278; 1932 Code Section 3278; 1927 (35) 367.

**SECTION 48‑23‑50.** Appointment, qualifications, and duties of State Forester.

 The Commission shall appoint and employ a State Forester, who shall be a technically trained forester with at least two years' experience in technical, practical and administrative work, and shall fix his compensation. The State Forester shall perform all such duties as shall be directed by the Commission and shall be charged with the direction of all matters relative to forestry as authorized by the provisions of Sections 48‑23‑60 to 48‑23‑90, subject, however, to the supervision and control of the Commission. The State Forester may be removed by the Commission, if he is, or in the opinion of the Commission becomes, for any cause unsuitable or incompetent.

HISTORY: 1962 Code Section 29‑8; 1952 Code Section 29‑8; 1942 Code Section 3280; 1932 Code Section 3280; 1927 (35) 367.

**SECTION 48‑23‑60.** State Forester to be secretary to commission.

 The State Forester shall serve as the secretary of the Commission and shall be custodian of the books, records and papers of the Commission which he shall keep at the headquarters designated by the Commission.

HISTORY: 1962 Code Section 29‑5; 1952 Code Section 29‑5; 1942 Code Section 3278; 1932 Code Section 3278; 1927 (35) 367.

**SECTION 48‑23‑70.** Unlawful acts; penalties.

 (A) It is unlawful for a person to:

 (1) remove a shrub, tree, or forest product or attempt to do so, from State Commission of Forestry land without the permission of the commission;

 (2) cut or mutilate a shrub or tree growing on State Commission of Forestry land without the permission of the commission;

 (3) mutilate or deface real or personal property belonging to or located upon State Commission of Forestry land;

 (4) destroy scenic values, by dumping rubbish or in any other way whatsoever, within the confines of State Commission of Forestry lands; or

 (5) consume or display an alcoholic beverage in public on lands of the State Commission of Forestry, except where specifically authorized by the commission. For purposes of this item, "alcoholic beverage" means "alcoholic beverage" as defined in Section 61‑6‑20, and beer, wine, and all other beverages defined as "nonalcoholic beverages" in Section 61‑4‑10.

 (B) A person who violates a provision of subsection (A) is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not more than two hundred dollars or imprisonment for not more than thirty days, or both.

 (C) In addition to the penalties provided in subsection (B), a person who is convicted of violating a provision of items (1) through (4) of subsection (A) must make restitution to the State Commission of Forestry in an amount determined by the sentencing court to be necessary to clean up, repair, rebuild, and restore the abused real and personal property of the State Commission of Forestry to its condition before the abuse occurred. The sentencing court must also set the time limits within which the restitution must be paid and retains jurisdiction of the case for the purpose of enforcing the order for restitution until restitution is made.

 (D) A person who fails to pay the amount required within the time established for making restitution may be cited for contempt of court by the sentencing court and punished by a fine of not more than the amount originally required for restitution, or imprisonment for not more than six months, or both.

 (E) A person who is convicted of violating a provision of subsection (A) twice within a three‑year period is barred from entering lands belonging to the State Commission of Forestry for a period of one year. A person who enters State Commission of Forestry lands while barred is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not less than two hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days, or both, and his privilege to enter upon lands of the commission is automatically suspended for an additional year.

HISTORY: 1962 Code Section 29‑20; 1952 Code Section 29‑20; 1942 Code Section 3284‑4; 1937 (40) 569; 2002 Act No. 258, Section 1.

**SECTION 48‑23‑80.** General powers of commission.

 The State Commission of Forestry may acquire, own, sell, lease, exchange, transfer, rent, pledge and mortgage real and personal property and cooperate with all agencies of the Federal Government in all matters pertaining to reforestation and providing employment for the benefit of the public and may also cooperate with any other department of government of this State to accomplish the intent and purposes of this chapter, and any and all powers deemed necessary for the Commission to conform to any act of Congress or to any rule or regulation promulgated by any duly authorized agency of the Federal Government is hereby vested in the Commission.

HISTORY: 1962 Code Section 29‑6; 1952 Code Section 29‑6; 1942 Code Section 3284‑1; 1933 (38) 503.

**SECTION 48‑23‑85.** Power of commission to negotiate agreements with Federal Agencies for certain services on Federal lands.

