

facturers of farm produce and edibles as herein defined:  
*Provided*, That this act shall not prohibit the sale or delivery of dairy products on Sunday.

Passed the Senate February 24, 1897.

Passed the House March 10, 1897.

Approved by the Governor March 11, 1897.

### CHAPTER LXIII.

[S. B. No. 116.]

#### PROHIBITING DEFICIENCY JUDGMENTS.

AN ACT relating to deficiency judgments.

*Be it enacted by the Legislature of the State of Washington:*

SECTION 1. That in all proceedings for the foreclosure of mortgages hereafter executed, or on judgments rendered upon the debt thereby secured, the mortgagee or assignee shall be limited to the property included in the mortgage.

SEC. 2. All acts or parts of acts in conflict with this act are hereby repealed.

Passed the Senate March 2, 1897.

Passed the House March 10, 1897.

Approved by the Governor March 11, 1897.

### CHAPTER LXIV.

[H. B. No. 180.]

#### RELATING TO THE SCALING OF LOGS AND LUMBER.

AN ACT to provide for the official scaling of logs and lumber.

*Be it enacted by the Legislature of the State of Washington:*

SECTION 1. That there be established within this state two districts for the survey and measurement of logs, and

that counties of Whatcom, Skagit, San Juan, Island, Snohomish, King, Pierce, Mason, Lewis, Skamania, Clarke, Cowlitz, Wahkiakum, Pacific, Chehalis, Thurston, Kitsap, Jefferson and Clallam shall constitute district number one (1), and that Seattle, Washington, shall be the principal place of business of district number one (1); and that the counties Okanogan, Stevens, Spokane, Lincoln, Douglas, Kittitas, Yakima, Franklin, Adams, Whitman, Garfield, Asotin, Columbia, Walla Walla and Klickitat shall constitute district number two (2), and that Spokane, Washington, shall be the principal place of business for district number two (2).

SEC. 2. There shall be biennially appointed by the governor, with the advice and consent of the senate, a state log scaler for each of the districts aforesaid, who shall be a citizen of the district for which he is appointed at the time of his appointment, and he shall enter upon the discharge of the duties of his office on the third Monday in April next succeeding his appointment, and shall hold his office two years, and until his successor is appointed, confirmed and qualified: *Provided*, That it shall be the duty of the state log scaler whose term of office has expired to make the scale bills, and record them in the books of the state log scaler's office, within thirty days of the day he vacates his office, of all logs scaled by him or deputies prior to the time he surrenders the same to his successor, and for that purpose he shall have access to the books of the office for a period of thirty days; and all bills so made and recorded shall have the same validity as if made and recorded during his term of office. Each of said state log scalers shall have a seal of office, and shall have engraved thereon the arms of the State of Washington, and the words "State Log Scaler, ..... District," and in said blank space shall be inserted the number of his district.

One scaler appointed for each district.

Duty of outgoing scaler.

SEC. 3. Each state log scaler shall, before entering upon the duties of his office, take an oath before some person qualified to administer oaths, that he will faithfully discharge the duties of his office, and also to execute a bond to the county in which he holds his office with five or more

Oath of office.

Bond for  
\$2,000.

sufficient sureties, to be approved by the county commissioners of such county, in the penal sum of two thousand dollars (\$2,000), conditioned for the faithful discharge of his duties as state log scaler, and for the delivery over to his successor of all bills, bonds, certificates and papers and other effects appertaining to his said office. The bond and oath of office shall be recorded in the office of the county auditor of the county where such office is kept; and when there is a failure to comply with the conditions of such bond, any person feeling himself aggrieved may commence an action thereon before any court having jurisdiction, and a recovery thereon (by one) shall not render the bond void, but the same may be prosecuted from time to time until the whole penalty is recovered.

May appoint  
deputies.

SEC. 4. The state log scaler may appoint any number of deputies necessary to transact the business of his district, with power to remove any of them at his pleasure, and it shall be the duty of such state log scaler to appoint at least one deputy for a county, who shall thereafter be and reside in such county, upon a petition being presented to him by two or more master loggers showing that active operations are being carried on in the logging business by two or more master loggers in such county.

Upon request  
shall scale  
logs or timber.

