

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 414
HOUSE BILL 826

AN ACT TO PROVIDE FOR THE LICENSING OF SOIL SCIENTISTS.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes are amended by adding a new Chapter to read:

"Chapter 89F.

"North Carolina Soil Scientist Licensing Act.

"§ 89F-1. Short title.

This Chapter may be cited as the North Carolina Soil Scientist Licensing Act.

"§ 89F-2. Purposes.

The purposes of this Chapter are to protect life, property, health, and public welfare through regulation of the practice of soil science in the State; to define the practice of soil science as a profession by establishing minimum standards of ethical conduct and professional responsibility and by establishing professional education and experience requirements; and to prevent abuses in the practice of soil science by untrained or unprincipled individuals.

"§ 89F-3. Definitions.

As used in this Chapter, unless the context otherwise requires:

- (1) 'Board' means the North Carolina Board for Licensing of Soil Scientists.
- (2) 'License' means a certificate issued by the Board to an individual who meets the requirements established for a licensed soil scientist by this Chapter and rules adopted pursuant to this Chapter.
- (3) 'Licensed soil scientist' means a person who is licensed as a soil scientist under this Chapter.
- (4) 'Practice of soil science' means any service or work, the adequate performance of which requires education in the physical, chemical, and biological sciences, as well as soil science; training and experience in the application of special knowledge of these sciences to the use and management of soils by accepted principles and methods; and investigation, evaluation, and consultation; and in which the performance is related to the public welfare by safeguarding life, health, property, and the environment. 'Practice of soil science' includes, but is not limited to, investigating and evaluating the interaction between water, soil, nutrients, plants, and other living organisms that are used to prepare soil scientists' reports for:

- subsurface ground absorption systems, including infiltration galleries; land application of residuals such as sludge, septage, and other wastes; spray irrigation of wastewater; soil remediation at conventional rates; land application of agricultural products; processing residues, bioremediation, and volatilization; soil erodibility and sedimentation; and identification of hydric soil and redoximorphic features.
- (5) 'Responsible charge of work' means the independent control and direction by the use of initiative, skill, and independent judgment in the practice of soil science or supervision of the practice of soil science by soil scientists-in-training and subordinates.
- (6) 'Soil' means the site or environmental setting consisting of soil material, saprolite, weathered materials, and soil rock interface. 'Soil' includes the solid materials, waters, gases, and other biological, chemical, and contaminant materials in the soil environment.
- (7) 'Soil science' means the science dealing with soils as an environmental resource. 'Soil science' includes the following tasks: soil characterization, classification, and mapping, and the physical, chemical, hydrologic, mineralogical, biological, and microbiological analysis of soil per se, and to its assessment, analysis, modeling, testing, evaluation, and use for the benefit of mankind when specifically required to complete the investigation and evaluation of interactions between water, soil, nutrients, plants, and other living organisms described in subdivision (5) of this section. 'Soil science' does not include design or creative works, the adequate performance of which requires extensive geological, engineering, or land surveying education, training, and experience or requires licensing as a geologist under Chapter 89E of the General Statutes or as a professional engineer or land surveyor under Chapter 89C of the General Statutes.
- (8) 'Soil scientist' means a person who practices soil science.
- (9) 'Soil scientist-in-training' means a person who has passed the examination and satisfied all other requirements for licensure under this Chapter except for the professional work experience requirement.
- (10) 'Subordinate' means any person who assists a licensed soil scientist in the practice of soil science without assuming the responsible charge of work.

"§ 89F-4. North Carolina Board for Licensing of Soil Scientists.

(a) Creation; Membership. – The North Carolina Board for Licensing of Soil Scientists is created. The Board shall consist of seven members appointed as follows:

- (1) One member appointed by the Governor, who shall be a soil scientist employed by a federal or State agency.
- (2) One member appointed by the Governor, who shall be a soil scientist employed by a local government agency.
- (3) One member appointed by the Governor, who shall be a soil scientist employed by an institution of higher education.

- (4) One member appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives, who shall be a soil scientist who is privately employed.
- (5) One member appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives, who shall be a member of the public who is not a soil scientist.
- (6) One member appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate, who shall be a soil scientist who is privately employed.
- (7) One member appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate, who shall be a member of the public who is not a soil scientist.

(b) Ex Officio Member. – In addition to the members of the Board appointed pursuant to subsection (a) of this section, the President of the Soil Science Society of North Carolina, or a member of the Society appointed by its President, shall serve as a nonvoting ex officio member of the Board.