 The Forestry Commission may negotiate agreements with Federal Agencies for providing fire, detection, presuppression, and suppression services on Federal lands. The charges for these services must be no less than the cost to the Commission for rendering the services. All receipts from services provided by the Commission must be used to offset the cost of providing the services. When the State Forester determines the assistance received from a federal agency on adjoining private or state lands equals that provided by the state on federal lands, no charges will be made.

HISTORY: 1983 Act No. 151, Part II, Section 12.

**SECTION 48‑23‑86.** Duties of State Forester and Forestry Commission with respect to forest disasters; development of Forest Disaster Plan.

 The State Forester shall take immediate action upon report of a forest disaster to determine the extent of damage by conducting ground and aerial surveys including photography if necessary. When conditions warrant, the State Forester shall declare that a forest disaster exists and notify the Governor of his action.

 All necessary resources of the Forestry Commission may be used to assist citizens and local governments on public and private land where life or health is in danger. The Forestry Commission shall also assist other state agencies, utility companies and cooperatives, in the clearing of transportation routes, and power and communication lines.

 The Forestry Commission shall develop a Forest Disaster Plan to provide for systematic salvage and utilization of all forest products damaged by disasters of all types. This plan shall provide methods to coordinate all forestry community interests and groups to conserve the damaged forest resources of South Carolina, protect the environment and reestablish forests on the damaged areas.

 After the disaster area has resumed normal status and salvage is completed, the State Forester shall declare the forest disaster over, compile a report of the disaster, and inform the Governor.

HISTORY: 1986 Act No. 417, Section 1.

**SECTION 48‑23‑90.** General duties of commission.

 The Commission shall inquire into and make an annual report to the General Assembly upon the forest conditions in the State, with reference to the preservation of forests, the effect of the destruction of forests upon the general welfare of the State and other matters pertaining to the subject of forestry and tree growth, including recommendations to the public generally as to reforestation.

 It shall take such action and afford such organized means as may be necessary to prevent, control and extinguish fires, including the enforcement of any and all laws pertaining to the protection of the forests and woodlands of the State.

 It shall give such advice, assistance and cooperation as may be practical to private owners of land and promote, so far as it may be able, a proper appreciation by the public of the advantages of forestry and the benefits to be derived from forest culture and preservation.

 It shall cooperate with the Federal Government in the distribution of funds allotted to the State for forestry purposes and shall assist in the enforcement of all laws pertaining thereto. It shall have the control of the expenditure of all funds received by it.

HISTORY: 1962 Code Section 29‑7; 1952 Code Section 29‑7; 1942 Code Section 3279; 1932 Code Section 3279; 1927 (35) 367.

**SECTION 48‑23‑95.** Official summons form for making arrests; disposition of charges.

 The State Commission of Forestry shall prescribe and prepare a special official summons form to be used exclusively by its law enforcement officers in making arrests for misdemeanors triable in magistrate's court.

 A person charged with these offenses, upon service of the commission summons by a law enforcement officer, shall appear in the court therein named at the time and place designated and the service shall vest in the court jurisdiction to hear and dispose of the charge for which the summons was issued.

HISTORY: 1982 Act No. 278, Section 1; 2004 Act No. 233, Section 1.

**SECTION 48‑23‑96.** Appointment of officers to carry out law enforcement responsibilities of commission; terms; removal.

 The State Forestry Commission shall appoint law enforcement officers whose terms of office must be permanent unless revoked by the commission. Officers may be removed by the commission on proof satisfactory to it that they are not fit persons for these commissions. These officers shall carry out the law enforcement responsibilities of the commission.

HISTORY: 1982 Act No. 381, Section 1; 2004 Act No. 233, Section 2.

**SECTION 48‑23‑97.** Wood load tickets required for certain ticket sales; exceptions; penalties.

 (A) Except as provided in this section, whenever a timber buyer or timber operator purchases trees, timber, or wood by the load directly from a timber grower and the load is sold by weight, cord, or measure of board feet, the timber buyer or timber operator must furnish the timber grower or seller within thirty days of the completion of the timber harvest a separate, true, and accurate wood load ticket for each and every load of wood removed from the seller's property. At a minimum, each wood load ticket must include in writing that is clearly legible the following:

 (1) the ticket number;

 (2) the name and address of the person, and the location of the facility receiving, weighing, scaling, or measuring the trees, timber, or wood;

 (3) the date the trees, timber, or wood was received at the facility;

 (4) the tract name or landowner;

 (5) county and state of origin;

 (6) the dealer's name if any;

 (7) the producer or logging company name;

 (8) the species of wood;

 (9) the type of product;

 (10) the weight or scale information:

 (a) if the load is measured by weight, the gross, tare, and net weights must be shown; or

 (b) if the load is measured by scale, the total volume must be shown; and

 (11) the weight, scale, or amount of wood deducted and the deduction classification.

