

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 388
PROPOSED COMMITTEE SUBSTITUTE S388-PCS35238-RIF-18

Short Title: Transfer Forestry & Forestry Council to DACS.

(Public)

Sponsors:

Referred to:

March 22, 2011

A BILL TO BE ENTITLED

AN ACT TO TRANSFER THE DIVISION OF FOREST RESOURCES AND THE FORESTRY COUNCIL OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES AND TO MAKE CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Division of Forest Resources is transferred from the Department of Environment and Natural Resources to the Department of Agriculture and Consumer Services with all the elements of a Type I transfer as defined by G.S. 143A-6.

SECTION 1.(b) G.S. 143B-279.3(a) reads as rewritten:

"(a) All functions, powers, duties, and obligations previously vested in the following subunits of the following departments are transferred to and vested in the Department of Environment and Natural Resources by a Type I transfer, as defined in G.S. 143A-6:

...

~~(6) Forest Resources Division, Department of Natural Resources and Community Development.~~

...."

SECTION 1.(c) Article 7 of Chapter 143A of the General Statutes is amended by adding a new section to read:

"§ 143A-65.1. Division of Forest Resources.

The Department of Agriculture and Consumer Services shall have charge of the work of forest maintenance, forest fire prevention, reforestation, and the protection of lands and water supplies by the preservation of forests; it shall also have the care of State forests."

SECTION 1.(d) All functions, powers, duties, and obligations previously vested in the Forestry Council are transferred from the Department of Environment and Natural Resources to and vested in the Department of Agriculture and Consumer Services by a Type II transfer, as defined in G.S. 143A-6.

SECTION 1.(e) G.S. 143B-279.3(b) reads as rewritten:

"(b) All functions, powers, duties, and obligations previously vested in the following commissions, boards, councils, and committees of the following departments are transferred to and vested in the Department of Environment and Natural Resources by a Type II transfer, as defined in G.S. 143A-6:

...



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1 (13) ~~Forestry Council, Department of Natural Resources and Community~~
2 ~~Development.~~

3 "

4 **SECTION 1.(f)** Part 12 of Article 7 of Chapter 143B of the General Statutes
5 (G.S. 143B-308, 143B-309, and 143B-310) is recodified in Article 7 of Chapter 143A of the
6 General Statutes as G.S. 143A-66.1, 143A-66.2, and 143A-66.3.

7 **SECTION 1.(g)** G.S. 143A-66.1, as recodified in subsection (f) of this section,
8 reads as rewritten:

9 "**§ 143A-66.1. Forestry Council – creation; powers and duties.**

10 There is hereby created the Forestry Council of the Department of ~~Environment and Natural~~
11 ~~Resources~~Agriculture and Consumer Services. The Forestry Council shall have the following
12 functions and duties:

13 (1) To advise the ~~Secretary of Environment and Natural~~
14 ~~Resources~~Commissioner of Agriculture with respect to all matters
15 concerning the protection, management, and preservation of State-owned,
16 privately owned, and municipally owned forests in the State, including but
17 not limited to:

- 18 a. Profitable use of the State's forests consistent with the principles of
19 sustained productivity.
20 b. Best management practices, including those for protection of soil,
21 water, wildlife, and wildlife habitat, to be used in managing the
22 State's forests and their resources.
23 c. Restoration of forest ecosystems and protection of rare and
24 endangered species occurring in the State's private forests consistent
25 with principles of private ownership of land.

26 (2) To maintain oversight of a continuous monitoring and planning process, to
27 provide a long-range, comprehensive plan for the use, management, and
28 sustainability of North Carolina's forest resources, and to report regularly on
29 progress made toward meeting the objectives of the plan.

30 (3) To provide a forum for the identification, discussion, and development of
31 recommendations for the resolution of conflicts in the management of North
32 Carolina's forests.

33 (4) To undertake any other studies, make any reports, and advise the ~~Secretary~~
34 ~~of Environment and Natural Resources~~Commissioner of Agriculture on any
35 matter as the ~~Secretary~~Commissioner may direct."

36 **SECTION 1.(h)** G.S. 143A-66.2, as recodified in subsection (f) of this section,
37 reads as rewritten:

38 "**§ 143A-66.2. Forestry Council – members; chairperson; selection; removal;**
39 **compensation; quorum.**

40 (a) The Forestry Advisory Council of the Department of ~~Environment and Natural~~
41 ~~Resources~~Agriculture and Consumer Services shall consist of 18 members appointed as
42 follows:

- 43 (1) Three persons who are registered foresters and who represent the primary
44 forest products industry, one each from the Mountains, Piedmont and
45 Coastal Plain.
46 (2) One person who represents the secondary wood-using industry.
47 (3) One person who represents the logging industry.
48 (4) Four persons who are nonindustrial woodland owners actively involved in
49 forest management, one of whom has agricultural interests, and at least one
50 each from the Mountains, Piedmont, and Coastal Plain.

- 1 (5) Three persons who are members of statewide environmental or wildlife
2 conservation organizations.
3 (6) One consulting forester.
4 (7) Two persons who are forest scientists with knowledge of the functioning and
5 management of forest ecosystems.
6 (8) One person who represents a banking institution that manages forestland.
7 (9) One person with expertise in urban forestry.
8 (10) One person with active experience in city and regional planning.

9 ...
10 (h) All clerical and other services required by the Council, including the support
11 required to carry out studies it is requested to make, shall be supplied by the ~~Secretary of~~
12 ~~Environment and Natural Resources~~ Commissioner of Agriculture."

13 **SECTION 1.(i)** G.S. 106-22 is amended by adding two new subdivisions to read:

14 "(18) Forests. – Have charge of forest maintenance, forest fire protection,
15 reforestation, and the protection of the forests.

16 (19) State forests. – Have charge of all State forests and measures for forest fire
17 prevention."

18 **SECTION 1.(j)** G.S. 113-8 reads as rewritten:

19 **"§ 113-8. Powers and duties of the Department.**

20 The Department shall make investigations of the natural resources of the State, and take
21 such measures as it may deem best suited to promote the conservation and development of such
22 resources.

23 It shall have ~~charge of the work of forest maintenance, forest fire prevention, reforestation,~~
24 ~~and the protection of lands and water supplies by the preservation of forests;~~ supplies; it shall
25 also have the care of State ~~forests and~~ parks, and other recreational areas now owned or to be
26 acquired by the State, including the lakes referred to in G.S. 146-7.

27 It shall make such examination, survey and mapping of the geology, mineralogy and
28 topography of the State, including their industrial and economic utilization, as it may consider
29 necessary; make investigations of water supplies and water powers, prepare and maintain a
30 general inventory of the water resources of the State, and take such measures as it may consider
31 necessary to promote their development.

32 It shall have the duty of enforcing all laws relating to the conservation of marine and
33 estuarine resources.

34 The Department may take such other measures as it may deem advisable to obtain and
35 make public a more complete knowledge of the State and its resources, and it is authorized to
36 cooperate with other departments and agencies of the State in obtaining and making public such
37 information.

38 The Department may acquire such real and personal property as may be found desirable and
39 necessary for the performance of the duties and functions of the Department and pay for same
40 out of any funds appropriated for the Department or available unappropriated revenues of the
41 Department, when such acquisition is approved by the Governor and Council of State. The title
42 to any real estate acquired shall be in the name of the State of North Carolina for the use and
43 benefit of the Department."

44 **SECTION 1.(k)** G.S. 113-22 is repealed.

45 **SECTION 1.(l)** G.S. 106-22 is amended by adding three new subdivisions to read:

46 "(18) Forests. – Have charge of forest maintenance, forest fire protection,
47 reforestation, and the protection of the forests.

48 (19) State forests. – Have charge of all State forests and measures for forest fire
49 prevention.

50 (20) Property for state forests. – Acquire real and personal property as desirable
51 and necessary for the performance of the duties and functions of the

1 Department under subdivision (19) of this section and pay for the property
2 out of any funds appropriated for the Department or available
3 unappropriated revenues of the Department, when such acquisition is
4 approved by the Governor and Council of State. The title to any real estate
5 acquired under this subdivision shall be in the name of the State of North
6 Carolina for the use and benefit of the Department."

7 **SECTION 1.(m)** The title of Subchapter II of Chapter 113 of the General Statutes
8 reads as rewritten:

9 **"SUBCHAPTER II. STATE FORESTS AND PARKS."**

10 **SECTION 1.(n)** Article 2 of Chapter 113 of the General Statutes reads as
11 rewritten:

12 "Article 2.

13 "Acquisition and Control of State Forests and Parks.

14 **"§ 113-29. Policy and plan to be inaugurated by Department of Environment and Natural**
15 **Resources. Definitions.**

16 (a) In this Article, unless the context requires otherwise, "Department" means the
17 Department of Environment and Natural Resources; and "Secretary" means the Secretary of
18 Environment and Natural Resources.

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

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

41 **"§ 113-29.1. Growing of timber on unused State lands authorized.**

42 The Department of Administration may allocate to the Department, for management as a
43 State forest, any vacant and unappropriated lands, any marshlands or swamplands, and any
44 other lands title to which is vested in the State or in any State agency or institution, where such
45 lands are not being otherwise used and are not suitable for cultivation. Lands under the
46 supervision of the Wildlife Resources Commission and designated and in use as wildlife
47 management areas, refuges, or fishing access areas and lands used as research stations shall not
48 be subject to the provisions of this section. The Department shall plant timber producing trees
49 on all lands allocated to it for that purpose by the Department of Administration. The Secretary
50 may contract with the appropriate prison authorities for the furnishing, upon such conditions as
51 may be agreed upon from time to time between such prison authorities and the Secretary, of

1 prison labor for use in the planting, cutting, and removal of timber from State forests which are
2 under the management of the Department.

3 ~~"§ 113-30. Use of lands acquired by counties through tax foreclosures as demonstration
4 forests.~~

5 The boards of county commissioners of the various counties of North Carolina are herewith
6 authorized to turn over to the said Department title to such tax delinquent lands as may have
7 been acquired by said counties under tax sale and as in the judgment of the Secretary may be
8 suitable for the purposes named in G.S. 113-29, subdivision (5).

9 ~~"§ 113-31. Procedure for acquisition of delinquent tax lands from counties.~~

10 In the carrying out of the provisions of G.S. 113-30, the several boards of county
11 commissioners shall furnish forthwith on written request of the Department a complete list of
12 all properties acquired by the county under tax sale and which have remained unredeemed for a
13 period of two years or more. On receipt of this list the Secretary shall have the lands examined
14 and if any one or more of these properties is in his judgment suitable for the purposes set forth
15 in G.S. 113-30, request shall be made to the county commissioners for the acquisition of such
16 land by the Department at a price not to exceed the actual amount of taxes due without
17 penalties. On receipt of this request the county commissioners shall make permanent transfer of
18 such tract or tracts of land to the Department through fee simple deed or other legal transfer,
19 said deed to be approved by the Attorney General of North Carolina, and shall then receive
20 payment from the Department as above outlined.

21 ~~"§ 113-32. Purchase of lands for use as demonstration forests.~~

22 Where no suitable tax delinquent lands are available and in the judgment of the Department
23 the establishment of a demonstration forest is advisable, the Department may purchase
24 sufficient land for the establishment of such a demonstration forest at a fair and agreed upon
25 price, the deed for such land to be subject to approval of the Attorney General, but nothing in
26 G.S. 113-29 to 113-33 shall allow the Department to acquire land under the right of eminent
27 domain.

28 ~~"§ 113-33. Forest management appropriation.~~

29 Necessary funds for carrying out the provisions of G.S. 113-29 and 113-30 to 113-33 shall
30 be set up in the regular budget as an item entitled "forest management.

31 ~~"§ 113-34. Power to acquire lands as State forests, parks, and other recreational areas;
32 donations or leases by United States; leases for recreational purposes.~~

33 (a) The Governor may, upon recommendation of the Department, accept gifts of land to
34 the State to be held, protected, and administered by the Department as State forests, and to be
35 used so as to demonstrate the practical utility of timber culture and water conservation, and as
36 refuges for game. The gifts of land must be absolute except in cases where the mineral interest
37 on the land has previously been sold. The Department may purchase lands in the name of the
38 State, suitable chiefly for the production of timber, as State forests, for experimental,
39 demonstration, educational, park, and protection purposes, using for these purposes any special
40 appropriations or funds available. The Department may acquire by gift, purchase, or
41 condemnation under the provisions of Chapter 40A of the General Statutes, areas of land in
42 different sections of the State that may in the opinion of the Department be necessary for the
43 purpose of establishing or developing State forests, State parks, and other areas and
44 developments essential to the effective operation of the State forestry and State park activities
45 under its charge. Condemnation proceedings shall be instituted and prosecuted in the name of
46 the State, and any property so acquired shall be administered, developed, and used ~~for~~
47 experiment and demonstration in forest management, for public recreation, recreation and for
48 other purposes authorized or required by law. Before any action or proceeding under this
49 section can be exercised, the approval of the Governor and Council of State shall be obtained
50 and filed with the clerk of the superior court in the county or counties where the property is
51 located. The Attorney General shall ensure that all deeds to the State for land acquired under

1 this section are properly executed before the gift is accepted or payment of the purchase money
2 is made.

3 (b) The Department may accept as gifts to the State any ~~forest and~~ submarginal
4 farmland acquired by the federal government that is suitable for the purpose of creating and
5 maintaining ~~State forests~~, game refuges, public shooting grounds, State parks, State lakes, and
6 other recreational areas, or to enter into longtime leases with the federal government for the
7 areas and administer them with funds secured from their administration in the best interest of
8 longtime public use, supplemented by any appropriations made by the General Assembly. The
9 Department may segregate revenue derived from State hunting and fishing licenses, use
10 permits, and concessions and other proper revenue secured through the administration of State
11 ~~forests~~, game refuges, public shooting grounds, State parks, State lakes, and other recreational
12 areas to be deposited in the State treasury to the credit of the Department to be used for the
13 administration of these areas.

14 (c) The Department, with the approval of the Governor and Council of State, may enter
15 into leases of lands and waters for State parks, State lakes, and recreational purposes.

16 (d), (e) Repealed by Session Laws 2003-284, s. 35.1(a), effective July 1, 2003.

17 (f) The authority granted to the Department under this section is in addition to any
18 authority granted to the Department under any other provision of law.

19 **"§ 113-34.1. Power to acquire conservation lands not included in the State Parks System.**

20 The Department of Administration may acquire and allocate to the Department of
21 Environment and Natural Resources for management by the Division of Parks and Recreation
22 lands that the Department of Environment and Natural Resources finds are important for
23 conservation purposes but which are not included in the State Parks System. Lands acquired
24 pursuant to this section are not subject to Article 2C of Chapter 113 of the General Statutes and
25 may be traded or transferred as necessary to protect, develop, and manage the Mountains to Sea
26 State Park Trail, other State parks, or other conservation lands. This section does not expand
27 the power granted to the Department of Environment and Natural Resources under
28 G.S. 113-34(a) to acquire land by condemnation.