(c) Terms. – Members shall serve staggered terms of office of three years. No member shall serve more than six consecutive years without an interruption in service of at least one year. The terms of office of members filling positions four and six shall expire on 30 June of years evenly divisible by three. The terms of office of members filling positions five and seven shall expire on 30 June of years that follow by one year those years that are evenly divisible by three. The terms of office of members filling positions one, two, and three shall expire on 30 June of years that precede by one year those years that are evenly divisible by three. Terms shall expire as provided by this subsection except that members of the Board shall serve until their successors are appointed and duly qualified as provided by G.S 128-7.

(d) Vacancies; Removal. – Vacancies in appointments shall be filled for the unexpired term. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122. The Governor shall have the power to remove, in accordance with G.S 143B-13, any member appointed by the Governor. The General Assembly shall have the power to remove, in accordance with G.S 143B-13, any member appointed by the General Assembly.

(e) Quorum. – A majority of the members of the Board appointed pursuant to subsection (a) of this section shall constitute a quorum for the transaction of business.

(f) Compensation; Expenses. – Subject to the availability of funds, members of the Board may receive compensation for their services and be reimbursed for expenses incurred in the performance of duties required by this Chapter at the rates prescribed in G.S. 138-5.

"§ 89F-5. Powers and duties of the Board.

(a) The Board shall:

- (1) Administer and enforce the provisions of this Chapter.
- (2) Elect from its membership a Chair, a Vice-Chair, and a Secretary-Treasurer.

- (3) Examine and pass on the qualifications of all applicants for licensing under this Chapter and issue a license to each successful applicant.
- (4) Hold at least two regular meetings each year.
- (5) Establish and receive fees as required by this Chapter. In establishing fees, the Board may provide for reduced fees or an exemption from fees for persons licensed under this Chapter who practice soil science for less than 15 days per calendar year.
- (6) Adopt rules that establish standards or approve reasonable standards for licensing and renewal of licenses of soil scientists, including adopting examination materials and accreditation standards of any recognized accrediting agency.
- (7) Establish reasonable standards for continuing professional education for soil scientists. No examination shall be required for a renewal of a license.
- (8) Submit two nominees to the appropriate appointing authority for each position to be filled on the Board.
- (9) Have any other powers and duties as are necessary to implement the provisions of this Chapter and adopt any rules needed to implement this Chapter.

(b) The Board may adopt a seal that may be affixed to all licenses issued by the Board.

(c) The Secretary-Treasurer shall deposit funds received by the Board in one or more funds in banks or other financial institutions carrying deposit insurance and authorized to do business in the State. Interest earned on funds may remain in the account and may be expended as authorized by the Board to carry out the provisions of this Chapter. The Board may authorize expenditures deemed necessary to carry out the provisions of this Chapter, and all expenses shall be paid upon the warrant of the Secretary-Treasurer. During any fiscal year, expenditures shall not exceed the revenues of the Board.

(d) The Board may employ the necessary personnel for the performance of its functions and shall fix their compensation within the limits of funds available to the Board. The Board may procure personal property in accordance with the provisions of Article 3 of Chapter 143 of the General Statutes.

(e) The Board may adopt rules in accordance with Chapter 150B of the General Statutes and shall administer this Chapter in accordance with Chapter 150B of the General Statutes.

"§ 89F-6. Corporate, partnership, or sole proprietorship practice of soil science.

A corporation organized under Chapter 55B of the General Statutes, a partnership, or a sole proprietorship may engage in the practice of soil science in this State. A licensed soil scientist shall be in responsible charge of all practice of soil science by the corporation, partnership, or sole proprietorship.

"§ 89F-7. Exemptions.

(a) Except as provided in subsection (b) of this section, any person who practices or offers to practice soil science in this State is subject to the provisions of this Chapter.

- (b) The following are exempt from the provisions of this Chapter:
- (1) Persons engaged solely in teaching soil science or engaged solely in soil science research.
 - (2) Officers and employees of the United States, the State, and units of local government who practice soil science solely in the capacity of their office or employment.
 - (3) Officers and employees of companies engaged in the practice of soil science, when the officers and employees practice soil science solely in the capacity of their employment and who do not offer their services to the public for hire.

"§ 89F-8. Limitations.

