

## Article 11.

### General Provisions.

#### **§ 156-135. Construction of drainage law.**

The provisions of this Subchapter shall be liberally construed to promote the leveeing, ditching, draining, and reclamation of wet and overflowed lands. The collection of the assessment shall not be defeated, where the proper notices have been given, by reason of any defect in the proceedings occurring prior to the order of the court confirming the final report of the viewers; but such order or orders shall be conclusive and final that all prior proceedings were regular and according to law, unless they were appealed from. If on appeal the court shall deem it just and proper to release any person or to modify his assessment or liability, it shall in no manner affect the rights and legality of any person other than the appellant, and the failure to appeal from the order of the court within the time specified shall be a waiver of any illegality in the proceedings, and the remedies provided for in this Subchapter shall exclude all other remedies. (1909, c. 442, s. 37; C.S., s. 5379.)

#### **§ 156-135.1. Investment of surplus funds.**

Any drainage district organized under the provisions of Subchapter III of Chapter 156 of the General Statutes and the governing authority of same is hereby authorized and empowered to invest any surplus funds or any funds not needed for the immediate use of the district in United States bonds or any securities or type of investment in which guardians, executors, administrators and others acting in a fiduciary capacity are authorized to make investments by virtue of Article 1 of Chapter 36 of the General Statutes as amended. (1951, c. 1058, s. 1.)

#### **§ 156-136. Removal of officers.**

Any engineer, viewer, superintendent of construction or other person appointed under this Chapter may be removed by the court, upon petition, for corruption, negligence of duties, or other good and satisfactory cause shown. (1909, c. 442, s. 38; C.S., s. 5380.)

#### **§ 156-137. Local drainage laws not affected.**

This Subchapter shall not repeal or change any local drainage laws already enacted. (1909, c. 442, s. 38 1/2; C.S., s. 5381.)

#### **§ 156-138. Punishment for violating law as to drainage districts.**

If any person shall violate any of the provisions of law in reference to drainage districts as provided in this Chapter, or shall leave any log, brush, trash, or other thing where it is liable to wash into an adjacent stream and obstruct the flow of water or cut any tree so as to fall in a stream, or place any other obstruction in a stream in a drainage district, he shall be fined not more than fifty dollars (\$50.00) or imprisoned not more than 30 days. (1905, c. 541, ss. 7, 9; Rev., s. 3378; C.S., s. 5382.)

#### **§ 156-138.1. Acquisition and disposition of lands; lease to or from federal or State government or agency thereof.**

The district may acquire any lands necessary or convenient to enable it to accomplish the purposes for which the district was established. If the lands cannot be acquired by agreement as to the purchase price, then the power of eminent domain is hereby conferred and the lands may be condemned by the procedure set out in G.S. 156-67 and Chapter 40A of the General Statutes. The

land so acquired may be used in a manner and for the purposes the commissioners of the district deem best. If, in the opinion of the drainage commission of the district the lands should be sold, leased or rented, the board may do so, subject to the approval of the clerk of the superior court.

The commissioners of the district may, in their discretion, convey or lease to the State or federal governments, or any of their agencies, with or without consideration, any properties, real or personal, belonging to the district, if in their opinion it is necessary to enable the district to receive State or federal funds available to the district. The terms of a conveyance or lease shall be subject to the approval of the clerk of the superior court of the county in which the district was established.

The commissioners of the district may lease from the State or federal governments any real or personal property needed by the district to enable it to efficiently operate and maintain the district for the purposes for which it was established. The terms of a lease shall be subject to the approval of the clerk of the superior court of the county in which the district was established. (1957, c. 539; 2001-487, s. 38(h).)

**§ 156-138.2. Meaning of "majority of resident landowners" and "owners of three fifths of land area."**

Wherever in this Subchapter reference is made to a "majority of resident landowners" or "owners of three fifths of the land area," such reference shall be deemed to refer only to lands alleged in a petition or adjudged by the court to be benefited by the proposed construction work. (1959, c. 1312, s. 2.)

**§ 156-138.3. Notice.**

Unless specifically required by the provisions of this Subchapter, it is not necessary to give notice to any landowner of a motion made to, or order rendered by the clerk of the superior court or the judge of the superior court relating to the affairs of the district, financial or otherwise, except when an assessment is proposed to be made upon his land and then such notice shall be given as is required by the provisions of this Subchapter. This provision for notice of assessment shall not apply to assessments for annual maintenance expenses, which are provided for in this Subchapter, and specifically in Article 7A and G.S. 156-92. (1961, c. 614, s. 3.)

**§ 156-138.4. Procedures to be followed in connection with drainage projects that involve channelization.**

Every drainage project that involves channelization shall be subject to the procedures set forth in G.S. 139-47. (1971, c. 1138, s. 4.)