29 **"§ 113-35. ~~State timber may be sold by Department; forest nurseries; control~~Control
30 over State parks; operation of public service facilities; concessions to private
31 concerns; authority to charge fees and adopt rules.**

32 (a) ~~Timber and other products of State forests may be sold, cut, and removed under~~
33 ~~rules of the Department. The Department may establish and operate forest tree nurseries and~~
34 ~~forest tree seed orchards. Forest tree seedlings and seed from these nurseries and seed orchards~~
35 ~~may be sold to landowners of the State for purposes of forestation under rules adopted by the~~
36 ~~Department. When the Secretary determines that a surplus of seedlings or seed exists, this~~
37 ~~surplus may be sold, and the sale shall be in conformity with the following priority of sale:~~
38 ~~first, to agencies of the federal government for planting in the State of North Carolina; second,~~
39 ~~to commercial nurseries and nurserymen within this State; and third, without distinction, to~~
40 ~~federal agencies, to other states, and to recognized research organizations for planting either~~
41 ~~within or outside of this State. The Department shall make reasonable rules governing the use~~
42 ~~by the public of State forests, State parks, State lakes, game refuges, and public shooting~~
43 ~~grounds~~parks and State lakes under its charge. These rules shall be posted in conspicuous
44 places on and adjacent to the properties of the State and at the courthouse of the county or
45 counties in which the properties are located. A violation of these rules is punishable as a Class
46 3 misdemeanor.

47 (a1) The Department may adopt rules under which the Secretary may issue a special-use
48 permit authorizing the use of pyrotechnics in State parks in connection with public exhibitions.
49 The rules shall require that experts supervise the use of pyrotechnics and that written
50 authorization for the use of pyrotechnics be obtained from the board of commissioners of the
51 county in which the pyrotechnics are to be used, as provided in G.S. 14-410. The Secretary may

1 impose any conditions on a permit that the Secretary determines to be necessary to protect
2 public health, safety, and welfare. These conditions shall include a requirement that the
3 permittee execute an indemnification agreement with the Department and obtain general
4 liability insurance covering personal injury and property damage that may result from the use
5 of pyrotechnics with policy limits determined by the Secretary.

6 (b) The Department may construct, operate, and maintain within the ~~State forests~~, State
7 parks, State lakes, and other areas under its charge suitable public service facilities and
8 conveniences, and may charge and collect reasonable fees for the use of these facilities and
9 conveniences. The Department may also charge and collect reasonable fees for each of the
10 following:

- 11 (1) The erection, maintenance, and use of docks, piers, and any other structures
12 permitted in or on State lakes under rules adopted by the Department.
- 13 (2) ~~Hunting privileges on State forests and fishing~~ Fishing privileges in State
14 forests, State parks, parks and State lakes, provided that these privileges shall
15 be extended only to holders of State hunting and fishing licenses who
16 comply with all State game and fish laws.
- 17 (3) Vehicle access for off-road driving at the beach at Fort Fisher State
18 Recreation Area.
- 19 (4) The erection, maintenance, and use of a marina at Carolina Beach.

20 (b1) Members of the public who pay a fee under subsection (b) of this section for access
21 to Fort Fisher State Recreation Area may have 24-hour access to Fort Fisher State Recreation
22 Area from September 15 through March 15 of each year.

23 (c) The Department may make reasonable rules for the operation and use of boats or
24 other craft on the surface of the waters under its charge. The Department may charge and
25 collect reasonable fees for the use of boats and other watercraft that are purchased and
26 maintained by the Department; however, the Department shall not charge a fee for the use or
27 operation of any other boat or watercraft on these waters.

28 (d) The Department may grant to private individuals or companies concessions for
29 operation of public service facilities for such periods and upon such conditions as the
30 Department deems to be in the public interest. The Department may adopt reasonable rules for
31 the regulation of the use by the public of the lands and waters under its charge and of the public
32 service facilities and conveniences authorized under this section. A violation of these rules is
33 punishable as a Class 3 misdemeanor.

34 (e) The authority granted to the Department under this section is in addition to any
35 authority granted to the Department under any other provision of law.

36 ~~§ 113-36. Applications of proceeds from sale of products.~~

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

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

1 (c) ~~Forest Seedling Nursery Program Fund.—The Forest Seedling Nursery Program~~
2 ~~Fund is created within the Department of Environment and Natural Resources, Division of~~
3 ~~Forest Resources, as a special revenue fund. Except as provided in subsection (b) of this~~
4 ~~section, this Fund shall consist of receipts from the sale of seed and seedlings as authorized in~~
5 ~~G.S. 113-35 and any gifts, bequests, or grants for the benefit of this Fund. No General Fund~~
6 ~~appropriations shall be credited to this Fund. Any balance remaining in this Fund at the end of~~
7 ~~any fiscal year shall not revert. The Department may use this Fund only to develop, improve,~~
8 ~~repair, maintain, operate, or otherwise invest in the Forest Seedling Nursery Program.~~

9 (d) ~~Bladen Lakes State Forest Fund.—The Bladen Lakes State Forest Fund is created~~
10 ~~within the Department of Environment and Natural Resources, Division of Forest Resources, as~~
11 ~~a special revenue fund. This Fund shall consist of receipts from the sale of forest products from~~
12 ~~Bladen Lakes State Forest as authorized in G.S. 113-35 and any gifts, bequests, or grants for~~
13 ~~the benefit of this Fund. No General Fund appropriations shall be credited to this Fund. Any~~
14 ~~balance remaining in this Fund at the end of any fiscal year shall not revert. The Department~~
15 ~~may use this Fund only to develop, improve, repair, maintain, operate, or otherwise invest in~~
16 ~~the Bladen Lakes State Forest.~~

17 **"§ 113-37. Legislative authority necessary for payment.**

18 Nothing in this Article shall operate or be construed as authority for the payment of any
19 money out of the State treasury for the purchase of lands or for other purposes unless by
20 appropriation for said purpose by the General Assembly.

21 ~~**"§ 113-38. Distribution of funds from sale of forestlands.**~~

22 ~~All funds paid by the National Forest Commission, by authority of act of Congress,~~
23 ~~approved May 23, 1908 (35 Stat., 260), for the Counties of Avery, Buncombe, Burke, Craven,~~
24 ~~Haywood, Henderson, Hyde, Jackson, Macon, Montgomery, Swain, Transylvania, Watauga,~~
25 ~~and Yancey, shall be paid to the proper county officers, and said funds shall, when received, be~~
26 ~~placed in the account of the general county funds: Provided, however, that in Buncombe~~
27 ~~County said funds shall be entirely for the use and benefit of the school district or districts in~~
28 ~~which said national forestlands shall be located.~~

29 ~~All funds which may hereafter come into the hands of the State Treasurer from like sources~~
30 ~~shall be likewise distributed.~~

31 **"§ 113-39. License fees for hunting and fishing on government-owned property**
32 **unaffected.**

33 No wording in G.S. 113-307.1(a), or any other North Carolina statute or law, or special act,
34 shall be construed to abrogate the vested rights of the State of North Carolina to collect fees for
35 license for hunting and fishing on any government-owned land or in any government-owned
36 stream in North Carolina including the license for county, State or nonresident hunters or
37 fishermen; or upon any lands or in any streams hereafter acquired by the federal government
38 within the boundaries of the State of North Carolina. The lands and streams within the
39 boundaries of the Great Smoky Mountains National Park to be ~~exeepted~~exempt from this
40 section.

41 **"§ 113-40. Donations of property for forestry or park purposes; agreements with federal**
42 **government or agencies for acquisition.**

43 The Department is hereby authorized and empowered to accept gifts, donations or
44 contributions of land suitable for ~~forestry or~~ park purposes and to enter into agreements with
45 the federal government or other agencies for acquiring by lease, purchase or otherwise such
46 lands as in the judgment of the Department are desirable for ~~State forests or~~ State parks.

47 **"§ 113-41. Expenditure of funds for development, etc.; disposition of products from**
48 **lands; rules.**

49 When lands are acquired or leased under G.S. 113-40, the Department is hereby authorized
50 to make expenditures from any funds not otherwise obligated, for the management,
51 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. 113-40 to 113-44.

"§ 113-42. Disposition of revenues received from lands acquired.

All revenues derived from lands now owned or later acquired under the provisions of G.S. 113-40 to 113-44 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.

"§ 113-43. State not obligated for debts created hereunder.

Obligations for the acquisition of land incurred by the Department under the authority of G.S. 113-40 to 113-44 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.

"§ 113-44. 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 and~~ State parks: Provided, however, said sale, lease or exchange shall not be contrary to the terms of any contract which it has entered into."

SECTION 1.(o) Chapter 106 of the General Statutes is amended by adding a new Article to read:

"Article 71.

"Acquisition and Control of State Forests.

"§ 106-840. 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) 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 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.

1 **"§ 106-841. Growing of timber on unused State lands authorized.**

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

14 **"§ 106-842. Use of lands acquired by counties through tax foreclosures as demonstration**
15 **forests.**

16 The boards of county commissioners of the various counties of North Carolina are herewith
17 authorized to turn over to the said Department title to such tax-delinquent lands as may have
18 been acquired by said counties under tax sale and as in the judgment of the Commissioner may
19 be suitable for the purposes named in subdivision (5) of subsection (b) of G.S. 106-840.

20 **"§ 106-843. Procedure for acquisition of delinquent tax lands from counties.**

21 In the carrying out of the provisions of G.S. 106-842, the several boards of county
22 commissioners shall furnish forthwith on written request of the Department a complete list of
23 all properties acquired by the county under tax sale and which have remained unredeemed for a
24 period of two years or more. On receipt of this list, the Commissioner shall have the lands
25 examined and if any one or more of these properties is in the Commissioner's judgment suitable
26 for the purposes set forth in G.S. 106-842, request shall be made to the county commissioners
27 for the acquisition of such land by the Department at a price not to exceed the actual amount of
28 taxes due without penalties. On receipt of this request the county commissioners shall make
29 permanent transfer of such tract or tracts of land to the Department through fee-simple deed or
30 other legal transfer, said deed to be approved by the Attorney General of North Carolina, and
31 shall then receive payment from the Department as above outlined.

32 **"§ 106-844. Purchase of lands for use as demonstration forests.**

33 Where no suitable tax-delinquent lands are available and, in the judgment of the
34 Department, the establishment of a demonstration forest is advisable, the Department may
35 purchase sufficient land for the establishment of such a demonstration forest at a fair and
36 agreed-upon price, the deed for such land to be subject to approval of the Attorney General, but
37 nothing in G.S. 106-840 to G.S. 106-845 shall allow the Department to acquire land under the
38 right of eminent domain.

39 **"§ 106-845. Forest management appropriation.**

40 Necessary funds for carrying out the provisions of G.S. 106-840 and G.S. 106-842 to
41 G.S. 106-845 shall be set up in the regular budget as an item entitled "forest management."

42 **"§ 106-846. Power to acquire lands as State forests; donations or leases by United States;**
43 **leases for recreational purposes.**

44 (a) The Governor may, upon recommendation of the Department, accept gifts of land to
45 the State to be held, protected, and administered by the Department as State forests, and to be
46 used so as to demonstrate the practical utility of timber culture and water conservation, and as
47 refuges for game. The gifts of land must be absolute except in cases where the mineral interest
48 on the land has previously been sold. The Department may purchase lands in the name of the
49 State, suitable chiefly for the production of timber, as State forests, for experimental,
50 demonstration, educational, and protection purposes, using for these purposes any special
51 appropriations or funds available. The Department may acquire by condemnation under the

1 provisions of Chapter 40A of the General Statutes, areas of land in different sections of the
2 State that may in the opinion of the Department be necessary for the purpose of establishing or
3 developing State forests and other areas and developments essential to the effective operation
4 of the State forestry activities under its charge. Condemnation proceedings shall be instituted
5 and prosecuted in the name of the State, and any property so acquired shall be administered,
6 developed, and used for experiment and demonstration in forest management, for public
7 recreation, and for other purposes authorized or required by law. Before any action or
8 proceeding under this section can be exercised, the approval of the Governor and Council of
9 State shall be obtained and filed with the clerk of the superior court in the county or counties
10 where the property is located. The Attorney General shall ensure that all deeds to the State for
11 land acquired under this section are properly executed before the gift is accepted or payment of
12 the purchase money is made.

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

22 (c) The authority granted to the Department under this section is in addition to any
23 authority granted to the Department under any other provision of law.

24 **"§ 106-847. State timber may be sold by Department; forest nurseries; operation of**
25 **public service facilities; concessions to private concerns; authority to charge**
26 **fees and adopt rules.**

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

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

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

1 service facilities and conveniences authorized under this section. A violation of these rules is
2 punishable as a Class 3 misdemeanor.

3 (d) The authority granted to the Department under this section is in addition to any
4 authority granted to the Department under any other provision of law.

5 **"§ 106-848. Applications of proceeds from sale of products.**

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

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

20 (c) Forest Seedling Nursery Program Fund. – The Forest Seedling Nursery Program
21 Fund is created within the Department of Environment and Natural Resources, Division of
22 Forest Resources, as a special revenue fund. Except as provided in subsection (b) of this
23 section, this Fund shall consist of receipts from the sale of seed and seedlings as authorized in
24 G.S. 106-847 and any gifts, bequests, or grants for the benefit of this Fund. No General Fund
25 appropriations shall be credited to this Fund. Any balance remaining in this Fund at the end of
26 any fiscal year shall not revert. The Department may use this Fund only to develop, improve,
27 repair, maintain, operate, or otherwise invest in the Forest Seedling Nursery Program.

28 (d) Bladen Lakes State Forest Fund. – The Bladen Lakes State Forest Fund is created
29 within the Department of Environment and Natural Resources, Division of Forest Resources, as
30 a special revenue fund. This Fund shall consist of receipts from the sale of forest products from
31 Bladen Lakes State Forest as authorized in G.S. 106-847 and any gifts, bequests, or grants for
32 the benefit of this Fund. No General Fund appropriations shall be credited to this Fund. Any
33 balance remaining in this Fund at the end of any fiscal year shall not revert. The Department
34 may use this Fund only to develop, improve, repair, maintain, operate, or otherwise invest in
35 the Bladen Lakes State Forest.

36 **"§ 106-849. Legislative authority necessary for payment.**

37 Nothing in this Article shall operate or be construed as authority for the payment of any
38 money out of the State treasury for the purchase of lands or for other purposes unless by
39 appropriation for said purpose by the General Assembly.

40 **"§ 106-850. Distribution of funds from sale of forestlands.**

41 All funds paid by the National Forest Commission, by authority of act of Congress,
42 approved May 23, 1908, (35 Stat. 260), for the Counties of Avery, Buncombe, Burke, Craven,
43 Haywood, Henderson, Hyde, Jackson, Macon, Montgomery, Swain, Transylvania, Watauga,
44 and Yancey, shall be paid to the proper county officers, and said funds shall, when received, be
45 placed in the account of the general county funds: Provided, however, that in Buncombe
46 County said funds shall be entirely for the use and benefit of the school administrative unit in
47 which said national forestlands shall be located.

48 All funds which may hereafter come into the hands of the State Treasurer from like sources
49 shall be likewise distributed.

50 **"§ 106-851. License fees for hunting and fishing on government-owned property**
51 **unaffected.**

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

9 **"§ 106-852. Donations of property for forestry purposes; agreements with federal**
10 **government or agencies for acquisition.**

11 The Department is authorized to accept gifts, donations, or contributions of land suitable for
12 forestry purposes and to enter into agreements with the federal government or other agencies
13 for acquiring by lease, purchase, or otherwise such lands as in the judgment of the Department
14 are desirable for State forests.

15 **"§ 106-853. Expenditure of funds for development, etc.; disposition of products from**
16 **lands; rules.**

17 When lands are acquired or leased under G.S. 106-852, the Department may make
18 expenditures from any funds not otherwise obligated, for the management, development, and
19 utilization of such areas; to sell or otherwise dispose of products from such lands, and to make
20 such rules as may be necessary to carry out the purposes of G.S. 106-852 to G.S. 106-856.