This Chapter shall not prevent:

- (1) The practice of any profession or trade for which a license is required under any other law of this State.
- (2) Registered professional engineers from lawfully practicing soil mechanics, foundation engineering, or other professional engineering practices for which a license is required pursuant to Chapter 89C of the General Statutes.
- (3) Registered land surveyors licensed pursuant to Chapter 89C of the General Statutes from practicing surveying.
- (4) Architects licensed pursuant to Chapter 83A of the General Statutes or landscape architects licensed pursuant to Chapter 89A of the General Statutes from lawfully practicing architecture or landscape architecture.
- (5) Geologists licensed pursuant to Chapter 89E of the General Statutes from practicing geology.
- (6) The practice of soil science for 30 days or less in any calendar year by a person who is not a resident of this State and who has no established place of business in this State if the person:
 - a. Is licensed to practice soil science in another state where the requirements for a license equal or exceed the requirements for licensure under this Chapter;
 - b. Files a statement giving the person's name, address, the license number, and issuing authority with the Board within 10 days of commencing the practice of soil science in this State; and
 - c. Files a statement with the Board detailing the total time that the person engaged in the practice of soil science in the State within 10 days of the day on which the practice of soil science is completed.
- (7) The practice of soil science by a person who is not a resident of this State and who has no established place of business in this State, the practice of soil science by a person who has become a resident of this State within the preceding 30 days, or the practice or an offer to practice soil science for more than 30 days in any calendar year by a

person who is licensed as a soil scientist in another state, who meets the licensing requirements of this Chapter, and who has filed an application for a license with the Board and paid the application fee. The practice of soil science under this subdivision shall continue only until the Board acts on the application for licensure under this Chapter.

- (8) Soil sampling solely for the purpose of determining plant nutrient and lime application rates for gardening and agricultural purposes by persons who are not licensed soil scientists.

"§ 89F-9. Applications.

An application for a license as a soil scientist shall be made under oath, shall show the applicant's education and a summary of the applicant's professional work experience as a soil scientist, and shall show any other relevant criteria as determined by the Board.

"§ 89F-10. Minimum qualifications.

(a) To be eligible for a license as a soil scientist in this State, an applicant shall satisfy the following minimum qualifications:

- (1) Be of good moral and ethical character as attested to by (i) four letters of reference, two of which shall be written by licensed soil scientists or persons who are eligible for licensure under this Chapter, and (ii) an agreement signed by the applicant to adhere to the Code of Professional Conduct adopted pursuant to G.S. 89F-17. For purposes of this requirement, 'good moral and ethical character' means character that tends to ensure faithful discharge of the duties of a licensed soil scientist.
- (2) Hold at least a bachelor of science degree from an accredited college or university with a minimum of 30 semester hours or 45 quarter hours in agricultural, biological, physical, or earth sciences and at least 15 semester hours or an equivalent number of quarter hours in soil science. The Board may adopt rules specifying combinations of education and experience that an applicant may substitute for a bachelor of science degree.
- (3) Successfully pass an examination established by the Board. The examination shall be designed to demonstrate whether the applicant has the necessary knowledge and requisite skill to exercise the responsibilities of the practice of soil science.
- (4) Subject to subsection (b) of this section, have at least three years of professional work experience as a soil scientist under the supervision of a licensed soil scientist, or a soil scientist who is eligible for licensure, under this Chapter, or a minimum of three cumulative years of professional work experience as a soil scientist in responsible charge of work satisfactory to the Board and in accordance with standards established by the Board by rule.

(b) An applicant may substitute an advanced degree in soil science for a portion of the professional work experience requirement. The Board, in its discretion, may allow an applicant to substitute a masters degree in soil science for one year of

professional work experience and to substitute a doctoral degree in soil science for two years of professional work experience. The Board, in its discretion, may allow an applicant to substitute experience gained through teaching upper level soil science courses at the college or university level or research in soil science for all or any portion of the professional work experience requirement if the Board finds the teaching or research to be equivalent to the responsible charge of work by a soil scientist.

(c) The Board shall designate an applicant who meets all the requirements for a license under this Chapter except the professional work experience requirement as a soil scientist-in-training. A soil scientist-in-training may apply for a license upon completion of the professional work experience requirement.

"§ 89F-11. Examinations.

Examinations shall be formulated and conducted by the Board at the time and place as determined by the Board, and shall be held at least annually.

"§ 89F-12. Comity.

A person who holds a license to engage in the practice of soil science on the basis of comparable licensing requirements issued to that person by a proper authority by another state, by a territory, or by a possession of the United States or the District of Columbia, and who, as determined by the Board, meets the requirements of this Chapter based upon verified evidence, may, upon application, be licensed without taking an examination pursuant to G.S. 89F-10(a)(3).

"§ 89F-13. Issuance, renewal, and replacement of licenses.