 (B) The provisions of this section do not apply to:

 (1) the sale of wood for firewood only;

 (2) a landowner harvesting and processing his own timber; and

 (3) bulk or lump‑sum sales for an agreed total price for all timber purchased and sold in one transaction.

 (C) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or imprisoned for not more than thirty days, or both.

HISTORY: 2002 Act No. 288, Section 2.

**SECTION 48‑23‑100.** Growth and sale of forest tree seedlings and transplants; restrictions; receipts to revolving fund; purchase for resale and revolving fund.

 The State Commission of Forestry may grow and sell tree seedlings and transplants to landowners desiring to plant them for reforestation, wildlife, and Christmas tree purposes.

 No trees may be sold by the commission under the provisions of this section that are to be planted for table trees, potted trees, or shade trees or for ornamental use. Nothing in this section may be construed to prohibit the commission from growing seedlings or transplants for distribution to be planted on state or federal lands, public school grounds, and other public institutions or along state highways.

 All receipts from the sale of tree seedlings or transplants under the provisions of this section must be retained by the Forestry Commission for use by the commission in the operation of forest tree nurseries and seed orchards.

 The commission may refund deposits placed with it for tree seedling orders.

 When demand for forest tree seedlings from landowners in this State exceeds the supply available from commission nurseries, the commission may purchase seedlings for resale at cost plus shipping and one dollar a thousand for administrative costs. The revenue received from the resale and distribution of these seedlings must be retained in a seedling purchase revolving fund and expended only for that purpose.

HISTORY: 1962 Code Section 29‑12; 1952 Code Section 29‑12; 1942 Code Section 3283; 1932 Code Section 3283; 1929 (36) 184; 1992 Act No. 501, Part II, Section 16; 1994 Act No. 497, Part II, Section 4.

**SECTION 48‑23‑110.** Conveyance of State‑owned wasteland to commission.

 The State Fiscal Accountability Authority shall convey to the State Commission of Forestry certain wastelands now owned by such authority or hereafter owned by the State, as in the judgment of the authority may be to the interest of the State for forestry development, reforestation or other uses of the State Commission of Forestry.

 Upon the sale of trees, timber or other articles or things upon such lands conveyed to the Commission by the Board or upon the sale of such lands so conveyed, the Commission shall pay to the Board a sum equal to the amount chargeable against such lands at the time of such conveyance.

HISTORY: 1962 Code Section 29‑13; 1952 Code Section 29‑13; 1942 Code Section 3284; 1932 Code Section 3284; 1929 (36) 184.

Code Commissioner's Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

**SECTION 48‑23‑120.** Acquisition of real estate for timber production and other purposes.

 The State Commission of Forestry may acquire, by purchase, gift or otherwise, submarginal agricultural lands and cut over forest lands in this State at an average price not to exceed five dollars per acre and in no event above ten dollars per acre and use such lands for timber production, demonstration in forestry practice, erosion and flood prevention, game sanctuaries, public shooting grounds and places of general recreation.

HISTORY: 1962 Code Section 29‑14; 1952 Code Section 29‑14; 1942 Code Section 3284‑1; 1933 (38) 503.

**SECTION 48‑23‑130.** Acquisition of lands for state forests.

 The State Commission of Forestry may enter into agreements with the Federal Government or other agencies for acquiring by lease, purchase or otherwise such lands as in the judgment of the Commission are desirable for State forests. When lands are acquired or leased under this section the Commission may make expenditures from any funds not otherwise obligated for the management, development and utilization of such areas and may sell or otherwise dispose of products from such lands and make such rules and regulations as may be necessary to carry out the purposes of this section.

HISTORY: 1962 Code Section 29‑15; 1952 Code Section 29‑15; 1942 Code Section 3284‑3; 1935 (39) 150, 1214; 1941 (42) 1314.

**SECTION 48‑23‑132.** Purposes for which revenues from specified sources may be used.

 Revenue received from hunting privileges, rentals, fuel wood sales, the marketing of pine straw, merchantable timber, forest tree seed, and miscellaneous products on commission lands, excluding Sand Hills State Forest, must be retained by the commission to be used for reforestation of the Manchester State Forest, the development and operation of state forests and forest tree seed orchards, the maintenance of wildlife habitat, and the administration and operation of various programs on commission holdings. The commission may carry forward unexpended funds under this section to be used for those purposes.