21 **"§ 106-854. Disposition of revenues received from lands acquired.**

22 All revenues derived from lands now owned or later acquired under the provisions of
23 G.S. 106-852 to G.S. 106-856 shall be set aside for the use of the Department in acquisition,
24 management, development, and use of such lands until all obligations incurred have been paid
25 in full. Thereafter, fifty percent (50%) of all net profits accruing from the administration of
26 such lands shall be applicable for such purposes as the General Assembly may prescribe and
27 fifty percent (50%) shall be paid into the school fund to be used in the county or counties in
28 which lands are located.

29 **"§ 106-855. State not obligated for debts created hereunder.**

30 Obligations for the acquisition of land incurred by the Department under the authority of
31 G.S. 106-852 to G.S. 106-856 shall be paid solely and exclusively from revenues derived from
32 such lands and shall not impose any liability upon the general credit and taxing power of the
33 State.

34 **"§ 106-856. Disposition of lands acquired.**

35 The Department shall have full power and authority to sell, exchange, or lease lands under
36 its jurisdiction when in its judgment it is advantageous to the State to do so in the highest
37 orderly development and management of State forests: Provided, however, said sale, lease, or
38 exchange shall not be contrary to the terms of any contract which it has entered into."

39 **SECTION 1.(p)** Article 4 of Chapter 113 of the General Statutes (G.S. 113-51,
40 113-52, 113-53.1, 113-54, 113-55, 113-55.1, 113-55.2, 113-56, 113-56.1, 113-57, 113-58,
41 113-59, 113-60, 113-60.1, 113-60.2, and 113-60.3) is recodified as a new Article 72 of Chapter
42 106 of the General Statutes, G.S. 106-860 through G.S. 106-875.

43 **SECTION 1.(q)** Article 72 of Chapter 106 of the General Statutes, as recodified
44 under subsection (p) of this section, reads as rewritten:

45 "Article 72.

46 "Protection and Development of Forests; Fire Control.

47 **"§ 106-860. Powers of Department of ~~Environment and Natural Resources~~ Agriculture**
48 **and Consumer Services.**

49 (a) The Department of ~~Environment and Natural Resources~~ Agriculture and Consumer
50 Services may take such action as it may deem necessary to provide for the prevention and
51 control of forest fires in any and all parts of this State, and it is hereby authorized to enter into

1 an agreement with the Secretary of Agriculture of the United States for the protection of the
2 forested watersheds of streams in this State.

3 (b) In this Article, unless the context requires otherwise:

4 (1) "Commissioner" means the Commissioner of Agriculture.

5 ~~(1)(2) "Department" means the Department of Environment and Natural~~
6 ~~Resources, Agriculture and Consumer Services.~~

7 ~~(2) "Secretary" means the Secretary of Environment and Natural Resources.~~

8 **"§ 106-861. Forest rangers.**

9 The ~~Secretary-Commissioner~~ may appoint one county forest ranger and one or more deputy
10 forest rangers in each county of the State in which, after careful investigation, the amount of
11 forestland and the risks from forest fires shall, in his judgment, warrant the establishment of a
12 forest fire organization.

13 **"§ 106-862. Forest laws defined.**

14 The forest laws consist of:

15 (1) G.S. 14-136 to G.S. 14-140;

16 (2) Articles ~~2, 4, 4A, 4C, and 6A~~ 71 through 79 of this Chapter;

17 (3) G.S. 77-13 and G.S. 77-14;

18 (4) Other statutes enacted for the protection of forests and woodlands from fire,
19 insects, or disease and concerning obstruction of streams and ditches in
20 forests and woodlands; and

21 (5) Regulations and ordinances adopted under the authority of the above
22 statutes.

23 **"§ 106-863. Duties of forest rangers; payment of expenses by State and counties.**

24 Forest rangers shall have charge of measures for controlling forest fires, protection of
25 forests from pests and diseases, and the development and improvement of the forests for
26 maximum production of forest products; shall post along highways and in other conspicuous
27 places copies of the forest fire laws and warnings against fires, which shall be supplied by the
28 ~~Secretary-Commissioner~~; shall patrol and man lookout towers and other points during dry and
29 dangerous seasons under the direction of the ~~Secretary-Commissioner~~; and shall perform such
30 other acts and duties as shall be considered necessary by the ~~Secretary-Commissioner~~ in the
31 protection, development and improvement of the forested area of each of the counties within
32 the State. No county may be held liable for any part of the expenses thus incurred unless
33 specifically authorized by the board of county commissioners under prior written agreement
34 with the ~~Secretary-Commissioner~~; appropriations for meeting the county's share of such
35 expenses so authorized by the board of county commissioners shall be provided annually in the
36 county budget. For each county in which financial participation by the county is authorized, the
37 ~~Secretary-Commissioner~~ shall keep or cause to be kept an itemized account of all expenses thus
38 incurred and shall send such accounts periodically to the board of county commissioners of said
39 county; upon approval by the board of the correctness of such accounts, the county
40 commissioners shall issue or cause to be issued a warrant on the county treasury for the
41 payment of the county's share of such expenditures, said payment to be made within one month
42 after receipt of such statement from the ~~Secretary-Commissioner~~. Appropriations made by a
43 county for the purposes set out in Articles ~~4, 4A, 4C and 6A~~ 72, 73, 75, and 79 of this Chapter
44 in the cooperative forest protection, development and improvement work are not to replace
45 State and federal funds which may be available to the ~~Secretary-Commissioner~~ for the work in
46 said county, but are to serve as a supplement thereto. Funds appropriated to the Department for
47 a fiscal year for the purposes set out in Articles ~~4, 4A, 4C and 6A~~ 72, 73, 75, and 79 of this
48 Chapter shall not be expended in a county unless that county shall contribute at least
49 twenty-five percent (25%) of the total cost of the forestry program.

50 **"§ 106-864. Powers of forest rangers to prevent and extinguish fires; authority to issue**
51 **citations and warning tickets.**

1 (a) Forest rangers shall prevent and extinguish forest fires and shall have control and
2 direction of all persons and equipment while engaged in the extinguishing of forest fires.
3 During a season of drought, the ~~Secretary-Commissioner~~ or his designate may establish a fire
4 patrol in any district, and in case of fire in or threatening any forest or woodland, the forest
5 ranger shall attend forthwith and use all necessary means to confine and extinguish such fire.
6 The forest ranger or deputy forest ranger may summon any resident between the ages of 18 and
7 45 years, inclusive, to assist in extinguishing fires and may require the use of crawler tractors
8 and other property needed for such purposes; any person so summoned and who is physically
9 able who refuses or neglects to assist or to allow the use of equipment and such other property
10 required shall be guilty of a Class 3 misdemeanor and upon conviction shall only be subject to
11 a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00). No
12 action for trespass shall lie against any forest ranger, deputy forest ranger, or person summoned
13 by him for crossing lands, backfiring, burning out or performing his duties as a forest ranger or
14 deputy forest ranger.

15 (b) Forest rangers are authorized to issue and serve citations under the terms of
16 G.S. 15A-302 and warning tickets under the terms of ~~G.S. 113-55.2~~G.S. 106-866 for offenses
17 under the forest laws. This subsection may not be interpreted to confer the power of arrest on
18 forest rangers, and does not make them criminal justice officers within the meaning of
19 G.S. 17C-2.

20 **"§ 106-865. Powers of forest law-enforcement officers.**

21 The ~~Secretary-Commissioner~~ is authorized to appoint as many forest law-enforcement
22 officers as he deems necessary to carry out the forest law-enforcement responsibilities of the
23 Department. Forest law-enforcement officers shall have all the powers and the duties of a forest
24 ranger enumerated in ~~G.S. 113-54 and 113-55.~~G.S. 106-863 and G.S. 106-864. Forest
25 law-enforcement officers shall, in addition to their other duties, have the powers of peace
26 officers to enforce the forest laws. Any forest law-enforcement officer may arrest, without
27 warrant, any person or persons committing any crime in his presence or whom such officer has
28 probable cause for believing has committed a crime in his presence and bring such person or
29 persons forthwith before a district court or other officer having jurisdiction. Forest
30 law-enforcement officers shall also have authority to obtain and serve warrants including
31 warrants for violation of any duly promulgated rule of the Department.

32 **"§ 106-866. Warning tickets for violations of the forest laws.**

33 (a) To encourage the cooperation of the public in achieving the objectives of the forest
34 laws, the ~~Secretary-Commissioner~~ may provide for the issuance of warning tickets instead of
35 the initiation of criminal prosecution by forest rangers and forest law-enforcement officers.
36 Issuance of the warning tickets shall be in accordance with criteria administratively
37 promulgated by the ~~Secretary-Commissioner~~ within the requirements of this section. These
38 criteria are exempt from Article 2A of Chapter 150B of the General Statutes.

39 (b) No warning ticket may be issued unless all of the following conditions are met:

- 40 (1) The forest ranger or the forest law-enforcement officer must be convinced
41 that the offense was not committed intentionally.
- 42 (2) The offense is not one, or a type of offense, for which the ~~Secretary~~
43 ~~Commissioner~~ has prohibited the issuance of warning tickets.
- 44 (3) At the time of the violation it was not reasonably foreseeable that the
45 conduct of the offender could result in any significant destruction of forests
46 or woodlands or constitute a hazard to the public.

47 (c) A warning ticket may not be issued if the offender has previously been charged
48 with, or issued a warning ticket for, the same or a similar offense within the preceding three
49 years. A list of persons who have been issued warning tickets under this section within the
50 preceding three years shall be maintained and periodically updated by the
51 ~~Secretary-Commissioner~~.

1 (d) This section does not entitle any person who has committed an offense to the right
2 to be issued a warning ticket, and the issuance of a warning ticket does not prohibit the later
3 initiation of criminal prosecution for the same offense for which the warning ticket was issued.

4 **"§ 106-867. Compensation of forest rangers.**

5 Forest rangers shall receive compensation from the Department at a reasonable rate to be
6 fixed by said Department for the time actually engaged in the performance of their duties; and
7 reasonable expenses for equipment, transportation, or food supplies incurred in the
8 performance of their duties, according to an itemized statement to be rendered the ~~Secretary~~
9 Commissioner every month, and approved by him. Forest rangers shall render to the ~~Secretary~~
10 Commissioner a statement of the services rendered by the men employed by them or their
11 deputy rangers, as provided in this Article, within one month of the date of service, which bill
12 shall show in detail the amount and character of the service performed, the exact duration
13 thereof, the name of each person employed, and any other information required by the
14 ~~Secretary-Commissioner~~. If said bill be duly approved by the ~~Secretary-Commissioner~~, it shall
15 be paid by direction of the Department out of any funds provided for that purpose.

16 **"§ 106-868. Overtime compensation for forest fire fighting.**

17 The Department shall, within funds appropriated to the Department, provide overtime
18 compensation to the professional employees of the Division of Forest Resources involved in
19 fighting forest fires.

20 **"§ 106-869. Woodland defined.**

21 For the purposes of this Article, woodland is taken to include all forest areas, both timber
22 and cutover land, and all second-growth stands on areas that have at one time been cultivated.

23 **"§ 106-870. Misdemeanor to destroy posted forestry notice.**

24 Any person who shall maliciously or willfully destroy, deface, remove, or disfigure any
25 sign, poster, or warning notice, posted by order of the ~~Secretary-Commissioner~~, under the
26 provisions of this Article, or any other act which may be passed for the purpose of protecting
27 and developing the forests in this State, shall be guilty of a Class 3 misdemeanor.

28 **"§ 106-871. Cooperation between counties and State in forest protection and
29 development.**

30 The board of county commissioners of any county is hereby authorized and empowered to
31 cooperate with the Department in the protection, reforestation, and promotion of forest
32 management of their own forests within their respective counties, and to appropriate and pay
33 out of the funds under their control such amount as is provided in ~~G.S. 113-54~~ G.S. 106-863.

34 **"§ 106-872. Instructions on forest preservation and development.**

35 (a) It shall be the duty of all district, county, township rangers, and all deputy rangers
36 provided for in this Chapter to distribute in all of the public schools and high schools of the
37 county in which they are serving as such fire rangers all such tracts, books, periodicals and
38 other literature that may, from time to time, be sent out to such rangers by the State and federal
39 forestry agencies touching or dealing with forest preservation, development, and forest
40 management.

41 (b) It shall be the duty of the various rangers herein mentioned under the direction of
42 the ~~Secretary-Commissioner~~, and the duty of the teachers of the various schools, both public
43 and high schools, to keep posted at some conspicuous place in the various classrooms of the
44 school buildings such appropriate bulletins and posters as may be sent out from the forestry
45 agencies herein named for that purpose and keep the same constantly before their pupils; and
46 said teachers and rangers shall prepare lectures or talks to be made to the pupils of the various
47 schools on the subject of forest fires, their origin and their destructive effect on the plant life
48 and tree life of the forests of the State, the development and scientific management of the
49 forests of the State, and shall be prepared to give practical instruction to their pupils from time
50 to time and as often as they shall find it possible so to do.

1 **"§ 106-873. Authority of Governor to close forests and woodlands to hunting, fishing and**
2 **trapping.**

3 During periods of protracted drought or when other hazardous fire conditions threaten
4 forest and water resources and appear to require extraordinary precautions, the Governor of the
5 State, upon the joint recommendation of the ~~Secretary-Commissioner~~ and the Executive
6 Director of the North Carolina Wildlife Resources Commission, may by official proclamation:

- 7 (1) Close any or all of the woodlands and inland waters of the State to hunting,
8 fishing and trapping for the period of the emergency.
9 (2) Forbid for the period of the emergency the building of campfires and the
10 burning of brush, grass or other debris within 500 feet of any woodland in
11 any county, counties, or parts thereof.
12 (3) Close for the period of the emergency any or all of the woodlands of the
13 State to such other persons and activities as he deems proper under the
14 circumstances, except to the owners or tenants of such property and their
15 agents and employees, or persons holding written permission from any
16 owner or his recognized agent to enter thereon for any lawful purpose other
17 than hunting, fishing or trapping.

18 **"§ 106-874. Publication of proclamation; annulment thereof.**

19 Such proclamation shall become effective 24 hours after certified time of issue, and shall be
20 published in such newspapers and posted in such places and in such manner as the Governor
21 may direct. It shall be annulled in the same manner by another proclamation by the Governor
22 when he is satisfied, upon joint recommendation of the ~~Secretary-Commissioner~~ and the
23 Executive Director of the North Carolina Wildlife Resources Commission, that the period of
24 the emergency has passed.

25 **"§ 106-875. Violation of proclamation a misdemeanor.**

26 Any person, firm or corporation who enters upon any woodlands or inland waters of the
27 State for the purpose of hunting, fishing or trapping, or who builds a campfire or burns brush,
28 grass or other debris within 500 feet of any woodland, after a proclamation has been issued by
29 the Governor forbidding such activities, or who violates any other provisions of the Governor's
30 proclamation with regard to permissible activities in closed woodlands shall be guilty of a Class
31 1 misdemeanor."

32 **SECTION 1.(r)** Article 4A of Chapter 113 of the General Statutes (G.S. 113-60.4,
33 113-60.5, 113-60.6, 113-60.7, 113-60.8, 113-60.9, 113-60.10) is recodified as a new Article 73
34 of Chapter 106 of the General Statutes, G.S. 106-880 through G.S. 106-886.

35 **SECTION 1.(s)** Article 73 of Chapter 106 of the General Statutes, as recodified
36 under subsection (r) of this section, reads as rewritten:

37 "Article 73.

38 "Protection of Forest Against Insect Infestation and Disease.

39 **"§ 106-880. Purpose and intent.**

40 (a) The purpose of this Article is to place within the Department of ~~Environment and~~
41 ~~Natural Resources, Agriculture and Consumer Services~~ the authority and responsibility for
42 investigating insect infestations and disease infections which affect stands of forest trees, the
43 devising of control measures for interested landowners and others, and taking measures to
44 control, suppress, or eradicate outbreaks of forest insect pests and tree diseases.

