

Article 74.

Acquisition and Control of State Forests and State Recreational Forests.

§ 106-870. Policy and plan to be inaugurated by Department of Agriculture and Consumer Services.

(a) In this Article, unless the context requires otherwise, "Department" means the Department of Agriculture and Consumer Services and "Commissioner" means Commissioner of Agriculture.

(b) For purposes of this Chapter, "State recreational forest" means a forest managed primarily for natural resource preservation, scenic enjoyment, and recreational purposes.

(c) The Department shall inaugurate the following policy and plan looking to the cooperation with private and public forest owners in this State insofar as funds may be available through legislative appropriation, gifts of money or land, or such cooperation with landowners and public agencies as may be available:

- (1) The extension of the forest fire prevention organization to all counties in the State needing such protection.
- (2) To cooperate with federal and other public agencies in the restoration of forest growth on land unwisely cleared and subsequently neglected.
- (3) To furnish trained and experienced experts in forest management, to inspect private forestlands and to advise with forest landowners with a view to the general observance of recognized and practical rules of growing, cutting, and marketing timber. The services of such trained experts of the Department must naturally be restricted to those landowners who agree to carry out so far as possible the recommendations of said Department.
- (4) To prepare and distribute printed and other material for the use of teachers and club leaders and to provide instruction to schools and clubs and other groups of citizens in order to train the younger generation in the principles of wise use of our forest resources.
- (5) To acquire small areas of suitable land in the different regions of the State on which to establish small, model forests which shall be developed and used by the said Department as State demonstration forests for experiment and demonstration in forest management. (2011-145, s. 13.25(o).)

§ 106-871. Growing of timber on unused State lands authorized.

The Department of Administration may allocate to the Department, for management as a State forest, any vacant and unappropriated lands, any marshlands or swamplands, and any other lands title to which is vested in the State or in any State agency or institution, where such lands are not being otherwise used and are not suitable for cultivation. Lands under the supervision of the Wildlife Resources Commission and designated and in use as wildlife management areas, refuges, or fishing access areas and lands used as research stations shall not be subject to the provisions of this section. The Department shall plant timber-producing trees on all lands allocated to it for that purpose by the Department of Administration. The Commissioner may contract with the appropriate prison authorities for the furnishing, upon such conditions as may be agreed upon from time to time between such prison authorities and the Commissioner, of prison labor for use in the planting, cutting, and removal of timber from State forests which are under the management of the Department. (2011-145, s. 13.25(o).)

§ 106-872. Use of lands acquired by counties through tax foreclosures as demonstration forests.

The boards of county commissioners of the various counties of North Carolina are herewith authorized to turn over to the said Department title to such tax-delinquent lands as may have been acquired by said counties under tax sale and as in the judgment of the Commissioner may be suitable for the purposes named in subdivision (5) of subsection (c) of G.S. 106-870. (2011-145, s. 13.25(o).)

§ 106-873. Procedure for acquisition of delinquent tax lands from counties.

In the carrying out of the provisions of G.S. 106-872, the several boards of county commissioners shall furnish forthwith on written request of the Department a complete list of all properties acquired by the county under tax sale and which have remained unredeemed for a period of two years or more. On receipt of this list, the Commissioner shall have the lands examined and, if any one or more of these properties is in the Commissioner's judgment suitable for the purposes set forth in G.S. 106-872, request shall be made to the county commissioners for the acquisition of such land by the Department at a price not to exceed the actual amount of taxes due without penalties. On receipt of this request, the county commissioners shall make permanent transfer of such tract or tracts of land to the Department through fee-simple deed or other legal transfer, said deed to be approved by the Attorney General of North Carolina, and shall then receive payment from the Department as above outlined. (2011-145, s. 13.25(o).)

§ 106-874. Purchase of lands for use as demonstration forests.

Where no suitable tax-delinquent lands are available and, in the judgment of the Department, the establishment of a demonstration forest is advisable, the Department may purchase sufficient land for the establishment of such a demonstration forest at a fair and agreed-upon price, the deed for such land to be subject to approval of the Attorney General, but nothing in G.S. 106-870 to G.S. 106-875 shall allow the Department to acquire land under the right of eminent domain. (2011-145, s. 13.25(o).)

§ 106-875. Forest management appropriation.