HISTORY: 1994 Act No. 497, Part II, Section 9.

**SECTION 48‑23‑135.** Authorization to borrow; amount and terms.

 In order to finance the cost of acquiring land for use as a second generation tree seed orchard, additional seedling production facilities, and field offices, the State Forestry Commission may borrow from one or more financial institutions or from whatever other source is appropriate not exceeding two million dollars for a period of time as needed, not exceeding twenty years, and upon the terms and conditions the commission, with the approval of the State Fiscal Accountability Authority, agrees upon.

HISTORY: 1983 Act No. 66, Section 1; 1987 Act No. 170, Part II, Section 46; 1988 Act No. 658, Part II, Section 44.

Code Commissioner's Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

**SECTION 48‑23‑136.** Pledge of revenue.

 Notwithstanding any other provision of law, for the payment of the loan and the interest thereon, there is annually pledged all revenues derived from the sale of timber from Forestry Commission lands which exceed the amount of one hundred eight thousand, six hundred seventy dollars to be credited to the General Fund of the State and those funds designated for allocation to counties under the provisions of Section 48‑23‑260 of the 1976 Code, and all donations and revenues made available to the Commission for this purpose. Each year, after allocation of revenue from timber sales to the General Fund, counties, and the payment of principal and interest on the loan, any remaining funds may be used for the reforestation of Forestry Commission lands cut pursuant to this section and Section 48‑23‑135. Any unexpended balance at the close of each fiscal year must be carried forward and expended in accordance with the provisions of this section and Section 48‑23‑135.

HISTORY: 1983 Act No. 66, Section 2.

**SECTION 48‑23‑140.** Acceptance of gifts, conveyances, and leases.

 The State Commission of Forestry may accept and hold gifts, donations or contributions from individuals, associations, corporations, counties, municipalities, the Federal Government or other agencies and may acquire real estate for purposes within the powers and duties of the Commission. Any gift, donation or contribution accepted and held by the Commission under the provisions of this section shall be used for the purpose specified by the donor. The Commission may accept conveyances and leases of real and personal property for, in the name of, and on behalf of the State from the Secretary of the Interior of the United States, subject to the terms and conditions of the act of Congress of June 6, 1942 (56 US Statutes 326).

HISTORY: 1962 Code Section 29‑16; 1952 Code Section 29‑16; 1942 Code Sections 3281, 3282; 1932 Code Sections 3281, 3282; 1927 (35) 367; 1929 (36) 194; 1944 (43) 1318.

Code Commissioner's Note

56 Stat. 326 was repealed by 61 Stat. 209. See former 15 USCA Section 609r.

**SECTION 48‑23‑145.** Compensation supplements paid to personnel of State Commission of Forestry.

 Compensation supplements paid commission personnel by counties or other political subdivisions, or both, must not be extended to additional employees nor increased.

HISTORY: 1994 Act No. 497, Part II, Section 8A.

**SECTION 48‑23‑150.** Disbursement of funds.

 All of such funds shall be disbursed by the State Treasurer upon warrants drawn by the State Commission of Forestry.

HISTORY: 1962 Code Section 29‑17; 1952 Code Section 29‑17; 1942 Code Section 3281; 1932 Code Section 3281; 1927 (35) 367.

**SECTION 48‑23‑160.** Sale, exchange, or lease of lands.

 The Commission may sell, exchange or lease lands under its jurisdiction when in its judgment it is advantageous to the State to do so for the most orderly development and management of State forests, except that no such sale, lease or exchange shall be contrary to the terms of any contract which the Commission has entered into.

HISTORY: 1962 Code Section 29‑18; 1952 Code Section 29‑18; 1942 Code Section 3284‑3; 1935 (39) 150, 1214; 1941 (42) 1314.

**SECTION 48‑23‑170.** Execution of deeds, mortgages, or contracts.

 Whenever it shall become necessary to execute deeds, mortgages or contracts to carry out any of the provisions of this chapter the Commission may, by resolution duly adopted, delegate the execution and delivery of any such documents to the chairman of the Commission and the State Forester. Such instruments shall be executed in the name of the State Commission of Forestry, shall be signed by the chairman and by the State Forester and, in case of deeds or mortgages, shall be witnessed and probated as required by law. Such instruments, when so authorized by resolution of the Commission, executed as above set out and delivered, shall be in all respects the acts of the State Commission of Forestry and shall be binding upon it as fully as if executed by the members of the Commission themselves.