45 (b) In this Article, unless the context requires otherwise, the expression "Department"
46 means the Department of ~~Environment and Natural Resources: "Secretary" Agriculture and~~
47 ~~Consumer Services, and "Commissioner"~~ means the ~~Secretary of Environment and Natural~~
48 ~~Resources. Commissioner of Agriculture.~~

49 **"§ 106-881. Authority of the Department.**

50 The authority and responsibility for carrying out the purpose, intent and provisions of this
51 Article are hereby delegated to the Department. The administration of the provisions of this

1 Article shall be under the general supervision of the ~~Secretary-Commissioner~~. The provisions of
2 this Article shall not abrogate or change any power or authority as may be vested in the North
3 Carolina Department of Agriculture and Consumer Services under existing statutes.

4 **"§ 106-882. Definitions.**

5 As used in this Article, unless the context clearly requires otherwise:

- 6 (1) "Control zone" means an area of potential or actual infestation or infection,
7 boundaries of which are fixed and clearly described in a manner to definitely
8 identify the zone.
- 9 (2) "Forestland" means land on which forest trees occur.
- 10 (3) "Forest trees" means only those trees which are a part and constitute a stand
11 of potential immature or mature commercial timber trees, provided that the
12 term "forest trees" shall be deemed to include shade trees of any species
13 around houses, along highways, and within cities and towns, if the same
14 constitute insect and disease menaces to nearby timber trees or timber
15 stands.
- 16 (4) "Infection" means attack by any disease affecting forest trees which is
17 declared by the ~~Secretary-Commissioner~~ to be dangerously injurious thereto.
- 18 (5) "Infestation" means attack by means of any insect, which is by the ~~Secretary~~
19 ~~Commissioner~~ declared to be dangerously injurious to forest trees.

20 **"§ 106-883. Action against insects and diseases.**

21 Whenever the ~~Secretary-Commissioner~~, or his agent, determines that there exists an
22 infestation of forest insect pests or an infection of forest tree diseases, injurious or potentially
23 injurious to the timber or forest trees within the State of North Carolina, and that said
24 infestation or infection is of such a character as to be a menace to the timber or forest growth of
25 the State, the ~~Secretary-Commissioner~~ shall declare the existence of a zone of infestation or
26 infection and shall declare and fix boundaries so as to definitely describe and identify said zone
27 of infestation or infection, and the ~~Secretary-Commissioner~~ or his agent shall give notice in
28 writing by mail or otherwise to each forest landowner within the designated control zone
29 advising him of the nature of the infestation or infection, the recommended control measures,
30 and offer him technical advice on methods of carrying out controls.

31 **"§ 106-884. Authority of ~~Secretary-Commissioner~~ and his agents to go upon private land**
32 **within control zones.**

33 The ~~Secretary-Commissioner~~ or his agents shall have the power to go upon the land within
34 any zone of infestation or infection and take measures to control, suppress or eradicate the
35 insect, infestation or disease infection. If any person refuses to allow the ~~Secretary~~
36 ~~Commissioner~~ or his agents to go upon his land, or if any person refuses to adopt adequate
37 means to control or eradicate the insect, infestation or disease infection, the ~~Secretary~~
38 ~~Commissioner~~ may apply to the superior court of the county in which the land is located for an
39 injunction or other appropriate remedy to restrain the landowner from interfering with the
40 ~~Secretary-Commissioner~~ or his agents in entering the control zone and adopting measures to
41 control, suppress or eradicate the insect infestation or disease infection, provided the cost of
42 court or control thereof shall not be a liability against the forest landowner nor constitute a lien
43 upon the real property of such infested area.

44 **"§ 106-885. Cooperative agreements.**

45 In order to more effectively carry out the purposes of this Article, the Department is hereby
46 authorized to enter into cooperative agreement with the federal government and other public
47 and private agencies, and with the owners of forestland.

48 **"§ 106-886. Annulment of control zone.**

49 Whenever the ~~Secretary-Commissioner~~ determines that the forest insect or disease control
50 work within a designated control zone is no longer necessary or feasible, then the ~~Secretary~~

1 Commissioner shall declare the zone of infestation or infection no longer pertinent to the
2 purposes of this Article and such zone will then no longer be recognized."

3 **SECTION 1.(t)** Article 4B of Chapter 113 of the General Statutes (G.S. 113-60.11,
4 113-60.12, 113-60.13, 113-60.14, and 113-60.15) is recodified as a new Article 74 of Chapter
5 106 of the General Statutes, G.S. 106-890 through G.S. 106-894.

6 **SECTION 1.(u)** G.S. 106-893, as recodified in subsection (t) of this section, reads
7 as rewritten:

8 "**§ 106-893. Compact Administrator; North Carolina members of advisory committee.**

9 The ~~Secretary of Environment and Natural Resources~~Commissioner of Agriculture is
10 hereby designated as Compact Administrator for this State and shall consult with like officials
11 of the other member states and shall implement cooperation between such states in forest fire
12 prevention and control.

13 At some time before the adjournment of each regular session of the General Assembly, the
14 Governor shall choose one person from the membership of the House of Representatives, and
15 shall choose one person from the membership of the Senate, who shall serve on the advisory
16 committee of the Southeastern Interstate Forest Fire Protection Compact as provided for in
17 Article III of said Compact. At the time of the selection of the House and Senate members of
18 such advisory committee, the Governor shall choose one alternate member from the House of
19 Representatives and one from the Senate who shall serve on such advisory committee in case of
20 the death, absence or disability of the regular members so chosen."

21 **SECTION 1.(v)** G.S. 106-894, as recodified in subsection (t) of this section, reads
22 as rewritten:

23 "**§ 106-894. Agreements with noncompact states.**

24 The Department of ~~Environment and Natural Resources~~Agriculture and Consumer Services
25 is hereby authorized to enter into written agreements with the State forest fire control agency of
26 any other state or any province of Canada which is party to a regional forest fire protection
27 compact. The provisions of any written agreement entered into pursuant to this Article shall be
28 substantially in the form of the authority heretofore granted under the provisions of this Article,
29 Southeastern Interstate Forest Fire Protection Compact."

30 **SECTION 1.(w)** Article 4C of Chapter 113 of the General Statutes
31 (G.S. 113-60.21, 113-60.22, 113-60.23, 113-60.24, 113-60.25, 113-60.26, 113-60.27,
32 113-60.28, 113-60.29, 113-60.30, and 113-60.31) is recodified as a new Article 75 of Chapter
33 106 of the General Statutes, G.S. 106-900 through G.S. 106-910.

34 **SECTION 1.(x)** Article 75 of Chapter 106 of the General Statutes, as recodified by
35 subsection (w) of this section, reads as rewritten:

36 "Article 75.

37 "Regulation of Open Fires.

38 "**§ 106-900. Purpose and findings.**

39 The purpose of this Article is to regulate certain open burning in order to protect the public
40 from the hazards of forest fires and air pollution and to adapt such regulation to the needs and
41 circumstances of the different areas of North Carolina. The General Assembly finds that open
42 burning in proximity to woodlands must be regulated in all counties to protect against forest
43 fires and air pollution. The General Assembly further finds that in certain counties a high
44 percentage of the land area contains organic soils or forest types which may pose greater
45 problems of forest fire and air pollution controls, and that in counties in which a great amount
46 of land-clearing operations is taking place on these organic soils or these forest types,
47 additional control of open burning is required. The counties subject to the need for additional
48 control are classified as high hazard counties for purpose of this Article.

49 "**§ 106-901. Definitions.**

50 As used in this Article:

- 1 (1) "Department" means the Department of ~~Environment and Natural~~
2 ~~Resources, Agriculture and Consumer Services.~~
3 (2) "Forest ranger" means the county forest ranger or deputy forest ranger
4 designated under ~~G.S. 113-52.~~G.S. 106-861.
5 (3) "Person" means any individual, firm, partnership, corporation, association,
6 public or private institution, political subdivision, or government agency.
7 (4) "Woodland" means woodland as defined in ~~G.S. 113-57.~~G.S. 106-869.

8 **"§ 106-902. High hazard counties; permits required; standards.**

9 (a) The provisions of this section apply only to the counties of Beaufort, Bladen,
10 Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare, Duplin, Gates, Hyde, Jones,
11 Onslow, Pamlico, Pasquotank, Perquimans, Tyrrell, and Washington which are classified as
12 high hazard counties in accordance with ~~G.S. 113-60.21.~~G.S. 106-900.

13 (b) It is unlawful for any person to willfully start or cause to be started any fire in any
14 woodland under the protection of the Department or within 500 feet of any such woodland
15 without first having obtained a permit from the Department. Permits for starting fires may be
16 obtained from forest rangers or other agents authorized by the county forest ranger to issue
17 such permits in the county in which the fire is to be started. Such permits shall be issued by the
18 ranger or other agent unless permits for the area in question have been prohibited or cancelled
19 in accordance with ~~G.S. 113-60.25 or 113-60.27.~~G.S. 106-904 or G.S. 106-906.

20 (c) It is unlawful for any person to willfully burn any debris, stumps, brush or other
21 flammable materials resulting from ground clearing activities and involving more than five
22 contiguous acres, regardless of the proximity of the burning to woodland and on which such
23 materials are placed in piles or windrows without first having obtained a special permit from
24 the Department. Areas less than five acres in size will require a regular permit in accordance
25 with ~~G.S. 113-60.23(b).~~G.S. 106-902(b).

- 26 (1) Prevailing winds at the time of ignition must be away from any city, town,
27 development, major highway, or other populated area, the ambient air of
28 which may be significantly affected by smoke, fly ash, or other air
29 contaminates from the burning.
30 (2) The location of the burning must be at least 1,000 feet from any dwelling or
31 structure located in a predominately residential area other than a dwelling or
32 structure located on the property on which the burning is conducted unless
33 permission is granted by the occupants.
34 (3) The amount of dirt or organic soil on or in the material to be burned must be
35 minimized and the material arranged in a way suitable to facilitate rapid
36 burning.
37 (4) Burning may not be initiated when it is determined by a forest ranger, based
38 on information supplied by a competent authority that stagnant air conditions
39 or inversions exist or that such conditions may occur during the duration of
40 the burn.
41 (5) Heavy oils, asphaltic material, or items containing natural or synthetic
42 rubber may not be used to ignite the material to be burned or to promote the
43 burning of such material.
44 (6) Initial burning may be commenced only between the hours of 9:00 A.M. and
45 3:00 P.M. and no combustible material may be added to the fire between
46 3:00 P.M. on one day and 9:00 A.M. on the following day, except that when
47 favorable meteorological conditions exist, any forest ranger authorized to
48 issue the permit may authorize in writing a deviation from the restrictions.

49 **"§ 106-903. Open burning in non-high hazard counties; permits required; standards.**

50 (a) The provisions of this section apply only to the counties not designated as high
51 hazard counties in ~~G.S. 113-60.23(a).~~G.S. 106-902(a).

1 (b) It shall be unlawful for any person to start or cause to be started any fire or ignite
2 any material in any woodland under the protection of the Department or within 500 feet of any
3 such woodland during the hours starting at midnight and ending at 4:00 P.M. without first
4 obtaining a permit from the Department. Permits may be obtained from forest rangers or other
5 agents authorized by the forest ranger to issue such permits in the county in which the fire is to
6 be started. Such permits shall be issued by the ranger or other agent unless permits for the area
7 in question have been prohibited or cancelled under ~~G.S. 113-60.25 or 113-60.27~~, G.S. 106-904
8 or G.S. 106-906.

9 **"§ 106-904. Open burning prohibited statewide.**

10 During periods of hazardous forest fire conditions or during air pollution episodes declared
11 pursuant to Article 21B of Chapter 143 of the General Statutes, the ~~secretary~~Commissioner is
12 authorized to prohibit all open burning regardless of whether a permit is required under
13 ~~G.S. 113-60.23 or 113-60.24~~G.S. 106-902 or G.S. 106-903. The ~~secretary~~Commissioner shall
14 issue a press release containing relevant details of the prohibition to news media serving the
15 area affected.

16 **"§ 106-905. Permit conditions.**

17 Permits issued under this Article shall be issued in the name of the person undertaking the
18 burning and shall specify the specific area in which the burning is to occur, the type and
19 amount of material to be burned, the duration of the permit, and such other factors as are
20 necessary to identify the burning which is allowed under the permit.

21 **"§ 106-906. Permit suspension and cancellation.**

22 Upon a determination that hazardous forest fire conditions exist the ~~secretary~~
23 Commissioner is authorized to cancel any permit issued under this Article and suspend the
24 issuance of any new permits. Upon a determination by the Environmental Management
25 Commission or its agent that open burning permitted under this Article is causing significant
26 contravention of ambient air quality standards or that an air pollution episode exists pursuant to
27 Article 21B of Chapter 143 of the General Statutes, the ~~secretary~~Commissioner shall cancel
28 any permits issued under authority of this Article and shall suspend the issuance of any new
29 permits.

30 **"§ 106-907. Control of existing fires.**

31 (a) If a fire is set without a permit required by ~~G.S. 113-60.23, 113-60.24 or~~
32 ~~113-60.25~~G.S. 106-902, 106-903, or 106-904, and is set in an area in which permits are
33 prohibited or cancelled at the time the fire is set, the person responsible for setting the fire or
34 causing the fire to be set shall immediately extinguish the fire or take such other action as
35 directed by any forest ranger authorized to issue permits under
36 ~~G.S. 113-60.23(e)~~G.S. 106-902(c). In the event that the person responsible does not
37 immediately undertake efforts to extinguish the fire or take such other action as directed by the
38 forest ranger, the Department may enter the property and take reasonable steps to extinguish or
39 control the fire and the person responsible for setting the fire shall reimburse the Department
40 for the expenses incurred by the Department. A showing that a fire is associated with
41 land-clearing activities is prima facie evidence that the person undertaking the land clearing is
42 responsible for setting the fire or causing the fire to be set.

43 (b) If a fire requiring a permit under ~~G.S. 113-60.23(e)~~G.S. 106-902(c) is set without a
44 permit and a forest ranger authorized to issue such permits determines that a permit would not
45 have been issued for the fire at the time it was set, the person responsible for setting the fire or
46 causing the fire to be set shall immediately take such action as the forest ranger directs to
47 extinguish or control the fire. In the event the person responsible does not immediately
48 undertake efforts to extinguish the fire or take such other action as directed by the forest ranger,
49 the Department may enter the property and take reasonable steps to extinguish or control the
50 fire and the person responsible for setting the fire shall reimburse the Department for the
51 expenses incurred by the Department. A showing that a fire is associated with land-clearing

1 activities is prima facie evidence that the person undertaking the land clearing is responsible
2 for setting the fire or causing the fire to be set.

3 (c) If a fire is set in accordance with a permit but the burning is taking place contrary to
4 the conditions of the permit, any forest ranger with authority to issue permits in the area in
5 question may order the permittee in writing to undertake the steps necessary to comply with the
6 conditions of his permit. If the permittee is not making a reasonable effort to comply with the
7 order, the forest ranger may enter the property and take reasonable steps to extinguish or
8 control the fire and the permittee shall reimburse the Department for the expenses incurred by
9 the Department.

10 **"§ 106-908. Penalties.**

11 Any person violating the provisions of this Article or of any permit issued under the
12 authority of this Article shall be guilty of a Class 3 misdemeanor. The penalties imposed by this
13 section shall be separate and apart and not in lieu of any civil or criminal penalties which may
14 be imposed by G.S. 143-215.114A or G.S. 143-215.114B. The penalties imposed are also in
15 addition to any liability the violator incurs as a result of actions taken by the Department under
16 ~~G.S. 113-60.28~~. G.S. 106-907.