SEC. 5. The state log scaler, by himself or his deputy, at the request of the owner of any logs or timber, or any sheriff, coroner or constable who has replevied, attached or levied on any logs or timber, or any person who has a written order from the owner for the delivery of any logs or timber, to forthwith repair to any part of his district and survey such logs or timber, and, upon completing such survey, to make out a true and correct scale bill thereof, stating the person by whom, the time when and place where such logs or timber was scaled, at whose request and to whom scaled, if to any one, and the scale mark placed thereon; the number of logs, and, when requested by the owner or any other person controlling the same, the number of pieces of logs or timber, together with the mark or marks thereon, and the number of feet therein contained, and shall sign the same; and thereupon he shall record such bill in the books of his office, and,

upon being paid his fees for such services, he shall deliver the original bill to the person for whom the logs or timber is scaled, if any; if not, then to the person requesting the survey. No state log scaler, or deputy scaler, shall in person survey any logs or timber owned wholly or in part by himself, but either may survey any such logs or timber owned wholly or in part by the other: *Provided*, That where logs which have been cut in any lumber district in this state have been run out of said district, it shall be lawful for the state log scaler of the district in which said logs were cut, when requested so to do as above provided, to scale said logs by himself or deputy. The said scalers and their deputies shall, in surveying or measuring logs, make such allowance for hollow, rotten and crooked logs as would reduce and make them equal to good, sound and straight merchantable logs, and in surveying shall throw off all rotten, shaky or wany stuff, and make the same equal to good merchantable lumber. And the figures showing such survey shall, at the time of making the same, be entered by the scaler in pass books kept for the purpose, which books shall be preserved and filed by the state log scaler in his office for the inspection of all persons interested therein. The scale rule known as Drew's rule is hereby adopted as the only rule for the survey of logs in this state.

Scaler must have no interest in logs.

Allowance to be made for defects.

Drew's rule to be used.

SEC. 6. Any person considering any scale of the state log scaler or any of his deputies incorrect, whether he be the owner or the purchaser of the logs so scaled, may contest said scale by serving on the state log scaler of the district in which said logs were scaled a copy of a notice of his intention to contest such a scale and filing the original of such notice with the clerk of the court in the county in which said logs are situated, said notice to contain a statement of by whom and where the logs were cut, the mark thereon, the number thereof, when and where they were scaled and the amount of such scale, and where the logs are situated, and when and by whom moved from where they were originally scaled, if moved at all, and the clerk shall enter the same as an action entitled by naming the party giving the notice as plaintiff, and the state log scaler

Objection may be made to scaler's scale.

as defendant, three days after the serving and filing of said notice, upon the application of either party, the judge of the superior court of said county, shall in open court or at chambers appoint two disinterested scalers to re-scale said logs. Each of said persons so appointed shall forthwith scale said logs, and if they do not agree as to the quantity of lumber in said logs, then they shall be deemed to agree upon the sum of the smallest amount found by either of them plus one-half the difference between his and the other's scale, whereupon they shall make out a scale bill, as in this act provided, also stating thereon the amount of lumber each found to be contained in said boom, and the amount of fees due each, and sign and file the same with the same clerk of said court, and they shall each be entitled to receive for such services the fees allowed by this act for such services, and in event of there being a difference of more than 10 per cent. between the original scale of said logs by the state log scaler and the amount agreed upon by the parties appointed to re-scale said logs, then the court shall give judgment against the state log scaler for all costs of such proceedings, including the cost of re-scaling said logs, and order the state log scaler to correct the books of his office, so that they shall show said logs to contain the amount ascertained by the re-scale of said logs. In event of there not being more than 10 per cent. difference between the scale of said logs, then judgment shall be entered against the plaintiff for the cost of the proceeding, including the fees of the persons appointed to rescale said logs. In the event of the judgment of such proceedings being against the state log scaler, the person paying for the original scale of said logs shall be entitled to recover from said state log scaler or his bondsmen the amount he may have paid for such original scale and if he shall not have paid for such scale, then the state log scaler shall not be entitled to recover the same.

Manner of entering objection.

Re-scale.

Duty to scale when not requested in certain cases.

SEC. 7. It shall be the duty of the state log scaler, or his deputy, to scale all lots or booms of logs containing 50,000 feet or more, which may be offered for sale, whether requested to do so or not, if the same has not been scaled, and it shall also be the duty of the owner or pur-

chaser of any logs to notify the state log scaler of any logs in his possession that have not been scaled, and any person or association of persons who shall sell or remove any such logs from the state, that have been cut in the state, before the same shall have been scaled, shall be liable to the state log scaler for one-half the value of such logs, so sold or removed from the state without having been scaled, which sum shall be recovered by the state log scaler in a civil action, and when so recovered, one-half thereof, shall be paid by the state log scaler into the general school fund.

SEC. 8. The fees of the state log scaler shall be: For Scaler's fees. surveying, scale marking, making scale bills and recording the same and posting in the ledger, three and a half cents per thousand feet for all logs and timber required to be surveyed; twenty per cent. of the aforesaid fees shall be paid by the state log scaler, at least every three months, into the general fund of the state treasury; for recording any log mark, fifty cents; for making and certifying a copy of any matter which may be on record in his office, or for making duplicate scale bill, ten cents per folio, and fifty cents for each certificate thereon; for recording any instrument in writing authorized to be recorded in his office, other than scale bills, ten cents per folio, payable when such instrument is presented for record and before it is recorded, and no such instrument shall be deemed recorded until it is entered upon the index to the record. And for the purpose of securing to the state log scaler the Fees a lien. payment of his fees, whether the same are for surveying, making scale-bills, or recording the same, or for any or all such services, such state log scaler shall have a lien upon all such logs or timber surveyed and marked by him for the amount due for his services thereon, and may retain such lien by affixing the scale bill of such logs or timber and notify the same on the record of his office, before the delivery thereof, a true statement of the amount due him thereon, and that he claims a lien thereon for such amount and costs of collection; and any person who shall purchase, sell or remove said logs from the state shall be liable to the state log scaler for the payment of said fees, and at any time that he may deem himself in danger of losing

Lien may be foreclosed.

such lien, he may take possession of sufficient quantity of such logs to cover the amount of his lien and the costs of recovery, and if his bill is not paid within thirty days, after notice of [to] the owner or person in possession or in charge of said logs, then the state log scaler may sell at public auction enough of such logs or timber to pay the amount due him, with the costs of collection, first giving ten days' notice of such sale by posting up five written notices thereof, one in his office, and one in each of the four most public places in the town or city where the sale is to be made, and at such sale the state log scaler may become the purchaser. The sale may be made by the sheriff or any constable of the county. The only costs of collection allowed shall be ten per cent. on the amount payable to the state log scaler.

Sale under lien.

Books in office of log scaler.

SEC. 9. The books of record in the state log scaler's office shall be—

*First:* A book in which shall be recorded the scale bills of all logs, timber and lumber surveyed by the state log scaler.

*Second:* A book to be kept in ledger form, in which shall be posted and recorded as soon as any logs or timber is surveyed, separately and under their respective marks, all the logs and timber of each particular mark surveyed, together with the date of scale, the number of logs and the number of pieces of timber, for whom scaled, if to any one, and the number of feet; which book shall be kept posted up so that it will show the matter above stated concerning each mark of logs scaled during each month. And the state log scaler shall make and deliver to any person demanding the same a certified transcript of said record, as to mark or marks of logs or timber, upon being paid ten cents per folio, and the sum of fifty cents for his certificate of the same; and an index of the names and marks contained in each of said books shall also be kept. Any books of the description before named, which have been kept in the office of the state log scaler and which belong to said office, are hereby declared to be the records of said office, and to have and be of the same validity, force and effect as if the same had been kept by express authority of

law. All the books of record hereinbefore mentioned and authorized to be kept in the office of any state log scaler are hereby declared to be public records, and of as high degree of evidence as the original instrument therein recorded, and shall, in all courts and places in this state, be taken and held *prima facie* evidence of the matters therein stated, and such books shall not be removed from the state log scaler's office, but any paper purporting to be a copy of any matter or thing of record in such office, certified under the hand of the state log scaler or his deputy to be a correct transcript from the records in such office, shall, in all courts of this state, be received and read as *prima facie* evidence of the matters and things in such record contained and of the matters therein stated.

Books are public record.

SEC. 10. The state log scaler shall make a report of the total number of feet of logs which he has surveyed in his district for the year ending the last day of October, before the last day of November of each year, to the governor of the state.

Scaler shall report to governor annually.

Passed the House March 5, 1897.

Passed the Senate March 11, 1897.

Approved by the Governor March 13, 1897.

## CHAPTER LXV.

[H. B. No. 418.]

### RELATING TO INSURANCE.

AN ACT to regulate and control insurance companies, corporations and associations in this state, and to amend sections 11, 26, 29, 33 and 34 of "An act to regulate and license insurance in this state, to repeal existing laws in relation thereto, and declaring an emergency," approved March 19, 1895.

*Be it enacted by the Legislature of the State of Washington:*

SECTION 1. It shall be unlawful for any insurance company, corporation or association doing business in the State of Washington to write, place or cause to be written or placed any policy or contract for indemnity for insurance

Over-head writing prohibited.