HISTORY: 1962 Code Section 29‑18.1; 1952 Code Section 29‑18.1; 1951 (47) 273.

**SECTION 48‑23‑180.** Marking and tallying forestry products.

 The State Commission of Forestry may mark or tally trees under approved forestry practices preparatory to the cutting or using of such trees for lumber, veneer, poles, piling, pulpwood, cordwood and all other forest products when and if requested by the landowner or his agent. The landowner or his agent shall pay to the Commission for such services for forested tracts of five hundred acres or less five per cent of the sale price of the stumpage so marked within thirty days following the removal of the timber or ten per cent of the agreed upon value of the products so marked and for all forested tracts in excess of five hundred acres such amount on the first five hundred acres and twenty per cent of the sale price of the stumpage so marked upon all acres in excess of five hundred. Such amount shall be paid by the Commission to the State Treasurer and by him credited to the Federal revolving fund now in existence, for use for the purpose of this section and for general forestry purposes.

HISTORY: 1962 Code Section 29‑19; 1952 Code Section 29‑19; 1942 Code Section 3284‑6; 1941 (42) 245.

**SECTION 48‑23‑190.** Telephone line attachments to commission's poles; charges.

 The State Commission of Forestry may permit telephone line attachments to its poles under such terms and conditions as the Commission deems advisable and charge standard rental rates therefor. But before the Commission shall grant authority for such attachments it shall require the applicant to sign an agreement prescribed by the Commission, setting forth the terms and conditions under which such attachments shall be installed and maintained.

HISTORY: 1962 Code Section 29‑21; 1952 Code Section 29‑21; 1947 (45) 477.

**SECTION 48‑23‑200.** Rules and regulations.

 The State Commission of Forestry may make such rules and regulations as it deems advisable for the protection, preservation, operation and maintenance, and for the most beneficial service to the general public, of the State forests in this State.

HISTORY: 1962 Code Section 29‑22; 1952 Code Section 29‑22; 1942 Code Section 3284‑4; 1937 (40) 569.

**SECTION 48‑23‑205.** Local regulation of development affecting forest land.

 (A) For purposes of this section:

 (1) "Development" means any activity, including timber harvesting, that is associated with the conversion of forestland to nonforest or nonagricultural use.

 (2) "Forestland" means land supporting a stand or potential stand of trees valuable for timber products, watershed or wildlife protection, recreational uses, or for other purposes.

 (3) "Forest management plan" means a document or documents prepared or approved by a forester registered in this State that defines a landowner's forest management objectives and describes specific measures to be taken to achieve those objectives. A management plan shall include silvicultural practices, objectives, and measures to achieve them, that relate to a stand or potential stand of trees that may be utilized for timber products, watershed or wildlife protection, recreational uses, or for other purposes.

 (4) "Forestry activity" includes, but is not limited to, timber harvest, site preparation, controlled burning, tree planting, applications of fertilizers, herbicides, pesticides, weed control, animal damage control, fire control, insect and disease control, forest road construction, and any other generally accepted forestry practices.

 (B) A county or municipality must not adopt or enforce any ordinance, rule, regulation, resolution, or permit related to forestry activities on forestland that is:

 (1) taxed on the basis of its present use value as forestland under Section 12‑43‑220(d);

 (2) managed in accordance with a forest management plan;

 (3) certified under the Sustainable Forestry Initiative, the Forest Stewardship Council, the American Forest Foundations Tree Farm System, or any other nationally recognized forest certification system;

 (4) subject to a legally binding conservation easement under which the owner limits the right to develop or subdivide the land; or

 (5) managed and harvested in accordance with the best management practices established by the State Commission of Forestry pursuant to Section 48‑36‑30.

 (C) This section does not limit, expand, or otherwise alter the authority of a county or municipality to:

 (1) regulate activities associated with development, provided that a county or municipality requires a deferral of consideration of an application for a building permit, a site disturbance or subdivision plan, or any other approval for development that if implemented would result in a change from forest land to nonforest or nonagricultural use, the deferral may not exceed a period of up to:

 (a) one year after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees from the specific area included in a building permit, site disturbance or subdivision plan in item (1), and the removal qualified for an exemption contained in subsection (B); or

 (b) five years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees from the specific area included in a building permit, site disturbance or subdivision plan in item (1), and the removal qualified for an exemption contained in subsection (B) for which the permit or approval is sought and the harvest was a wilful violation of the county regulations;

 (2) regulate trees pursuant to any act of the General Assembly;

 (3) adopt ordinances that are necessary to comply with any federal or state law, regulation, or rule; or

 (4) exercise its development permitting, planning, or zoning authority as provided by law.

 (D) A person whose application for a building permit, a site disturbance or subdivision plan, or any other approval for development is deferred pursuant to the provisions contained in this section may appeal the decision to the appropriate governmental authority.

HISTORY: 2009 Act No. 48, Section 1, eff June 2, 2009.

**SECTION 48‑23‑210.** Pledge of income for repayment of labor costs pertaining to reforestation.

 The Commission may pledge fifty per cent of the net income from lands acquired under Section 48‑23‑120 for the repayment of labor costs incurred under Federal laws pertaining to reforestation, should such be made a requisite by the Federal Government.

HISTORY: 1962 Code Section 29‑23; 1952 Code Section 29‑23; 1942 Code Section 3284‑1; 1933 (38) 503.

**SECTION 48‑23‑220.** Borrowing by commission.

 The State Commission of Forestry may borrow from time to time sums of money not exceeding five hundred thousand dollars from any source available and issue evidences of indebtedness therefor in the form of notes or bonds, as may be determined by the Commission, at a rate of interest not exceeding six per cent per annum, payable either annually or semiannually, as the Commission may determine, and with such maturities as may be determined by the Commission, not exceeding, however, twenty years from the date of issue of the first obligation issued hereunder. The Commission may secure any sums borrowed under the terms hereof by mortgage of any property owned by it and it may also pledge any and all income of every kind and pledge any and all rents, incomes, issues and profits accruing to it from any of its properties and any rights or privileges accruing to it under any contract of sale or lease. Unless otherwise provided herein, all of the details of any loan and the manner of execution of the evidences of indebtedness and of the mortgages or other security authorized to be pledged shall be within the discretion of the Commission.

HISTORY: 1962 Code Section 29‑24; 1952 Code Section 29‑24; 1942 Code Section 3284‑1; 1933 (38) 503.

**SECTION 48‑23‑230.** Liability of State for commission's obligations; source of funds for repayment.

 The State is in no manner liable for any debt incurred under the terms of Section 48‑23‑220 but all such obligations shall be met by the State Forestry Commission out of moneys coming into its hands from the property pledged and at least fifty per cent of its income from sales, issues, rents, profits and leases shall be applied annually to the payment of principal and interest due on any such loan.

HISTORY: 1962 Code Section 29‑25; 1952 Code Section 29‑25; 1942 Code Section 3284‑1; 1933 (38) 503.

**SECTION 48‑23‑240.** Liability of State for obligations for acquisition of land.

 Obligations for the acquisition of land incurred by the Commission under the authority of Section 48‑23‑130 shall be paid solely and exclusively from revenues derived from such lands and shall not impose any liability upon the general credit and taxing power of the State.

HISTORY: 1962 Code Section 29‑26; 1952 Code Section 29‑26; 1942 Code Section 3284‑3; 1935 (39) 150, 1214; 1941 (42) 1314.

**SECTION 48‑23‑250.** Use of revenues from land; generally.

 The revenues derived from lands owned by the Commission shall be segregated by the State Treasurer for the use of the Commission in the acquisition, management, development and use of such lands until all obligations incurred have been paid in full. Fifty per cent of all net profits accruing from the administration of such lands shall be applicable for such purposes as the General Assembly may prescribe and fifty per cent shall be paid into the school fund of the county in which the lands are located.

HISTORY: 1962 Code Section 29‑28; 1952 Code Section 29‑28; 1942 Code Section 3284‑3; 1935 (39) 150, 1214; 1941 (42) 1314.

**SECTION 48‑23‑260.** Sharing state forest land revenues with counties.

 The State Treasurer shall pay to any county containing State forest lands an amount equal to twenty‑five per cent of the gross proceeds received by the State in each fiscal year from the sale of timber, pulpwood, poles, gravel, land rentals and other privileges on such State forest lands in any such county. This provision shall apply to all State forest lands managed or operated by the State Commission of Forestry whether they be owned in fee by the State or leased from the United States, but this provision shall not apply to State parks. The funds herein provided for shall be spent for general school purposes. Where a particular State forest lies in more than one county or school district, the funds derived from such State forest and to be paid by the State Treasurer shall be apportioned on the basis of land acreage involved. All funds distributed under the provisions of this section shall be spent upon the approval of a majority of the county legislative delegation, including the Senator.

HISTORY: 1962 Code Section 29‑29; 1957 (50) 277; 1958 (50) 1546.

**SECTION 48‑23‑265.** Payment to landowner for forest products purchased; penalties.

 (A)(1) A person who purchases forest products directly from a landowner possessing lands in this State, and who has received payment for the forest products from a sale to a third party, must make payment in full to the landowner within forty‑five days of the receipt of payment.

 (2) If the landowner has not received payment within the required forty‑five days, the landowner must send written notice, by certified mail or by personal delivery, to the purchaser's last known address stating the landowner's demand for payment. The purchaser violates the provisions of this section and is subject to a criminal penalty if he knowingly and wilfully fails to make payment in full to the landowner within ten days after receiving this notice.

 (3) This section does not apply to a written agreement signed between the landowner and the purchaser providing for a means of payment other than the one provided for in this section.

 (B) If the value of the forest products is less than five thousand dollars, a person who violates the provisions of subsection (A) is guilty of a misdemeanor and, upon conviction, must be punished:

 (1) if the value of the forest products is five hundred dollars or less:

 (a) for a first offense, by a fine of not less than fifty dollars nor more than two hundred dollars or by imprisonment for not more than thirty days; or

 (b) for a second or subsequent offense, by a fine of two hundred dollars or by imprisonment for not more than thirty days;

 (2) if the value of the forest products is more than five hundred dollars but less than five thousand dollars:

 (a) for a first offense, by a fine of not less than three hundred dollars nor more than five hundred dollars or by imprisonment for not more than thirty days; or

 (b) for a second or subsequent offense, by a fine of not more than five hundred dollars or by imprisonment for not more than thirty days, or both.

 (C) If the value of the forest products is five thousand dollars or more, a person who violates subsection (A) is guilty of a felony and, upon conviction, must be punished:

 (1) for a first offense by a fine of not less than three hundred dollars nor more than one thousand dollars or by imprisonment for not more than two years, or both; or

 (2) for a second or subsequent offense by a fine of not less than five hundred dollars nor more than two thousand dollars and imprisonment for not less than thirty days nor more than ten years.

 (D) The court shall order restitution to the victim as a mandatory condition of the sentence imposed.

 (E) If the value of the forest products is five thousand dollars or more, in addition to the penalties provided in this section, all motor vehicles, conveyances, tractors, trailers, watercraft, vessels, tolls, and equipment of any kind used or positioned for use in acquiring, cutting, harvesting, manufacturing, producing, processing, delivering, importing, or exporting the forest products are subject to confiscation and forfeiture pursuant to Section 16‑13‑177.

 (F) As used in this section, "forest products" include, but are not limited to, timber, trees, logs, lumber, or pine straw or any other products in the forest, whether merchantable or nonmerchantable, and which are located on any land in this State, whether publicly or privately owned.

 (G) As used in this section, "conviction" includes a guilty plea, plea of nolo contendere, or the forfeiture of bail.

HISTORY: 2004 Act No. 273, Section 2.

**SECTION 48‑23‑270.** Use of revenue for scrub oak eradication, reforestation, timber stand improvement, and harvest cutting in state parks.

 (1) The State Commission of Forestry is hereby authorized to expend annually an amount not to exceed one half the total receipts derived annually from the State parks (sale of timber products only) under the administration of the Commission in order to commence a program not exceeding seven years to carry out scrub oak eradication operations, timber stand improvement and other management activities on State park lands and for the reforestation of such treated areas. Provided, the State Commission of Forestry shall first expand such funds as are derived hereunder for necessary reforestation projects and fixtures within the park from which timber has been cut and only thereafter shall such funds be expended on other State parks. The other half of the total receipts derived annually from the State parks and all unexpended funds, at the end of each fiscal year, heretofore herein authorized to be spent by the State Commission of Forestry for the purposes herein stated, shall be deposited to the general fund of the State. Provided, the State Treasurer shall pay to any county containing State park lands an amount equal to twenty‑five per cent of the gross proceeds received by the State in each fiscal year from the sale of timber, pulpwood, and other timber products on such State park lands in any such county, which said payments shall be in lieu of taxes. This provision shall apply to all State park lands managed or operated by the State Commission of Forestry whether they be owned in fee by the State or leased from the United States and irrespective of Section 48‑23‑260. Where a particular State park lands lies in more than one county, the funds derived from such State park lands and to be paid by the State Treasurer shall be apportioned on the basis of land acreage involved. All funds distributed under the provision of this section shall be spent upon the approval of a majority of the county legislative delegations, including the Senator. The Commission may enter into contracts with such persons as may be necessary in order to carry out the provisions of this section. All timber shall be cut consistent with good forestry practices and such cutting shall not impair the value of the State parks as to beauty or for recreational purposes and no such timber shall be cut without the approval of the Department of Administration. (2) The program herein authorized shall commence as soon as is practicable after June 8, 1965. Provided, that no expenditures or contracts authorized by this section shall be made without the approval of the Department of Administration.