17 **"§ 106-909. Effect on other laws.**

18 This Article shall not be construed as affecting or abridging the lawful authority of local
19 governments to pass ordinances relating to open burning within their boundaries. Nothing in
20 this Article shall relieve any person from compliance with the provisions of Article 21B of
21 Chapter 143 of the General Statutes and regulations adopted thereunder. In the event that
22 permits are required for open burning associated with land clearing under the authority of
23 Article 21B of Chapter 143 of the General Statutes, the authority to issue such permits shall be
24 delegated to forest rangers who are authorized to issue permits under
25 ~~G.S. 113-60.23(e)~~. G.S. 106-902(c).

26 **"§ 106-910. Exempt fires; no permit fees.**

27 (a) This Article shall not apply to any fires started, or caused to be started, within 100
28 feet of an occupied dwelling house if such fire shall be confined (i) within an enclosure from
29 which burning material may not escape or (ii) within a protected area upon which a watch is
30 being maintained and which is provided with adequate fire protection equipment.

31 (b) No charge shall be made for the granting of any permit required by this Article."

32 **SECTION 1.(y)** Article 4D of Chapter 113 of the General Statutes (G.S. 113-60.32
33 and G.S. 113-60.33) is recodified as a new Article 76 of Chapter 106 of the General Statutes,
34 G.S. 106-911 and G.S. 106-912.

35 **SECTION 1.(z)** Article 76 of Chapter 106 of the General Statutes, as recodified by
36 subsection (y) of this section, reads as rewritten:

37 "Article 76.

38 "Fire Fighters on Standby Duty.

39 **"§ 106-911. Definitions.**

40 As used in this Article:

41 (1) "Fire fighter" means an employee of the Division of Forest Resources of the
42 Department of ~~Environment and Natural Resources~~ Agriculture and
43 Consumer Services who engages in fire suppression duties.

44 (2) "Fire suppression duties" means involvement in on-site fire suppression,
45 participation in Project Fire Team while it is mobilized, Operations Room
46 duty during on-going fires or when required by high readiness plans, mop-up
47 activities to secure fire sites, scouting and detecting forest fires, performance
48 of standby duty, and any other activity that directly contributes to the
49 detection, response to, and control of fires.

50 **"§ 106-912. Standby duty.**

1 (a) Standby duty is time during which a fire fighter is required to remain within 25
2 miles of his duty station and be available to return to the duty station on call. The Department
3 of Agriculture and Consumer Services shall provide each fire fighter on standby duty with an
4 electronic paging device that makes the wearer accessible to his duty station.

5 (b) Notwithstanding subsection (a) of this section, for at least two out of 14 consecutive
6 days that a fire fighter is on duty, the Department of ~~Environment and Natural~~
7 ~~Resources~~Agriculture and Consumer Services shall permit the fire fighter to be more than 25
8 miles from his duty station so long as the fire fighter gives the Department of ~~Environment and~~
9 ~~Natural Resources~~Agriculture and Consumer Services a telephone number where he can be
10 reached; each month, the days the fire fighter is permitted to be more than 25 miles from his
11 duty station shall include one full weekend. On the days the fire fighter is permitted to be more
12 than 25 miles from his duty station, the Department of ~~Environment and Natural Resources~~
13 Agriculture and Consumer Services may call him only when there is a bona fide emergency."

14 **SECTION 1.(aa)** Article 4E of Chapter 113 of the General Statutes
15 (G.S. 113-60.40, 113-60.41, 113-60.42, 113-60.43, 113-60.44, and 113-60.45) is recodified as
16 a new Article 77 of Chapter 106 of the General Statutes, G.S. 106-920 through G.S. 106-925.

17 **SECTION 1.(bb)** Article 77 of Chapter 106 of the General Statutes, as recodified
18 by subsection (aa) of this section, reads as rewritten:

19 "Article 77.

20 "North Carolina Prescribed Burning Act.

21 "**§ 106-920. Legislative findings.**

22 The General Assembly finds that prescribed burning of forestlands is a management tool
23 that is beneficial to North Carolina's public safety, forest and wildlife resources, environment,
24 and economy. The General Assembly finds that the following are benefits that result from
25 prescribed burning of forestlands:

- 26 (1) Prescribed burning reduces the naturally occurring buildup of vegetative
27 fuels on forestlands, thereby reducing the risk and severity of wildfires and
28 lessening the loss of life and property.
- 29 (2) The State's ever-increasing population is resulting in urban development
30 directly adjacent to fire-prone forestlands, referred to as a woodland-urban
31 interface area. The use of prescribed burning in these woodland-urban
32 interface areas substantially reduces the risk of wildfires that cause damage.
- 33 (3) Many of North Carolina's natural ecosystems require periodic fire for their
34 survival. Prescribed burning is essential to the perpetuation, restoration, and
35 management of many plant and animal communities. Prescribed burning
36 benefits game, nongame, and endangered wildlife species by increasing the
37 growth and yield of plants that provide forage and an area for escape and
38 brooding and that satisfy other habitat needs.
- 39 (4) Forestlands are economic, biological, and aesthetic resources of statewide
40 significance. In addition to reducing the frequency and severity of
41 wildfires, prescribed burning of forestlands helps to prepare sites for
42 replanting and natural seeding, to control insects and diseases, and to
43 increase productivity.
- 44 (5) Prescribed burning enhances the resources on public use lands, such as State
45 and national forests, wildlife refuges, nature preserves, and game lands.
46 Prescribed burning enhances private lands that are managed for wildlife
47 refuges, nature preserves, and game lands. Prescribed burning enhances
48 private lands that are managed for wildlife, recreation, and other purposes.

49 As North Carolina's population grows, pressures resulting from liability issues and smoke
50 complaints discourage or limit prescribed burning so that these numerous benefits to
51 forestlands often are not attainable. By recognizing the benefits of prescribed burning and by

1 adopting requirements governing prescribed burning, the General Assembly helps to educate
2 the public, avoid misunderstandings, and reduce complaints about this valuable management
3 tool.

4 **"§ 106-921. Definitions.**

5 As used in this Article:

- 6 (1) "Certified prescribed burner" means an individual who has successfully
7 completed a certification program approved by the Division of Forest
8 Resources of the Department of ~~Environment and Natural~~
9 ~~Resources.~~Agriculture and Consumer Services.
- 10 (2) "Prescribed burning" means the planned and controlled application of fire to
11 naturally occurring vegetative fuels under safe weather and safe
12 environmental and other conditions, while following appropriate
13 precautionary measures that will confine the fire to a predetermined area and
14 accomplish the intended management objectives.
- 15 (3) "Prescription" means a written plan prepared by a certified prescribed burner
16 for starting, controlling, and extinguishing a prescribed burning.

17 **"§ 106-922. Immunity from liability.**

18 (a) Any prescribed burning conducted in compliance with ~~G.S. 113-60.43~~G.S. 106-923
19 is in the public interest and does not constitute a public or private nuisance.

20 (b) A landowner or the landowner's agent who conducts a prescribed burning in
21 compliance with ~~G.S. 113-60.43~~G.S. 106-923 shall not be liable in any civil action for any
22 damage or injury caused by or resulting from smoke.

23 (c) Notwithstanding subsections (a) and (b), this section does not apply when a
24 nuisance or damage results from a negligently or improperly conducted prescribed burning.

25 **"§ 106-923. Prescribed burning.**

26 (a) Prior to conducting a prescribed burning, the landowner shall obtain a prescription
27 for the prescribed burning prepared by a certified prescribed burner and filed with the Division
28 of Forest Resources, Department of ~~Environment and Natural Resources.~~Agriculture and
29 Consumer Services. A copy of the prescription shall be provided to the landowner. A copy of
30 this prescription shall be in the possession of the responsible burner on site throughout the
31 duration of the prescribed burning. The prescription shall include:

- 32 (1) The landowner's name and address.
33 (2) A description of the area to be burned.
34 (3) A map of the area to be burned.
35 (4) An estimate in tons of the fuel located on the area.
36 (5) The objectives of the prescribed burning.
37 (6) A list of the acceptable weather conditions and parameters for the prescribed
38 burning sufficient to minimize the likelihood of smoke damage and fire
39 escaping onto adjacent areas.
40 (7) The name of the certified prescribed burner responsible for conducting the
41 prescribed burning.
42 (8) A summary of the methods that are adequate for the particular circumstances
43 involved to be used to start, control, and extinguish the prescribed burning.
44 (9) Provision for reasonable notice of the prescribed burning to be provided to
45 nearby homes and businesses to avoid effects on health and property.

46 (b) The prescribed burning shall be conducted by a certified prescribed burner in
47 accordance with a prescription that satisfies subsection (a) of this section. The certified
48 prescribed burner shall be present on the site and shall be in charge of the burning throughout
49 the period of the burning. A landowner may conduct a prescribed burning without being a
50 certified prescribed burner if the landowner is burning a tract of forestland of 50 acres or less

1 owned by that landowner and is following all conditions established in a prescription prepared
2 by a certified prescribed burner.

3 (c) Prior to conducting a prescribed burning, the landowner or the landowner's agent
4 shall obtain an open-burning permit under Article 4C of this Chapter from the Division of
5 Forest Resources, Department of ~~Environment and Natural Resources~~Agriculture and
6 Consumer Services. This open-burning permit must remain in effect throughout the period of
7 the prescribed burning. The prescribed burning shall be conducted in compliance with all the
8 following:

- 9 (1) The terms and conditions of the open-burning permit under ~~Article~~
10 ~~4C~~Article 75 of this Chapter.
- 11 (2) The State's air pollution control statutes under Article 21 and Article 21B of
12 Chapter 143 of the General Statutes and any rules adopted pursuant to these
13 statutes.
- 14 (3) Any applicable local ordinances relating to open burning.
- 15 (4) The voluntary smoke management guidelines adopted by the Division of
16 Forest Resources, Department of ~~Environment and Natural~~
17 ~~Resources~~Agriculture and Consumer Services.
- 18 (5) Any rules adopted by the Division of Forest Resources, Department of
19 ~~Environment and Natural Resources~~Agriculture and Consumer Services, to
20 implement this Article.

21 **"§ 106-924. Adoption of rules.**

22 The Division of Forest Resources, Department of ~~Environment and Natural~~
23 ~~Resources~~Agriculture and Consumer Services, may adopt rules that govern prescribed burning
24 under this Article.

25 **"§ 106-925. Exemption.**

26 This Article does not apply when the ~~Secretary of Environment and Natural~~
27 ~~Resources~~Commissioner of Agriculture has cancelled burning permits pursuant to
28 ~~G.S. 113-60.27~~G.S. 106-906 or prohibited all open burning pursuant to
29 ~~G.S. 113-60.25~~G.S. 106-904."

30 **SECTION 1.(cc)** Article 5 of Chapter 113 of the General Statutes (G.S. 113-61,
31 113-62, 113-63, 113-64, 113-65, 113-66, 113-67, 113-68, 113-69, 113-70, 113-71, 113-72,
32 113-73, 113-74, 113-75, 113-76, and 113-77) is recodified as a new Article 78 of Chapter 106
33 of the General Statutes, G.S. 106-930 through G.S. 106-946.

34 **SECTION 1.(dd)** Article 78 of Chapter 106 of the General Statutes, as recodified
35 by subsection (cc) of this section, reads as rewritten:

36 "Article 78.

37 "Corporations for Protection and Development of Forests.

38 **"§ 106-930. Private limited dividend corporations may be formed.**

39 (a) In this Article, unless the context requires otherwise, "Department" means the
40 Department of ~~Environment and Natural Resources~~; and "~~Secretary~~Agriculture and Consumer
41 Services, and "Commissioner" means the ~~Secretary of Environment and Natural~~
42 ~~Resources~~Commissioner of Agriculture.

43 (b) Three or more persons, who associate themselves by an agreement in writing for the
44 purpose, may become a private limited dividend corporation to finance and carry out projects
45 for the protection and development of forests and for such other related purposes as the
46 ~~Secretary~~Commissioner shall approve, subject to all the duties, restrictions and liabilities, and
47 possessing all the rights, powers, and privileges, of corporations organized under the general
48 corporation laws of the State of North Carolina, except where such provisions are in conflict
49 with this Article.

50 **"§ 106-931. Manner of organizing.**

1 A corporation formed under this Article shall be organized and incorporated in the manner
2 provided for organization of corporations under the general corporation laws of the State of
3 North Carolina, except where such provisions are in conflict with this Article. The certificate of
4 organization of any such corporation shall contain a statement that it is organized under the
5 provisions of this Article and that it consents to be and shall be at all times subject to the rules
6 and supervision of the ~~Secretary, Commissioner~~, and shall set forth as or among its purposes the
7 protection and development of forests and the purchase, acquisition, sale, conveyance and other
8 dealing in the same and the products therefrom, subject to the rules from time to time imposed
9 by the ~~Secretary, Commissioner~~.

10 **"§ 106-932. Directors.**

11 There shall not be less than three directors, one of whom shall always be a person
12 designated by the ~~Secretary, Commissioner~~, which one need not be a stockholder.

13 **"§ 106-933. Duties of supervision by ~~Secretary of Environment and Natural~~
14 ~~Resources, Commissioner~~.**

15 Corporations formed under this Article shall be regulated by the ~~Secretary, Commissioner~~ in
16 the manner provided in this Article. Traveling and other expenses incurred by him in the
17 discharge of the duties imposed upon him by this Article shall be charged to, and paid by, the
18 particular corporation or corporations on account of which such expenses are incurred. His
19 general expenses incurred in the discharge of such duties which cannot be fairly charged to any
20 particular corporation or corporations shall be charged to, and paid by, all the corporations then
21 organized and existing under this Article pro rata according to their respective stock
22 capitalizations. The ~~Secretary, Commissioner~~ shall:

- 23 (1) Adopt rules to implement this Article and to protect and develop forests
24 subject to its jurisdiction.
- 25 (2) Order all corporations organized under this Article to do such acts as may be
26 necessary to comply with the provisions of law and the rules adopted by the
27 ~~Secretary, Commissioner~~, or to refrain from doing any acts in violation
28 thereof.
- 29 (3) Keep informed as to the general condition of all such corporations, their
30 capitalization and the manner in which their property is permitted, operated
31 or managed with respect to their compliance with all provisions of law and
32 orders of the ~~Secretary, Commissioner~~.
- 33 (4) Require every such corporation to file with the ~~Secretary, Commissioner~~
34 annual reports and, if the ~~Secretary, Commissioner~~ shall consider it
35 advisable, other periodic and special reports, setting forth such information
36 as to its affairs as the ~~Secretary, Commissioner~~ may require.

37 **"§ 106-934. Powers of ~~Secretary, Commissioner~~.**

38 The ~~Secretary, Commissioner~~ may:

- 39 (1) Examine at any time all books, contracts, records, documents and papers of
40 any such corporation.
- 41 (2) In his discretion prescribe uniform methods and forms of keeping accounts,
42 records and books to be observed by such corporation, and prescribe by
43 order accounts in which particular outlays and receipts are to be entered,
44 charged or credited. The ~~Secretary, Commissioner~~ shall not, however, have
45 authority to require any revaluation of the real property or other fixed assets
46 of such corporations, but he shall allow proper charges for the depletion of
47 timber due to cutting or destruction.
- 48 (3) Enforce the provisions of this Article, a rule implementing this Article, or an
49 order issued under this Article by filing a petition for a writ of mandamus or
50 application for an injunction in the superior court of the county in which the
51 respondent corporation has its principal place of business. The final

1 judgment in any such proceeding shall either dismiss the proceeding or
2 direct that a writ of mandamus or an injunction, or both, issue as prayed for
3 in the petition or in such modified or other form as the court may determine
4 will afford appropriate relief.

5 **"§ 106-935. Provision for appeal by corporations to Governor.**

6 If any corporation organized under this Article is dissatisfied with or aggrieved at any rule
7 or order imposed upon it by the ~~Secretary, Commissioner,~~ or any valuation or appraisal of any
8 of its property made by the ~~Secretary, Commissioner,~~ or any failure of or refusal by the
9 ~~Secretary-Commissioner~~ to approve of or consent to any action which it can take only with
10 such approval or consent, it may appeal to the Governor by filing with him a claim of appeal
11 upon which the decision of the Governor shall be final. Such determination, if other than a
12 dismissal of the appeal, shall be set forth by the Governor in a written mandate to the
13 ~~Secretary, Commissioner,~~ who shall abide thereby and take such actions as the same may direct.

14 **"§ 106-936. Limitations as to dividends.**

15 The shares of stock of corporations organized under this Article shall have a par value and,
16 except as provided in ~~G.S. 113-69~~G.S. 106-938 in respect to distributions in kind upon
17 dissolution, no dividend shall be paid thereon at a rate in excess of six per centum (6%) per
18 annum on stock having a preference as to dividends, or eight per centum (8%) per annum on
19 stock not having a preference as to dividends, except that any such dividends may be
20 cumulative without interest.

21 **"§ 106-937. Issuance of securities restricted.**

22 No such corporation shall issue stock, bonds or other securities except for money,
23 timberlands, or interests therein, located in the State of North Carolina or other property,
24 actually received, or services rendered, for its use and its lawful purposes. Timberlands, or
25 interests therein, and other property or services so accepted therefor, shall be upon a valuation
26 approved by the ~~Secretary-Commissioner.~~

27 **"§ 106-938. Limitation on bounties to stockholders.**

28 Stockholders shall at no time receive or accept from any such corporation in repayment of
29 their investment in its stock any sums in excess of the par value of the stock together with
30 cumulative dividends at the rate set forth in ~~G.S. 113-67~~G.S. 106-936 except that nothing in
31 this section contained shall be construed to prohibit the distribution of the assets of such
32 corporation in kind to its stockholders upon dissolution thereof.

33 **"§ 106-939. Earnings above dividend requirements payable to State.**

34 Any earnings of such corporation in excess of the amounts necessary to pay dividends to
35 stockholders at the rate set forth in ~~G.S. 113-67~~G.S. 106-936 shall be paid over to the State of
36 North Carolina prior to the dissolution of such corporation. Net income or net losses
37 (determined in such manner as the ~~Secretary-Commissioner~~ shall consider properly to show
38 such income or losses) from the sale of the capital assets of such corporation, whether such sale
39 be upon dissolution or otherwise, shall be considered in determining the earnings of such
40 corporation for the purposes of this section. In determining such earnings unrealized
41 appreciation or depreciation of real estate or other fixed assets shall not be considered.

42 **"§ 106-940. Dissolution of corporation.**

43 Any such corporation may be dissolved at any time in the manner provided by and under
44 the provisions of the general corporation laws of the State of North Carolina, except that the
45 court shall dismiss any petition for dissolution of any such corporation filed within 20 years of
46 the date of its organization unless the same is accompanied by a certificate of the ~~Secretary~~
47 Commissioner consenting to such dissolution.

48 **"§ 106-941. Cutting and sale of timber.**

49 Any such corporation may cut and sell the timber on its land or permit the cutting thereof,
50 but all such cuttings shall be in accordance with the rules, restrictions and limitations imposed
51 by the ~~Secretary, Commissioner,~~ who shall impose such rules, restrictions and limitations with

1 respect thereto as may reasonably conform to the accepted custom and usage of good forestry
2 and forest economy, taking into consideration the situation, nature and condition of the tract so
3 cut or to be cut, and the financial needs of such corporation from time to time.

4 **"§ 106-942. Corporation may not sell or convey without consent of**
5 **Secretary,Commissioner, or pay higher interest rate than 6%.**

6 No such corporation ~~shall~~shall do any of the following:

- 7 (1) Sell, assign or convey any real property owned by it or any right, title or
8 interest therein, except upon notice to the ~~Secretary~~Secretary-Commissioner of the
9 terms of such sale, transfer or assignment, and unless the ~~Secretary~~
10 Commissioner shall consent thereto, and if the ~~Secretary-Commissioner~~ shall
11 require it, unless the purchaser thereof shall agree that such real estate shall
12 remain subject to the rules and supervision of the ~~Secretary-Commissioner~~
13 for such period as the latter may ~~require~~require.
- 14 (2) Pay interest returns on its mortgage indebtedness at a higher rate than six per
15 centum (6%) per annum without the consent of the ~~Secretary,Commissioner~~.
- 16 (3) Mortgage any real property without first having obtained the consent of the
17 ~~Secretary-Commissioner~~.

18 **"§ 106-943. Power to borrow money limited.**

19 Any such corporation formed under this Article may, subject to the approval of the
20 ~~Secretary,Commissioner~~, borrow funds and secure their payment thereof by note or notes and
21 mortgage or by the issue of bonds under a trust indenture. The notes or bonds so issued and
22 secured and the mortgage or trust indenture relating thereto may contain such clauses and
23 provisions as shall be approved by the ~~Secretary,Commissioner~~, including the right to enter into
24 possession in case of default; but the operations of the mortgagee or receiver entering in such
25 event or of the purchaser of the property upon foreclosure shall be subject to the rules of the
26 ~~Secretary-Commissioner~~ for such period as the mortgage or trust indenture may specify.

27 **"§ 106-944. Secretary-Commissioner to approve development of forests.**

28 No project for the protection and development of forests proposed by any such corporation
29 shall be undertaken without the approval of the ~~Secretary,Commissioner~~, and such approval
30 shall not be given unless:

- 31 (1) The ~~Secretary-Commissioner~~ shall have received a statement duly executed
32 and acknowledged on behalf of the corporation proposing such project, in
33 such adequate detail as the ~~Secretary-Commissioner~~ shall require of the
34 activities to be included in the project, such statement to set forth the
35 proposals as to
 - 36 a. Fire prevention and protection,
 - 37 b. Protection against insects and tree diseases,
 - 38 c. Protection against damage by livestock and game,
 - 39 d. Means, methods and rate of, and restrictions upon, cutting and other
40 utilization of the forests, and
 - 41 e. Planting and spacing of trees.
- 42 (2) There shall be submitted to the ~~Secretary-Commissioner~~ a financial plan
43 satisfactory to him setting forth in detail the amount of money needed to
44 carry out the entire project, and how such sums are to be allocated, with
45 adequate assurances to the ~~Secretary-Commissioner~~ as to where such funds
46 are to be secured.
- 47 (3) The ~~Secretary-Commissioner~~ shall be satisfied that the project gives
48 reasonable assurance of the operation of the forests involved on a
49 sustained-yield basis except insofar as the ~~Secretary-Commissioner~~ shall
50 consider the same impracticable.

- 1 (4) The corporation proposing such project shall agree that the project shall at
2 all times be subject to the supervision and inspection of the
3 ~~Secretary, Commissioner~~, and that it will at all times comply with such rules
4 concerning the project as the ~~Secretary-Commissioner~~ shall from time to
5 time impose.

6 **"§ 106-945. Application of corporate income.**

7 The gross annual income of any such corporation, whether received from sales of timber,
8 timber operations, stumpage permits or other sources, shall be applied as follows: first, to the
9 payment of all fixed charges, and all operating and maintenance charges and expenses
10 including taxes, assessments, insurance, amortization charges in amounts approved by the
11 ~~Secretary-Commissioner~~ to amortize mortgage or other indebtedness and reserves essential to
12 operation; second, to surplus, and/or to the payment of dividends not exceeding the maximum
13 fixed by this Article; third, the balance, if any, in reduction of debts.

14 **"§ 106-946. Reorganization of corporations.**

15 Reorganization of corporations organized under this Article shall be subject to the
16 supervision of the ~~Secretary-Commissioner~~ and no such reorganization shall be had without the
17 authorization of the ~~Secretary-Commissioner~~."

18 **SECTION 1.(ee)** Article 6A of Chapter 113 of the General Statutes (G.S. 113-81.1,
19 113-81.2, and 113-81.3) is recodified as a new Article 79 of Chapter 106 of the General
20 Statutes, G.S. 106-950 through G.S. 106-952.

21 **SECTION 1.(ff)** Article 79 of Chapter 106 of the General Statutes, as recodified by
22 subsection (ee) of this section, reads as rewritten:

23 "Article 79.

24 "Forestry Services and Advice for Owners and Operators of Forestland.

25 **"§ 106-950. Authority to render scientific forestry services.**

- 26 (a) In this Article, unless the context requires otherwise:

27 (1) "Commissioner" means the Commissioner of Agriculture.

28 ~~(4)(2)~~ (2) "Department" means the Department of ~~Environment and Natural~~
29 ~~Resources, Agriculture and Consumer Services.~~

30 ~~(2)~~ "Secretary" means the Secretary of ~~Environment and Natural Resources.~~

31 (b) The Department is hereby authorized to designate, upon request, forest trees of
32 forest landowners and forest operators for sale or removal, by blazing or otherwise, and to
33 measure or estimate the volume of same under the terms and conditions hereinafter provided.
34 The Department is also authorized to cooperate with landowners of the State and with counties,
35 municipalities and State agencies by making available forestry services consisting of
36 specialized equipment and operators, or by renting such equipment, and to perform such labor
37 and services as may be necessary to carry out approved forestry practices, including site
38 preparation, forest planting, prescribed burning, and other appropriate forestry practices. For
39 such services or rentals, a reasonable fee representing the ~~Secretary's-Commissioner's~~ estimate
40 of not less than the costs of such services or rentals shall be charged, provided however, when
41 the ~~Secretary-Commissioner~~ deems it in the public interest, said services may be provided
42 without charge, for the purpose of encouraging the use of approved scientific forestry practice
43 on the private or other forestlands within the State, or for the purpose of providing practical
44 demonstrations of said practices. Receipts from these activities and rentals shall be credited to
45 the budget of the Department for the furtherance of these activities.

46 **"§ 106-951. Services under direction of ~~Secretary, Commissioner~~; compensation; when**
47 **services without charge.**

48 (a) The administration of the provisions of this Article shall be under the direction of
49 the ~~Secretary-Commissioner~~. The ~~Secretary, Commissioner~~, or his authorized agent, upon
50 receipt of a request from a forest landowner or operator for technical forestry assistance or
51 service, may designate forest trees for removal for lumber, veneer, poles, piling, pulpwood,

1 cordwood, ties, or other forest products by blazing, spotting with paint or otherwise designating
2 in an approved manner; he may measure or estimate the commercial volume contained in the
3 trees designated; he may furnish the landowner or operator with a statement of the volume of
4 the trees so designated and estimated; he may assist in finding a suitable market for the
5 products so designated, and he may offer general forestry advice concerning the management
6 of the forest.

7 (b) For such designating, measuring or estimating services the ~~Secretary-Commissioner~~
8 may make a charge, on behalf of the Department, in an amount not to exceed five percent (5%)
9 of the sale price or fair market value of the stumpage so designated and measured or estimated.
10 Upon receipt from the ~~Secretary-Commissioner~~ of a statement of such charges, the landowner
11 or operator or his agent shall make payment to the ~~Secretary-Commissioner~~ within 30 days.

12 (c) In those cases where the ~~Secretary-Commissioner~~ deems it desirable to so designate
13 and measure or estimate trees without charge, such services shall be given for the purpose of
14 encouraging the use of approved scientific forestry principles on the private or other forestlands
15 within the State, and to establish practical demonstrations of said principles.

16 **"§ 106-952. Deposit of receipts with State treasury.**

17 All moneys paid to the ~~Secretary-Commissioner~~ for services rendered under the provisions
18 of this Article shall be deposited into the State treasury to the credit of the Department."

19 **SECTION 1.(gg)** Article 11 of Chapter 113A of the General Statutes
20 (G.S. 113A-176, 113A-177, 113A-178, 113A-179, 113A-180, 113A-180.1, 113A-181,
21 113A-182, and 113A-183) is recodified as a new Article 80 of Chapter 106 of the General
22 Statutes, G.S. 106-955 through G.S. 106-963.

23 **SECTION 1.(hh)** Article 80 of Chapter 106 of the General Statutes, as recodified
24 by subsection (gg) of this section, reads as rewritten:

25 "Article 80.

26 "Forest Development Act.

27 **"§ 106-955. Title.**

28 This Article shall be known as the "Forest Development Act."

29 **"§ 106-956. Statement of purpose.**

30 (a) The General Assembly finds that:

- 31 (1) It is in the public interest of the State to encourage the development of the
32 State's forest resources and the protection and improvement of the forest
33 environment.
- 34 (2) Unfavorable environmental impacts, particularly the rapid loss of forest land
35 to urban development, are occurring as a result of population growth. It is in
36 the State's interest that corrective action be developed now to offset forest
37 land losses in the future.
- 38 (3) Regeneration of potentially productive forest land is a high-priority problem
39 requiring prompt attention and action. Private forest land will become more
40 important to meet the needs of the State's population.
- 41 (4) Growing demands on forests and related land resources cannot be met by
42 intensive management of public and industrial forest lands alone.

43 (b) The purpose of this Article is to direct the ~~Secretary-Commissioner of Agriculture~~ to
44 implement a forest development program to:

- 45 (1) Provide financial assistance to eligible landowners to increase the
46 productivity of the privately owned forests of the State through the
47 application of forest renewal practices and other practices that improve tree
48 growth and overall forest health.
- 49 (2) Insure that forest operations in the State are conducted in a manner designed
50 to protect the soil, air, and water resources, including but not limited to

1 streams, lakes and estuaries through actions of landowners on lands for
2 which assistance is sought under provisions in this Article.

- 3 (3) Implement a program of voluntary landowner participation through the use
4 of a forest development fund to meet the above goals.

5 (c) It is the intent of the General Assembly that in implementing the program under this
6 Article, the ~~Secretary-Commissioner~~ will cause it to be coordinated with other related programs
7 in such a manner as to encourage the utilization of private agencies, firms and individuals
8 furnishing services and materials needed in the application of practices included in the forest
9 development program.

10 **"§ 106-957. Definitions.**

11 As used in this Article:

- 12 (1) "Approved forest management plan" means the forest management plan
13 submitted by the eligible landowner and approved by the
14 ~~Secretary-Commissioner~~. Such plan shall include forest management
15 practices to insure both maximum forest productivity and environmental
16 protection of the lands to be treated under the management plan.

- 17 (2) "Approved practices" mean those silvicultural practices approved by the
18 Secretary for the purpose of commercially growing timber through the
19 establishment of forest stands, of insuring the proper regeneration of forest
20 stands to commercial production levels following the harvest of mature
21 timber, or of insuring maximum growth potential of forest stands to
22 commercial production levels. Such practices shall include those required to
23 accomplish site preparation, natural and artificial forestation, noncommercial
24 removal of residual stands for silvicultural purposes, cultivation of
25 established young growth of desirable trees for silvicultural purposes, and
26 improvement of immature forest stands for silvicultural purposes. In each
27 case, approved practices will be determined by the needs of the individual
28 forest stand. These practices shall include existing practices and such
29 practices as are developed in the future to insure both maximum forest
30 productivity and environmental protection.

- 31 (2a) "Commissioner" means the Commissioner of Agriculture.

- 32 (3) "Department" means the Department of ~~Environment and Natural~~
33 ~~Resources~~. Agriculture and Consumer Services.

- 34 (3a) "Eligible land" means land owned by an eligible landowner.

- 35 (4) "Eligible landowner" means a private individual, group, association or
36 corporation owning land suitable for forestry purposes. Where forest land is
37 owned jointly by more than one individual, group, association or
38 corporation, as tenants in common, tenants by the entirety, or otherwise, the
39 joint owners shall be considered, for the purpose of this Article, as one
40 eligible landowner and entitled to receive cost-sharing payments as provided
41 herein only once during each fiscal year.

- 42 (5) Recodified as § 113A-178(3a).

- 43 (6) "Forest development assessment" means an assessment on primary forest
44 products from timber severed in North Carolina for the funding of the
45 provisions of this Article, as authorized by the General Assembly.

- 46 (7) "Forest development cost-sharing payment" means financial assistance to
47 partially cover the costs of implementing approved practices in such
48 amounts as the ~~Secretary-Commissioner~~ shall determine, subject to the
49 limitations of this Article.

- 50 (8) "Forest development fund" means the Forest Development Fund created by
51 ~~G.S. 113A-183~~. G.S. 106-963.

1 (8a) "Maintain" means to retain the reforested area as forestland for a 10-year
2 period and to comply with the provisions in the approved forest management
3 plan.

4 (9) ~~"Secretary" means the Secretary of Environment and Natural Resources.~~

5 **"§ 106-958. Powers and duties.**

6 (a) The ~~Secretary~~ Commissioner shall have the powers and duties to administer the
7 provisions of this Article.

8 (b) The Department shall serve as the disbursing agency for funds to be expended from
9 and deposited to the credit of the Forest Development Fund.

10 (c) Subject to the limitations set forth in ~~G.S. 113A-183(d)~~, G.S. 106-963(d), the
11 ~~Secretary~~ Commissioner is authorized to employ administrative, clerical and field personnel to
12 support the program created by this Article and to compensate such employees from the Forest
13 Development Fund for services rendered in direct support of the program.

14 (d) The ~~Secretary~~ Commissioner is authorized to purchase equipment for the
15 implementation of this program from the Forest Development Fund subject to the limitations of
16 ~~G.S. 113A-183(e)~~, G.S. 106-963(e). All equipment purchased with these funds will be assigned
17 to and used only for the forest development program, except for emergency use in forest fire
18 suppression and other activities relating to the protection of life or property. The Forest
19 Development Fund will be reimbursed from other program funds for equipment costs incurred
20 during such emergency use.

21 **"§ 106-959. Administration of cost sharing.**

22 The ~~Secretary~~ Commissioner shall have authority to administer the cost sharing provisions
23 of this Article, including but not limited to the following:

24 (1) Prescribe the manner and requirements of making application for cost
25 sharing funds.

26 (2) Identify those approved forestry practices as defined in
27 ~~G.S. 113A-178(2)~~ G.S. 106-957(2) which shall be approved for cost sharing
28 under the provisions of this Article.

29 (3) Review periodically the cost of forest development practices and establish
30 allowable ranges for cost sharing purposes for approved practices under
31 varying conditions throughout the State.

32 (4) Determine, prior to approving forest development cost sharing payments to
33 any landowner, that all proposed practices are appropriate and are
34 comparable in cost to the prevailing cost of those practices in the general
35 area in which the land is located. Should the ~~Secretary~~ Commissioner
36 determine that the submitted cost of any practice is excessive, he shall
37 approve forest development cost sharing payments based upon an allowable
38 cost established under ~~G.S. 113A-180(3)~~ G.S. 106-959(3).

39 (5) Determine, prior to approving forest development cost sharing payments,
40 that an approved forest management plan as defined in
41 ~~G.S. 113A-178(1)~~ G.S. 106-957(1) for the eligible land has been filed with
42 the ~~Secretary~~ Commissioner and that the landowner has indicated in writing
43 his intent to comply with the terms of such management plan.

44 (6) Determine, prior to approving forest development cost sharing payments,
45 that the approved practices for which payment is requested have been
46 completed in a satisfactory manner, conform to the approved forest
47 management plan submitted under ~~G.S. 113A-180(5)~~ G.S. 106-959(5), and
48 otherwise meet the requirements of this Article.

49 (7) Disburse from the Forest Development Fund to eligible landowners cost
50 sharing payments for satisfactory completion of practices provided for by
51 this Article and the ~~Secretary~~ Commissioner shall, insofar as is practicable,

1 disburse the funds from the State's appropriation on a matching basis with
2 the funds generated by the Primary Forest Product Assessment.

3 **"§ 106-960. Cost-share agreements.**

4 (a) In order to receive forest development cost-share payments, an eligible landowner
5 shall enter into a written agreement with the Department describing the eligible land, setting
6 forth the approved practices implemented for the area and covered by the approved forest
7 management plan, and agreeing to maintain those practices for a 10-year period.

8 (b) In the absence of Vis major or Act of God or other factors beyond the landowner's
9 control, a landowner who fails to maintain the practice or practices for a 10-year period in
10 accordance with the agreement set forth in subsection (a) of this section shall repay to the Fund
11 all cost-sharing funds received for that area.

12 (c) If the landowner voluntarily relinquishes control or title to the land on which the
13 approved practices have been established, the landowner shall:

- 14 (1) Obtain a written statement, or a form approved by the Department, from the
15 new owner or transferee in which the new owner or transferee agrees to
16 maintain the approved practices for the remainder of the 10-year period; or
- 17 (2) Repay to the Fund all cost-sharing funds received for implementing the
18 approved practices on the land.

19 If a written statement is obtained from the new owner or transferee, the original landowner will
20 no longer be responsible for maintaining the approved practices or repaying the cost-sharing
21 funds. The responsibility for maintaining those practices for the remainder of the 10 years shall
22 devolve to the new owner or transferee.

23 **"§ 106-961. Limitation of payments.**

24 (a) An eligible landowner may receive forest development cost sharing payments for
25 satisfactory completion of approved practices as determined by the ~~Secretary, Commissioner,~~
26 except that the ~~Secretary-Commissioner~~ shall approve no assistance in an amount exceeding the
27 lesser of (i) a sum equal to sixty percent (60%) of the landowner's actual per acre cost incurred
28 in implementing the approved practice or (ii) a sum equal to sixty percent (60%) of the
29 prevailing per acre cost as determined by the ~~Secretary-Commissioner~~ under
30 ~~G.S. 113A-180(3)~~G.S. 106-959(3) for implementing that approved practice.

31 (b) The maximum amount of forest development cost sharing funds allowed to any
32 landowner in one fiscal year will be the amount required to complete all approved practices on
33 100 acres of land at the prevailing cost sharing rate established under
34 ~~G.S. 113A-181(a)~~G.S. 106-961(a).

35 (c) Eligible landowners may not use State cost sharing funds if funds from any federal
36 cost sharing program are used on the same acreage for forestry practices during the same fiscal
37 year.

38 **"§ 106-962. Participation by government political subdivisions.**

39 No governmental agency, federal, State or local, will be eligible for forest development
40 payments under the provision of this Article.

41 **"§ 106-963. Forest Development Fund.**

42 (a) The Forest Development Fund is created in the Department of ~~Environment and~~
43 ~~Natural Resources~~ as a special fund. Revenue in the Fund does not revert at the end of a fiscal
44 year, and interest and other investment income earned by the Fund accrues to it. The Fund is
45 created to provide revenue to implement this Article. The Fund consists of the following
46 revenue:

- 47 (1) Assessments on primary forest products collected under ~~Article 12 of~~
48 ~~Chapter 113A~~Article 81 of Chapter 106 of the General Statutes.
- 49 (2) General Fund appropriations.
- 50 (3) Gifts and grants made to the Fund.

1 (d) In any fiscal year, no more than five percent (5%) of the available funds generated
2 by the Primary Forest Product Processor Assessment Act may be used for program support
3 under the provisions of ~~G.S. 113A-179(e)~~G.S. 106-958(c).

4 (e) Funds used for the purchase of equipment under the provisions of ~~G.S. 113A-179(d)~~
5 G.S. 106-958(d) shall be limited to appropriations from the General Fund to the Forest
6 Development Fund designated specifically for equipment purchase."

7 **SECTION 1.(ii)** Article 12 of Chapter 113A of the General Statutes
8 (G.S. 113A-189, 113A-190, 113A-191, 113A-192, 113A-193, 113A-194, 113A-195, and
9 113A-196) is recodified as a new Article 81 of Chapter 106 of the General Statutes,
10 G.S. 106-965 through G.S. 106-972.

11 **SECTION 1.(jj)** Article 81 of Chapter 106 of the General Statutes, as recodified by
12 subsection (ii) of this section, reads as rewritten:

13 "Article 81.

14 "Primary Forest Product Assessment Act.

15 **"§ 106-965. Short title.**

16 This Article shall be known as the Primary Forest Product Assessment Act.

17 **"§ 106-966. Statement of purpose.**

18 (a) The purpose of this Article is to create an assessment on primary forest products
19 processed from North Carolina timber to provide a source of funds to finance the forestry
20 operations provided for in the Forest Development Act of 1977.

21 (b) All assessments levied under the provisions of this Article shall be used only for the
22 purposes specified in ~~G.S. 113A-193(e)~~G.S. 106-969(c) and in the Forest Development
23 ~~Act, Article 11 of this Chapter.~~

24 **"§ 106-967. Definitions.**

25 The following words, terms and phrases hereinafter used for the purpose of this Article are
26 defined as follows:

- 27 (1) "Primary forest product" shall include those products of the tree after it is
28 severed from the stump and cut to its first roundwood product for further
29 conversion. These products include but are not limited to whole trees for
30 chipping, whole tree logs, sawlogs, pulpwood, veneer bolts, and posts, poles
31 and piling.
- 32 (2) "Processor" shall mean the individual, group, association, or corporation that
33 procures primary forest products at their initial point of concentration for
34 conversion to secondary products or for shipment to others for such
35 conversion.
- 36 (3) "Forest Development Fund" shall mean the special fund established by ~~the~~
37 ~~Forest Development Act of 1977.~~G.S. 106-963.
- 38 (4) For the purpose of this Article, the following are not considered "primary
39 forest products":
 - 40 a. Christmas trees and associated greens;
 - 41 b. Material harvested from an individual's own land and used on said
42 land for the construction of fences, buildings or other personal use
43 developments;
 - 44 c. Fuel wood harvested for personal use or use in individual homes.

45 **"§ 106-968. Operation of assessment system.**

46 (a) The General Assembly hereby levies an assessment on all primary forest products
47 harvested from lands within the State of North Carolina.

48 (b) This assessment shall be at the rates as established in
49 ~~G.S. 113A-194(b)~~G.S. 106-970(b) and the proceeds of such assessment shall be deposited in
50 the Forest Development Fund.

51 **"§ 106-969. Duties.**

- 1 (a) The Secretary, Department of Revenue, shall:
2 (1) Develop the necessary administrative procedures to collect the assessment;
3 (2) Collect the assessment from the primary forest product processors;
4 (3) Deposit funds collected from the assessment in the Forest Development
5 Fund;
6 (4) Audit the records of processors to determine compliance with the provisions
7 of this Article.
- 8 (b) ~~The Secretary of Environment and Natural Resources~~Commissioner of Agriculture
9 shall:
10 (1) Provide to the Secretary, Department of Revenue, lists of processors subject
11 to the assessment;
12 (2) Advise the Secretary, Department of Revenue, of the appropriate methods to
13 convert measurements of primary forest products by other systems to those
14 authorized in this Article;
15 (3) Establish in November prior to those sessions in which the General
16 Assembly considers the State budget, the estimated total assessment that will
17 be collectible in the next budget period and so inform the General Assembly;
18 (4) Within 30 days of certification of the State budget, notify the Secretary,
19 Department of Revenue, of the need to collect the assessment for those years
20 covered by the approved budget.
21 (5) By January 15 of each odd-numbered year, report to the General Assembly
22 on the number of acres reforested, type of owners assisted, geographic
23 distribution of funds, the amount of funds encumbered and other matters.
24 The report shall include the information by forestry district and statewide
25 and shall be for the two fiscal years prior to the date of the report.
- 26 (c) The Secretary of Revenue shall be reimbursed for those actual expenditures incurred
27 as a cost of collecting the assessment for the Forest Development Fund. This amount shall be
28 transferred from the Forest Development Fund in equal increments at the end of each quarter of
29 the fiscal year to the Department of Revenue. This amount shall not exceed five percent (5%)
30 of the total assessments collected on primary forest products during the preceding fiscal year.

31 **"§ 106-970. Assessment rates.**

- 32 (a) The assessment rates shall be based on the following standards:
33 (1) For primary forest products customarily measured in board feet, the
34 "International 1/4 Inch Log Rule" or equivalent will be used;
35 (2) For primary forest products customarily measured in cords, the standard
36 cord of 128 cubic feet or equivalent will be used;
37 (3) For any other type of forest product separated from the soil, the ~~Secretary of~~
38 ~~Environment and Natural Resources~~Commissioner of Agriculture shall
39 determine a fair unit assessment rate, based on the cubic foot volume of one
40 thousand foot board measure, International 1/4 Inch Log Rule or one
41 standard cord, 128 cubic feet.
- 42 (b) The assessment levied on primary forest products shall be at the following rates:
43 (1) Fifty cents (50¢) per thousand board feet for softwood sawtimber, veneer
44 logs and bolts, and all other softwood products normally measured in board
45 feet;
46 (2) Forty cents (40¢) per thousand board feet for hardwood and bald cypress
47 sawtimber, veneer, and all other hardwood and bald cypress products
48 normally measured in board feet;
49 (3) Twenty cents (20¢) per cord for softwood pulpwood and other softwood
50 products normally measured in cords;

- 1 (4) Twelve cents (12¢) per cord for hardwood pulpwood and other hardwood
2 and bald cypress products normally measured in cords;
3 (5) All material harvested within North Carolina for shipment outside the State
4 for primary processing will be assessed at a percentage of the invoice value.
5 This percentage will be established to yield rates equal to those if the
6 material were processed within the State.

7 **"§ 106-971. Collection of assessment.**

- 8 (a) The assessment shall be levied against the processor of the primary forest product.
9 (b) The assessment shall be submitted on a quarterly basis of the State's fiscal year due
10 and payable the last day of the month following the end of each quarter.
11 (c) The assessment shall be remitted to the Secretary, Department of Revenue, by check
12 or money order, with such production reports as may be required by said Secretary.
13 (d) The processor shall maintain for a period of three fiscal years and make available to
14 the Secretary, Department of Revenue, such production records necessary to verify proper
15 reporting and payment of revenue due the Forest Development Fund.
16 (e) The production reports of the various processors shall be used only for assessment
17 purposes. Production information will not be made a part of the public record on an individual
18 processor basis.
19 (f) Any official or employee of the State who discloses information obtained from a
20 production report, except as may be necessary for administration and collection of the
21 assessment, or in the performance of official duties, or in administration or judicial proceedings
22 related to the levy or collection of the assessment, shall be guilty of a Class 3 misdemeanor
23 punishable only by a fine not to exceed fifty dollars (\$50.00).

24 **"§ 106-972. Enforcement of collection.**

25 The Secretary of Revenue shall enforce collection of the primary forest product assessment
26 in accordance with the remedies and procedures contained in Article 9 of Chapter 105 of the
27 General Statutes."