(a) The Board shall issue a license to any applicant who has satisfactorily met the requirements of this Chapter including the payment of the license fee. A license shall be valid for the period of time established by the Board by rule. Each license shall state the full name of the registrant, shall have a serial number, shall state the date on which the license expires, shall be signed by the Chair and Secretary-Treasurer of the Board, and shall bear the seal of the Board. The issuance of a license by the Board shall be prima facie evidence that the person named on the license is entitled to all the rights and privileges of a licensed soil scientist for the period the license remains in effect.

(b) The Board shall renew the license of any licensee who continues to meet the requirements of this Chapter and who pays the renewal fee prior to the expiration of the license. The Board shall reinstate the license of any licensee whose license has expired, who continues to meet the requirements of this Chapter, and who pays the restoration fee.

(c) If a license is lost, destroyed, or mutilated, the Board may issue a replacement license subject to rules adopted by the Board.

"§ 89F-14. Seals; requirements.

Upon the issuance of a license, each soil scientist shall obtain from the Secretary-Treasurer a seal bearing the licensee's name and the legend 'Licensed Soil Scientist – State of North Carolina'. The Board shall ensure that the design of the seal is easily distinguished from other professional seals. All drawings, reports, or other soil science papers or documents involving the practice of soil science that are prepared or approved by a licensed soil scientist or a subordinate under his or her direction shall be signed by

the soil scientist and impressed with the seal. The impression of the seal indicates his or her responsibility for the practice of soil science.

"§ 89F-15. Records.

(a) The Board shall maintain a record of its proceedings and a register of all applications for licensure under this Chapter. For each applicant the register shall show:

- (1) The name, age, and home address of the applicant.
- (2) The date of application.
- (3) The applicant's place of business.
- (4) The applicant's education, professional work experience, and other qualifications.
- (5) Whether the applicant was required to take an examination.
- (6) Whether a license was issued to the applicant.
- (7) Whether the applicant is currently licensed.
- (8) The date and nature of any action by the Board with respect to the applicant or licensee.
- (9) Any other information that the Board determines to be necessary to meet the requirements of this Chapter or rules adopted pursuant to this Chapter.

(b) The Board shall treat as confidential and not subject to disclosure, except to the extent required by law or by rule of the Board, individual applications, related information, and examination scores.

"§ 89F-16. Roster of licensed soil scientists.

The Secretary-Treasurer of the Board shall keep a record and shall publish annually a roster showing the names, places of business, and residence addresses of all soil scientists licensed under this Chapter. Copies of this roster shall be made available to the public upon request and payment of a reasonable fee, established by the Board, for copying.

"§ 89F-17. Code of Professional Conduct.

The Board shall prepare and adopt by rule a Code of Professional Conduct that shall be made known in writing to every licensee and applicant for licensing under this Chapter and that shall be published by the Board. Publication of the Code of Professional Conduct is due notice to all licensees of its contents. The Board may revise and amend this Code of Professional Conduct. Prior to adoption of any revision or amendments, all licensed members and the public shall receive due notice and an opportunity to be heard.

"§ 89F-18. Complaints.

Any person may file written charges of violations of this Chapter or any rules adopted pursuant to this Chapter with the Board against any licensee. Any charges or allegations shall be in writing, shall be sworn to by the person making them, and shall be filed with the Secretary-Treasurer of the Board. The Board shall investigate reasonably all valid complaints.

"§ 89F-19. Prohibitions; unlawful acts.

(a) It is unlawful for any person other than a licensed soil scientist or a subordinate under the soil scientist's direction to conduct or participate in any practice

of soil science or prepare any soil science reports, maps, or documents related to the public welfare or the safeguarding of life, health, property, or the environment.

(b) It is unlawful for any person, including a soil scientist-in-training or a subordinate, to practice, or offer to practice, soil science in this State, or to use in connection with his or her name, otherwise assume, or advertise any title or description tending to convey the impression that he or she is a licensed soil scientist, unless that person has been duly licensed or is exempted under the provisions of this Chapter.

(c) It is unlawful for anyone other than a licensed soil scientist to stamp or seal any soils-related plans, maps, reports, or other soils-related documents with the seal or stamp of a licensed soil scientist, or use in any manner the title 'soil scientist', unless that person is licensed under this Chapter.

(d) It is unlawful for any person to affix his or her signature to, stamp, or seal any soils-related plans, maps, reports, or other soils-related documents after the license of the person has expired, been suspended, or revoked.

(e) It is unlawful for a licensed soil scientist to prepare plats and maps so as to engage in the practice of land surveying by a registered land surveyor, as defined in G.S. 89C-3, unless the licensed soil scientist is also a registered land surveyor, as defined in G.S. 89C-3.