Necessary funds for carrying out the provisions of G.S. 106-870 and G.S. 106-872 to G.S. 106-875 shall be set up in the regular budget as an item entitled "forest management." (2011-145, s. 13.25(o).)

§ 106-876. Power to acquire lands as State forests; donations or leases by United States; leases for recreational purposes.

(a) The Governor may, upon recommendation of the Department, accept gifts of land to the State to be held, protected, and administered by the Department as State forests, and to be used so as to demonstrate the practical utility of timber culture and water conservation, and as refuges for game. The gifts of land must be absolute except in cases where the mineral interest on the land has previously been sold. The Department may purchase lands in the name of the State, suitable chiefly for the production of timber, as State forests, for experimental, demonstration, educational, and protection purposes, using for these purposes any special appropriations or funds available. The Department may acquire by condemnation under the provisions of Chapter 40A of the General Statutes areas of land in different sections of the State that may in the opinion of the Department be necessary for the purpose of establishing or developing State forests and other areas and

developments essential to the effective operation of the State forestry activities under its charge. Condemnation proceedings shall be instituted and prosecuted in the name of the State, and any property so acquired shall be administered, developed, and used for experiment and demonstration in forest management, for public recreation, and for other purposes authorized or required by law. Before any action or proceeding under this section can be exercised, the approval of the Governor and Council of State shall be obtained and filed with the clerk of the superior court in the county or counties where the property is located. The Attorney General shall ensure that all deeds to the State for land acquired under this section are properly executed before the gift is accepted or payment of the purchase money is made.

(b) The Department may accept as gifts to the State any forest and submarginal farmland acquired by the federal government that is suitable for the purpose of creating and maintaining State forests or enter into longtime leases with the federal government for the areas and administer them with funds secured from their administration in the best interest of longtime public use, supplemented by any appropriations made by the General Assembly. The Department may segregate revenue derived from State hunting and fishing licenses, use permits, and concessions, and other proper revenue secured through the administration of State forests, to be deposited in the State treasury to the credit of the Department to be used for the administration of these areas.

(c) The authority granted to the Department under this section is in addition to any authority granted to the Department under any other provision of law. (2011-145, s. 13.25(o).)

§ 106-877. State timber may be sold by Department; forest nurseries; operation of public service facilities; concessions to private concerns; authority to charge fees and adopt rules.

(a) Timber and other products of State forests may be sold, cut, and removed under rules of the Department. The Department may establish and operate forest tree nurseries and forest tree seed orchards. Forest tree seedlings and seed from these nurseries and seed orchards may be sold to landowners of the State for purposes of forestation under rules adopted by the Department. When the Commissioner determines that a surplus of seedlings or seed exists, this surplus may be sold, and the sale shall be in conformity with the following priority of sale: first, to agencies of the federal government for planting in the State of North Carolina; second, to commercial nurseries and nurserymen within this State; and third, without distinction, to federal agencies, to other states, and to recognized research organizations for planting either within or outside of this State. The Department shall make reasonable rules governing the use by the public of State forests under its charge. These rules shall be posted in conspicuous places on and adjacent to the properties of the State and at the courthouse of the county or counties in which the properties are located. A violation of these rules is punishable as a Class 3 misdemeanor.

(b) The Department may construct, operate, and maintain within the State forests and other areas under its charge suitable public service facilities and conveniences, and may charge and collect reasonable fees for the use of these facilities and conveniences. The Department may also charge and collect reasonable fees for hunting privileges on State forests and fishing privileges in State forests, provided that these privileges shall be extended only to holders of State hunting and fishing licenses who comply with all State game and fish laws.

(c) The Department may grant to private individuals or companies concessions for operation of public service facilities for such periods and upon such conditions as the Department deems to be in the public interest. The Department may adopt reasonable rules for the regulation of the use by the public of the lands and waters under its charge and of the public service facilities and

conveniences authorized under this section. A violation of these rules is punishable as a Class 3 misdemeanor.

(d) The authority granted to the Department under this section is in addition to any authority granted to the Department under any other provision of law. (2011-145, s. 13.25(o).)

§ 106-878. Applications of proceeds from sale of products.

(a) Application of Proceeds Generally. – Except as provided in this section, all money received from the sale of wood, timber, minerals, or other products from the State forests shall be paid into the State treasury and to the credit of the Department; and such money shall be expended in carrying out the purposes of this Article and of forestry in general, under the direction of the Commissioner.

(b) Tree Cone and Seed Purchase Fund. – A percentage of the money obtained from the sale of seedlings and remaining unobligated at the end of a fiscal year shall be placed in a special, continuing, and nonreverting Tree Cone and Seed Purchase Fund under the control and direction of the Commissioner. The percentage of the sales placed in the Fund shall not exceed ten percent (10%). At the beginning of each fiscal year, the Commissioner shall select the percentage for the upcoming fiscal year depending upon the anticipated costs of tree cones and seeds which the Department must purchase. Money in this Fund shall not be allowed to accumulate in excess of the amount needed to purchase a four-year supply of tree cones and seed and shall be used for no purpose other than the purchase of tree cones and seeds.

(c) Forest Seedling Nursery Program Fund. – The Forest Seedling Nursery Program Fund is created within the Department of Agriculture and Consumer Services, North Carolina Forest Service, as a special revenue fund. Except as provided in subsection (b) of this section, this Fund shall consist of receipts from the sale of seed and seedlings as authorized in G.S. 106-877 and any gifts, bequests, or grants for the benefit of this Fund. No General Fund appropriations shall be credited to this Fund. Any balance remaining in this Fund at the end of any fiscal year shall not revert. The Department may use this Fund only to develop, improve, repair, maintain, operate, or otherwise invest in the Forest Seedling Nursery Program.

(d) Bladen Lakes State Forest Fund. – The Bladen Lakes State Forest Fund is created within the Department of Agriculture and Consumer Services, North Carolina Forest Service, as a special revenue fund. This Fund shall consist of receipts from the sale of forest products from Bladen Lakes State Forest as authorized in G.S. 106-877 and any gifts, bequests, or grants for the benefit of this Fund. No General Fund appropriations shall be credited to this Fund. Any balance remaining in this Fund at the end of any fiscal year shall not revert. The Department may use this Fund only to develop, improve, repair, maintain, operate, or otherwise invest in the Bladen Lakes State Forest. (2011-145, s. 13.25(o); 2011-391, s. 33(b); 2013-155, s. 11.)

§ 106-879. Legislative authority necessary for payment.

Nothing in this Article shall operate or be construed as authority for the payment of any money out of the State treasury for the purchase of lands or for other purposes unless by appropriation for said purpose by the General Assembly. (2011-145, s. 13.25(o).)

§ 106-880. Distribution of funds from sale of forestlands.

All funds paid by the National Forest Commission, by authority of an act of Congress, approved May 23, 1908, (35 Stat. 260), for the Counties of Avery, Buncombe, Burke, Craven, Haywood, Henderson, Hyde, Jackson, Macon, Montgomery, Swain, Transylvania, Watauga, and

Yancey, shall be paid to the proper county officers, and said funds shall, when received, be placed in the account of the general county funds: Provided, however, that in Buncombe County said funds shall be entirely for the use and benefit of the school administrative unit in which said national forestlands shall be located.

All funds which may hereafter come into the hands of the State Treasurer from like sources shall be likewise distributed. (2011-145, s. 13.25(o).)

§ 106-881. License fees for hunting and fishing on government-owned property unaffected.

No wording in G.S. 113-307.1(a), or any other North Carolina public, local, or special act, shall be construed to abrogate the vested rights of the State of North Carolina to collect fees for license for hunting and fishing on any government-owned land or in any government-owned stream in North Carolina including the license for county, State, or nonresident hunters or fishermen; or upon any lands or in any streams hereafter acquired by the federal government within the boundaries of the State of North Carolina. The lands and streams within the boundaries of the Great Smoky Mountains National Park are exempt from this section. (2011-145, s. 13.25(o).)

§ 106-882. Donations of property for forestry purposes; agreements with federal government or agencies for acquisition.

The Department may accept gifts, donations, or contributions of land suitable for forestry purposes and to 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 Department are desirable for State forests and State recreational forests. (2011-145, s. 13.25(o).)

§ 106-883. Expenditure of funds for development, etc.; disposition of products from lands; rules.

When lands are acquired or leased under G.S. 106-882, the Department may 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, and to make such rules as may be necessary to carry out the purposes of G.S. 106-882 to G.S. 106-886. (2011-145, s. 13.25(o).)

§ 106-884. Disposition of revenues received from lands acquired.

All revenues derived from lands now owned or later acquired under the provisions of G.S. 106-882 to G.S. 106-886 shall be set aside for the use of the Department in acquisition, management, development, and use of such lands until all obligations incurred have been paid in full. Thereafter, fifty percent (50%) 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 percent (50%) shall be paid into the school fund to be used in the county or counties in which lands are located. (2011-145, s. 13.25(o).)

§ 106-885. State not obligated for debts created hereunder.

Obligations for the acquisition of land incurred by the Department under the authority of G.S. 106-882 to G.S. 106-886 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. (2011-145, s. 13.25(o).)

§ 106-886. Disposition of lands acquired.

The Department 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 highest orderly development and management of State forests: Provided, however, said sale, lease, or exchange shall not be contrary to the terms of any contract that it has entered into. (2011-145, s. 13.25(o).)

§ 106-887. Management of DuPont State Recreational Forest.

(a) DuPont State Forest is designated as a State Recreational Forest. The Department shall manage DuPont State Recreational Forest: (i) primarily for natural resource preservation, scenic enjoyment and recreational purposes, including horseback riding, hiking, bicycling, hunting, and fishing; (ii) so as to provide an exemplary model of scientifically sound, ecologically based natural resource management for the social and economic benefit of the forest's diverse community of users; and (iii) consistent with the grant agreement that designates a portion of the forest as a North Carolina Nature Preserve. In addition, the Department may use the forest for the demonstration of different forest management and resource protection techniques for local landowners, natural resource professionals, students, and other forest visitors.

(b) The Department shall adopt a land management plan for DuPont State Recreational Forest, which shall be periodically revised as needed, to (i) provide the ecological context within which management of the forest will be conducted; (ii) describe the desired future condition of natural resources throughout the forest toward which management will be directed; and (iii) outline appropriate management techniques to achieve those desired future conditions.

(c) Notwithstanding subsection (a) of G.S. 106-877, with respect to DuPont State Recreational Forest, the Department may cut and remove timber for forest management purposes only, including for the purposes of fire, pest, and disease prevention and control. The Department may cut, remove, and sell timber for the purpose of revenue generation only upon approval of the Governor and the Council of State.

(d) Notwithstanding G.S. 106-886, with respect to property comprising DuPont State Recreational Forest, the Department may sell, lease, or exchange such property only upon approval of the Governor and the Council of State.

(e) The Department may acquire inholdings or lands adjacent to DuPont State Recreational Forest for recreational purposes, natural resource protection or scenic enjoyment purposes, and other purposes described in G.S. 106-876 as appropriate for a recreational forest, and such acquisitions shall be made in accordance with the provisions of G.S. 106-876.

(f) In accordance with subsection (b) of G.S. 106-877, the Department may construct, operate, and maintain within DuPont State Recreational Forest suitable public service facilities and conveniences, and may charge and collect reasonable fees for the use of these facilities and conveniences. The Department may also charge and collect reasonable fees for hunting and fishing privileges in the forest, provided that these privileges shall be extended only to holders of State hunting and fishing licenses who comply with all State game and fish laws.

(g) In accordance with subsection (c) of G.S. 106-877, the Department may grant to private individuals or companies concessions for operation of public service facilities for such periods and upon such conditions as the Department deems to be in the public interest.

(h) The Department shall adopt rules for operation and management of DuPont State Recreational Forest in consultation with interested parties, including, but not limited to, local governments with jurisdiction over the area, the Friends of DuPont Forest, and other stakeholders

with interests in the property for recreation and protection of its wildlife populations, water quality, biodiversity, or historical and cultural value.

(i) The Department shall report no later than October 1 of each year to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the chairs of the Senate Appropriations Committee on Agriculture, Natural, and Economic Resources, the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission on the Department's management activities at DuPont State Recreational Forest during the preceding fiscal year and plans for management of DuPont State Recreational Forest for the upcoming fiscal year. (2011-145, s. 13.25(o); 2013-155, s. 12; 2013-360, s. 14.3(h); 2020-78, s. 5.1(f).)

§ 106-888: Reserved for future codification purposes.

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§ 106-890: Reserved for future codification purposes.

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