28 **SECTION 1.(kk) G.S. 1-339.17(c1) reads as rewritten:**

29 "(c1) When the public sale is a sale of timber by sealed bid, the notice shall also be given
30 in writing, not less than 21 days before the date on which bids are opened, to a reasonable
31 number of prospective timber buyers, which in all cases shall include the timber buyers listed in
32 the office of the Division of Forest Resources of the Department of Agriculture and Consumer
33 Services for the county or counties in which the timber to be sold is located."

34 **SECTION 1.(ll) G.S. 20-81.12(b35) reads as rewritten:**

35 "(b35) First in Forestry. – The Division must receive 300 or more applications for the First
36 in Forestry plate before the plate may be developed. The Division shall transfer quarterly
37 one-half of the money in the Collegiate and Cultural Attraction Plate Account derived from the
38 sale of the First in Forestry plates to the Division of Forest Resources of the Department of
39 Agriculture and Consumer Services for a State forests and forestry education program and shall
40 transfer quarterly one-half of the money in the Collegiate and Cultural Attraction Plate Account
41 derived from the sale of the First in Forestry plates to the Forest Education and Conservation
42 Foundation for their programs."

43 **SECTION 1.(mm) G.S. 97-2(2) reads as rewritten:**

44 "(2) Employee. – The term "employee" means every person engaged in an
45 employment under any appointment or contract of hire or apprenticeship,
46 express or implied, oral or written, including aliens, and also minors,
47 whether lawfully or unlawfully employed, but excluding persons whose
48 employment is both casual and not in the course of the trade, business,
49 profession, or occupation of his employer, and as relating to those so
50 employed by the State, the term "employee" shall include all officers and
51 employees of the State, including such as are elected by the people, or by the

1 General Assembly, or appointed by the Governor to serve on a per diem,
2 part-time or fee basis, either with or without the confirmation of the Senate;
3 as relating to municipal corporations and political subdivisions of the State,
4 the term "employee" shall include all officers and employees thereof,
5 including such as are elected by the people. The term "employee" shall
6 include members of the North Carolina National Guard while on State active
7 duty under orders of the Governor and members of the North Carolina State
8 Defense Militia while on State active duty under orders of the Governor. The
9 term "employee" shall include deputy sheriffs and all persons acting in the
10 capacity of deputy sheriffs, whether appointed by the sheriff or by the
11 governing body of the county and whether serving on a fee basis or on a
12 salary basis, or whether deputy sheriffs serving upon a full-time basis or a
13 part-time basis, and including deputy sheriffs appointed to serve in an
14 emergency, but as to those so appointed, only during the continuation of the
15 emergency. The sheriff shall furnish to the board of county commissioners a
16 complete list of all deputy sheriffs named or appointed by him immediately
17 after their appointment and notify the board of commissioners of any
18 changes made therein promptly after such changes are made. Any reference
19 to an employee who has been injured shall, when the employee is dead,
20 include also his legal representative, dependents, and other persons to whom
21 compensation may be payable: Provided, further, that any employee, as
22 herein defined, of a municipality, county, or of the State of North Carolina,
23 while engaged in the discharge of his official duty outside the jurisdictional
24 or territorial limits of the municipality, county, or the State of North Carolina
25 and while acting pursuant to authorization or instruction from any superior
26 officer, shall have the same rights under this Article as if such duty or
27 activity were performed within the territorial boundary limits of his
28 employer.

29 Every executive officer elected or appointed and empowered in
30 accordance with the charter and bylaws of a corporation shall be considered
31 as an employee of such corporation under this Article.

32 Any such executive officer of a corporation may, notwithstanding any
33 other provision of this Article, be exempt from the coverage of the
34 corporation's insurance contract by such corporation's specifically excluding
35 such executive officer in such contract of insurance, and the exclusion to
36 remove such executive officer from the coverage shall continue for the
37 period such contract of insurance is in effect, and during such period such
38 executive officers thus exempted from the coverage of the insurance contract
39 shall not be employees of such corporation under this Article.

40 All county agricultural extension service employees who do not receive
41 official federal appointments as employees of the United States Department
42 of Agriculture and who are field faculty members with professional rank as
43 designated in the memorandum of understanding between the North
44 Carolina Agricultural Extension Service, North Carolina State University, A
45 & T State University, and the boards of county commissioners shall be
46 deemed to be employees of the State of North Carolina. All other county
47 agricultural extension service employees paid from State or county funds
48 shall be deemed to be employees of the county board of commissioners in
49 the county in which the employee is employed for purposes of workers'
50 compensation.

1 The term "employee" shall also include members of the Civil Air Patrol
2 currently certified pursuant to G.S. 143B-491(a) when performing duties in
3 the course and scope of a State-approved mission pursuant to Article 11 of
4 Chapter 143B of the General Statutes.

5 "Employee" shall not include any person performing voluntary service as
6 a ski patrolman who receives no compensation for such services other than
7 meals or lodging or the use of ski tow or ski lift facilities or any combination
8 thereof.

9 Any sole proprietor or partner of a business or any member of a limited
10 liability company may elect to be included as an employee under the
11 workers' compensation coverage of such business if he is actively engaged in
12 the operation of the business and if the insurer is notified of his election to
13 be so included. Any such sole proprietor or partner or member of a limited
14 liability company shall, upon such election, be entitled to employee benefits
15 and be subject to employee responsibilities prescribed in this Article.

16 "Employee" shall include an authorized pickup firefighter of the Division
17 of Forest Resources of the Department of ~~Environment and Natural~~
18 ~~Resources~~Agriculture and Consumer Services when that individual is
19 engaged in emergency fire suppression activities for the Division of Forest
20 Resources. As used in this section, "authorized pickup firefighter" means an
21 individual who has completed required fire suppression training as a
22 wildland firefighter and who is available as needed by the Division of Forest
23 Resources for emergency fire suppression activities, including immediate
24 dispatch to wildfires and standby for initial attack on fires during periods of
25 high fire danger.

26 It shall be a rebuttable presumption that the term "employee" shall not
27 include any person performing services in the sale of newspapers or
28 magazines to ultimate consumers under an arrangement whereby the
29 newspapers or magazines are to be sold by that person at a fixed price and
30 the person's compensation is based on the retention of the excess of the fixed
31 price over the amount at which the newspapers or magazines are charged to
32 the person."

33 **SECTION 1.(nn)** G.S. 105-259(b)(41) reads as rewritten:

34 "(41) To furnish the Division of Forest Resources of the Department of
35 ~~Environment and Natural Resources~~Agriculture and Consumer Services
36 pertinent contact and financial information concerning companies that are
37 involved in the primary processing of timber products so that the Secretary
38 of Environment and Natural Resources is able to comply with
39 G.S. 113A-193 under the Primary Forest Product Assessment Act."

40 **SECTION 1.(oo)** G.S. 105-277.7(a)(2) reads as rewritten:

41 "(2) A representative of the Division of Forest Resources of the Department of
42 ~~Environment and Natural Resources~~Agriculture and Consumer Services,
43 designated by the Director of that Division."

44 **SECTION 1.(pp)** G.S. 105-296(j) reads as rewritten:

45 "(j) The assessor must annually review at least one eighth of the parcels in the county
46 classified for taxation at present-use value to verify that these parcels qualify for the
47 classification. By this method, the assessor must review the eligibility of all parcels classified
48 for taxation at present-use value in an eight-year period. The period of the review process is
49 based on the average of the preceding three years' data. The assessor may request assistance
50 from the Farm Service Agency, the Cooperative Extension Service, the Division of Forest

1 Resources of the Department of ~~Environment and Natural Resources~~, Agriculture and
2 Consumer Services, or other similar organizations.

3 The assessor may require the owner of classified property to submit any information,
4 including sound management plans for forestland, needed by the assessor to verify that the
5 property continues to qualify for present-use value taxation. The owner has 60 days from the
6 date a written request for the information is made to submit the information to the assessor. If
7 the assessor determines the owner failed to make the information requested available in the
8 time required without good cause, the property loses its present-use value classification and the
9 property's deferred taxes become due and payable as provided in G.S. 105-277.4(c). If the
10 property loses its present-use value classification for failure to provide the requested
11 information, the assessor must reinstate the property's present-use value classification when the
12 owner submits the requested information within 60 days after the disqualification unless the
13 information discloses that the property no longer qualifies for present-use value classification.
14 When a property's present-use value classification is reinstated, it is reinstated retroactive to the
15 date the classification was revoked and any deferred taxes that were paid as a result of the
16 revocation must be refunded to the property owner. The owner may appeal the final decision of
17 the assessor to the county board of equalization and review as provided in G.S. 105-277.4(b1).

18 In determining whether property is operating under a sound management program, the
19 assessor must consider any weather conditions or other acts of nature that prevent the growing
20 or harvesting of crops or the realization of income from cattle, swine, or poultry operations.
21 The assessor must also allow the property owner to submit additional information before
22 making this determination."

23 **SECTION 1.(qq)** G.S. 106-202.14(b)(3) reads as rewritten:

24 "(3) The Division of Forest Resources, Department of ~~Environment and Natural~~
25 ~~Resources~~; Agriculture and Consumer Services;"

26 **SECTION 1.(rr)** G.S. 113-291.10(a)(3) reads as rewritten:

27 "(3) The Director of the Division of Forest Resources of the Department of
28 ~~Environment and Natural Resources~~; Agriculture and Consumer Services, or
29 a designee;"

30 **SECTION 1.(ss)** G.S. 143-166.2(d) reads as rewritten:

31 "(d) The term "law-enforcement officer", "officer", or "fireman" shall mean a sheriff and
32 all law-enforcement officers employed full-time, permanent part-time, or temporarily by a
33 sheriff, the State of North Carolina or any county or municipality thereof, whether paid or
34 unpaid; and all full-time custodial employees and probation and parole officers of the North
35 Carolina Department of Correction; and all full time institutional and full-time, permanent
36 part-time, and temporary detention employees of the Department of Juvenile Justice and
37 Delinquency Prevention and full-time, permanent part-time, and temporary detention officers
38 employed by any sheriff, county or municipality, whether paid or unpaid. The term "firemen"
39 shall mean both "eligible firemen" as defined in G.S. 58-86-25 and all full-time, permanent
40 part-time and temporary employees of the ~~North Carolina~~ Division of Forest Resources,
41 Department of ~~Environment and Natural Resources~~; Agriculture and Consumer Services, during
42 the time they are actively engaged in fire-fighting activities; and shall mean all full-time
43 employees of the North Carolina Department of Insurance during the time they are actively
44 engaged in fire-fighting activities, during the time they are training fire fighters or rescue squad
45 workers, and during the time they are engaged in activities as members of the State Emergency
46 Response Team, when the Team has been activated; and shall mean all otherwise eligible
47 persons who, while actively engaged as firefighters or rescue squad workers, are acting in the
48 capacity of a fire or rescue instructor outside their own department or squad. The term "rescue
49 squad worker" shall mean a person who is dedicated to the purpose of alleviating human
50 suffering and assisting anyone who is in difficulty or who is injured or becomes suddenly ill by
51 providing the proper and efficient care or emergency medical services. In addition, this person

1 must belong to an organized rescue squad which is eligible for membership in the North
2 Carolina Association of Rescue Squads, Inc., and the person must have attended a minimum of
3 36 hours of training and meetings in the last calendar year. Each rescue squad belonging to the
4 North Carolina Association of Rescue Squads, Inc., must file a roster of those members
5 meeting the above requirements with the State Treasurer on or about January 1 of each year,
6 and this roster must be certified to by the secretary of said association. In addition, the term
7 "rescue squad worker" shall mean a member of an ambulance service certified by the
8 Department of Health and Human Services pursuant to Article 7 of Chapter 131E of the
9 General Statutes. The Department of Health and Human Services shall furnish a list of
10 ambulance service members to the State Treasurer on or about January 1 of each year. The term
11 "Civil Air Patrol members" shall mean those senior members of the North Carolina Wing-Civil
12 Air Patrol 18 years of age or older and currently certified pursuant to G.S. 143B-491(a). The
13 term "fireman" shall also mean county fire marshals when engaged in the performance of their
14 county duties. The term "rescue squad worker" shall also mean county emergency services
15 coordinators when engaged in the performance of their county duties."

16 **SECTION 1.(tt)** G.S. 143-166.7 reads as rewritten:

17 **"§ 143-166.7. Applicability of Article.**

18 The provisions of this Article shall apply and be in full force and effect with respect to any
19 law-enforcement officer, fireman, rescue squad worker or senior Civil Air Patrol member killed
20 in the line of duty on or after May 13, 1975. The provisions of this Article shall apply with
21 respect to full-time, permanent part-time and temporary employees of ~~North Carolina~~ Division
22 of Forest Resources, Department of ~~Environment and Natural Resources,~~ Agriculture and
23 Consumer Services, killed in line of duty on or after July 1, 1975. The provisions of this Article
24 shall apply to county fire marshals and emergency services coordinators killed in the line of
25 duty on and after July 1, 1988."

26 **SECTION 1.(uu)** G.S. 143-214.25A(a) reads as rewritten:

27 "(a) The Division of Water Quality of the Department shall develop a program to train
28 and certify individuals to determine the presence of surface waters that would require the
29 application of rules adopted by the Commission for the protection of riparian buffers. The
30 Division may train and certify employees of the Division as determined by the Director of the
31 Division of Water Quality; employees of units of local government to whom responsibility for
32 the implementation and enforcement of the riparian buffer protection rules is delegated
33 pursuant to G.S. 143-214.23; and Registered Foresters under Chapter 89B of the General
34 Statutes who are employees of the Division of Forest Resources of the Department of
35 Agriculture and Consumer Services as determined by the Director of the Division of Forest
36 Resources. The Director of the Division of Water Quality may review the determinations made
37 by individuals who are certified pursuant to this section, may override a determination made by
38 an individual certified under this section, and, if the Director of the Division of Water Quality
39 determines that an individual is failing to make correct determinations, revoke the certification
40 of that individual."

41 **SECTION 1.(vv)** G.S. 143-215.74M(d)(11) reads as rewritten:

42 "(11) The Director of the Division of Forest Resources of the Department of
43 Agriculture and Consumer Services or the Director's designee."

44 **SECTION 1.(ww)** G.S. 166A-18 reads as rewritten:

45 **"§ 166A-18. Division of Forest Resources designated as emergency response agency.**

46 The Division of Forest Resources of the Department of ~~Environment and Natural~~
47 ~~Resources~~ Agriculture and Consumer Services is designated an emergency response agency of
48 the State of North Carolina for purposes of:

- 49 (1) Supporting the Division of Emergency Management of the Department of
50 Crime Control and Public Safety in responding to all-risk incidents.
- 51 (2) Receipt of any applicable State or federal funding.

- 1 (3) Training of other State and local agencies in disaster and emergency
2 management.
3 (4) Any other disaster and emergency response roles for which the Division has
4 special training or qualifications."

5 **SECTION 1.(xx)** The Revisor of Statutes shall make the conforming statutory
6 changes necessary to reflect the transfers under this section. The Revisor of Statutes may
7 correct any reference in the General Statutes to the statutes that are recodified by this section
8 and make any other conforming changes necessitated by this section.

9 **SECTION 1.(yy)** The transfers under this section become effective July 1, 2011,
10 and funds transferred shall be net of any changes enacted by this section.

11 **SECTION 1.(zz)** Any references in this act to the Division of Forest Resources of
12 the Department of Environment and Natural Resources shall be construed to refer to the
13 Division of Forest Resources of the Department of Agriculture and Consumer Services. Any
14 references in this act to the Forestry Council of the Department of Environment and Natural
15 Resources shall be construed to refer to the Forestry Council of the Department of Agriculture
16 and Consumer Services.

17 **SECTION 2.** This act becomes effective July 1, 2011.