HISTORY: 1962 Code Section 29‑29.1; 1965 (54) 684.

Code Commissioner's Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

**SECTION 48‑23‑280.** Use of revenue for scrub oak eradication and reforestation in Manchester and Sandhills State Forests.

 The Commission may expend annually an amount not to exceed the total receipts derived annually from the State forests under the administration of the Commission in order to commence a program not exceeding seven years to carry out scrub oak eradication operations on the Manchester and Sandhills State Forests and for the reforestation of such treated areas at a minimum rate of four thousand acres annually. The Commission may enter into contracts with such persons as may be necessary in order to carry out the provisions of this section. The program authorized in this section shall commence as soon as is practicable after May 24, 1960. No expenditures or contracts authorized by this section shall be made without the approval of the State Fiscal Accountability Authority. The provisions of this section shall in no way affect the provisions of Section 48‑23‑260.

HISTORY: 1962 Code Section 29‑30; 1960 (51) 2080.

Code Commissioner's Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

**SECTION 48‑23‑290.** Use of income from Sandhills State Forest and Carolina Sandhills National Wildlife Refuge.

 The State Commission of Forestry may use the income from the Sand Hills State Forest, with the approval of the State Department of Administration, for the operation, development, and obligations of the forest and other purposes. Income not expended in one year must be retained by the commission and carried forward each year for use pursuant to this section. The commission shall promulgate regulations necessary to carry out this section.

HISTORY: 1962 Code Section 29‑30.1; 1967 (55) 279; 1991 Act No. 93, Section 1.

Code Commissioner's Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

**SECTION 48‑23‑295.** Forestry services to landowners; fees; disposition; forestry services to local governments and state agencies; reimbursement.

 (A) The State Commission of Forestry may make available forestry services consisting of scientific, technical, and practical services to landowners of the State to assist them in the afforestation, reforestation, and maximum production of their woodland. These services consist of specialized equipment and operators or rental of the equipment to perform labor and services necessary to carry out approved forestry practices including mechanical and chemical site preparation, processing forest tree seed, forest tree planting, insect and disease control, prescribed burning, firebreak plowing, and other appropriate practices to assist landowners in maximum production of their woodland.

 (B) For the services or rentals a reasonable fee representing the commission's estimate of not less than the cost of the services or rentals must be charged. When the State Forester considers it in the public interest the services may be provided without charge to encourage the use of approved scientific forestry practices on private or other forestlands within the State or for the purposes of providing practical demonstrations of the practices.

 (C) One hundred percent of the receipts from these activities and rentals must be retained by the commission for administration and operation of the forestry services program in the units which the estimated costs determine the fees charged generating these receipts, provided, the receipts from processing forest tree seed may be used agencywide. The administration of this section is under the State Forester. The landowner shall compensate the commission according to rates established by it. The commission may carry forward unexpended funds under this subsection to be used for these purposes.

 (D) The commission may cooperate and offer the same services to counties, municipalities, and state agencies and make the forestry services and rental equipment available to them. Counties, municipalities, and state agencies shall reimburse the commission according to its fee schedule.

HISTORY: 1981 Act No. 178, Part II, Section 9; 1992 Act No. 468, Section 1.

**SECTION 48‑23‑300.** Major facility projects may not seek rating points which discriminate against State wood products.

 A major facility project as defined in Section 48‑52‑810(10) requesting third‑party certification shall not be allowed to seek a rating point that would discriminate against wood products of this State derived from forest lands certified by the Sustainable Forestry Initiative or the American Tree Farm System.

HISTORY: 2013 Act No. 60, Section 1, eff June 7, 2013.