(f) It is unlawful for a licensed soil scientist to engage in the design of engineering works and systems, as that phrase is used in G.S. 89C-3(6), unless the licensed soil scientist is also a registered professional engineer, as defined in G.S. 89C-3.

"§ 89F-20. Disciplinary procedures.

(a) The Board may, consistent with the provisions of Chapter 150B of the General Statutes, refuse to grant or to renew, suspend, or revoke the license of any person licensed under this Chapter who:

- (1) Violates the provisions of this Chapter or a rule adopted by the Board.
- (2) Has been convicted of a misdemeanor under this Chapter.
- (3) Has been convicted of a felony.
- (4) Has been found by the Board to have engaged in unprofessional conduct, dishonest practice, incompetence, fraud or deceit in obtaining a license, or who aids another person who obtains or attempts to obtain a license by fraud or deceit.

(b) In lieu of revoking a license, the Board may enter a probationary order and assess a civil penalty not to exceed one thousand dollars (\$1,000). In determining the amount of a penalty under this section, the Board shall consider the following factors:

- (1) The degree and extent of harm to the natural resources of the State, to the public health, or to private property resulting from the violation.
- (2) The duration and gravity of the violation.
- (3) The effect on water quality.
- (4) The cost of rectifying the damage.
- (5) The cost to the State of enforcement procedures.
- (6) The prior record of the violator in complying or failing to comply with this Chapter or a rule adopted pursuant to this Chapter.

"§ 89F-21. Reissuance of license.

The Board may, by a vote of the quorum, reissue a license to any person whose license has been revoked if the Board finds, after written application by the applicant, that there is good cause to justify the reissuance of the license.

"§ 89F-22. Misdemeanors.

A person who does any of the following shall be guilty of a Class 2 misdemeanor:

- (1) Willfully practices soil science or offers to practice soil science for any other person in this State without being licensed in accordance with the provisions of this Chapter.
- (2) Presents, or attempts to use as his or her own, the license or the seal of any other soil scientist.
- (3) Gives any false or forged evidence in the course of applying for a license under this Chapter.
- (4) Impersonates a licensed soil scientist.
- (5) Attempts to use an expired or revoked license, or practice at any time while the license is suspended or revoked.
- (6) Violates the provisions of this Chapter or rules adopted pursuant to this Chapter.

"§ 89F-23. Injunctive relief.

The Board may seek injunctive relief to enjoin and restrain any natural or corporate person from violating this Chapter. The Board shall not be required to post bond in connection with obtaining either provisional, preliminary, or permanent injunctive relief.

"§ 89F-24. Legal advisor.

The Attorney General or his designee shall act as legal advisor to the Board.

"§ 89F-25. Fees.

The Board shall determine fees for the following services that shall not exceed the amounts specified in this section:

<u>Application</u>	<u>\$50.00</u>
<u>Examination</u>	<u>125.00</u>
<u>License</u>	<u>85.00</u>
<u>Renewal</u>	<u>85.00</u>
<u>Restoration</u>	<u>110.00</u>
<u>Replacement license</u>	<u>50.00</u>
<u>Seal</u>	<u>30.00."</u>

Sec. 2. Notwithstanding the provisions of G.S. 89F-10, as enacted in Section 1 of this act, the North Carolina Board for Licensing of Soil Scientists shall issue a license without an examination to any applicant who applies for licensure under Chapter 89F of the General Statutes, as enacted in Section 1 of this act, within one year of the initial meeting of the North Carolina Board for Licensing of Soil Scientists and who meets all licensing requirements other than the examination requirement.

Sec. 3. In order to establish a schedule of staggered terms of three years for the North Carolina Board for Licensing of Soil Scientists established by G.S. 89F-4, as

enacted by Section 1 of this act, the terms of members of the Board who are initially appointed to fill positions one, two, and three shall be two years; the terms of members of the Board who are initially appointed to fill positions four and six shall be three years; and the terms of members of the Board who are initially appointed to fill positions five and seven shall be one year. In the event that the General Assembly fails to appoint initial members to the North Carolina Board for Licensing of Soil Scientists during the 1995 Regular Session, the failure to make initial appointments shall be treated as though vacancies had occurred and these vacancies may be filled by appointments as provided in G.S. 120-122. The North Carolina Board for Licensing of Soil Scientists shall hold an initial meeting in the City of Raleigh within 30 days after all appointments to the Board are made as provided in this act.

Sec. 4. This act becomes effective upon ratification, except for G.S. 89F-19, 89F-22, 89F-23, as enacted in Section 1 of this act, which become effective 1 January 1997.

In the General Assembly read three times and ratified this the 11th day of July, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives