

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 1004
Finance Committee Substitute Adopted 4/28/99

Short Title: Geologist Licensure.

(Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT REVISING THE PROCEDURE USED BY THE NORTH CAROLINA BOARD FOR LICENSING OF GEOLOGISTS TO ADDRESS COMPLAINTS AND INVESTIGATIONS AND AUTHORIZING THE BOARD TO ASSESS CIVIL PENALTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 89E-17 reads as rewritten:

"§ 89E-17. ~~Complaints.~~ Complaints and investigations.

(a) Any person may file written charges with the Board against any licensee pursuant to rules and regulations adopted by the Board; provided however, such charges or allegations shall be in writing and shall be sworn to by the person or persons making them and shall be filed with the secretary. The Board shall have the authority and shall be under a duty to investigate reasonably all valid complaints.

(b) The Board may appoint, employ, or retain investigators for the purpose of examining or inquiring into any acts committed in this State that may violate the provisions of this Chapter, the Board's code of professional conduct, or the Board's rules. The Board may expend funds for salaries, fees, and per diem expenses in connection with an investigation conducted pursuant to this Chapter, but no funds other than per diem expenses shall be paid to a member of the Board in connection with an investigation. No

1 member of the Board may give testimony during an investigation and thereafter
2 participate in matters that may directly involve punitive action against a licensee or
3 corporate registrant as a result of the investigation.

4 (c) Investigations by the Board shall be confidential until the Board takes
5 disciplinary action against a licensee or corporate registrant. Records, papers, and other
6 documents containing information collected or compiled by the Board, its members, or
7 employees as a result of an investigation, inquiry, or interview conducted pursuant to this
8 Chapter shall not be a public record within the meaning of Chapter 132 of the General
9 Statutes, except any notice or statement of charges or notice of hearing in any proceeding
10 conducted by the Board and any records, papers, or other documents containing
11 information collected and compiled by the Board and admitted into evidence in a hearing
12 before the Board shall be a public record."

13 Section 2. G.S. 89E-19 reads as rewritten:

14 **"§ 89E-19. Disciplinary procedures.**

15 ~~The Board may, consistent with the provisions of Chapter 150B of the General~~
16 ~~Statutes, refuse to grant or to renew, may suspend, or may revoke the license of any~~
17 ~~person licensed under this Chapter who has violated the provisions of this Chapter or a~~
18 ~~rule or regulation of the Board, or who has been convicted of a misdemeanor under this~~
19 ~~Chapter, or who has been convicted of a felony or who has been found by the Board to~~
20 ~~have been guilty of gross unprofessional conduct, dishonest practice or incompetence or~~
21 ~~fraud or deceit in obtaining a license or in aiding or abetting by fraud or deceit another~~
22 ~~person's obtaining a license.~~

23 (a) The Board, consistent with the provisions of Article 3A of Chapter 150B of
24 the General Statutes, may refuse to grant a license to any applicant who does not meet the
25 qualifications required by this Chapter, the Board's code of professional conduct, or the
26 Board's rules, or to any corporate registrant that does not meet such qualifications and the
27 requirements of Chapter 55B of the General Statutes. The Board, consistent with the
28 provisions of Article 3A of Chapter 150B of the General Statutes, may refuse to renew,
29 suspend, or revoke a license or certificate of registration if a licensee or corporate
30 registrant:

- 31 (1) Violates the provisions of this Chapter, the Board's code of professional
32 conduct, the Board's rules, or an order issued by the Board.
33 (2) Has been convicted of a misdemeanor.
34 (3) Has been convicted of a felony.
35 (4) Engages in gross unprofessional conduct, dishonest practice, or
36 professional incompetence.
37 (5) Commits fraud or deceit in obtaining a license or certificate of
38 registration or in assisting another person in obtaining a license or
39 certificate of registration.

40 (b) If the Board finds that a licensee is professionally incompetent, the Board may
41 require the licensee to take an oral or written examination or to meet other requirements
42 to demonstrate the licensee's fitness to practice geology, and the Board may suspend the

1 licensee's license until he or she establishes professional competence to the satisfaction of
2 the Board.

3 (c) In addition to the authority granted in subsections (a) and (b) of this section,
4 the Board may levy a civil penalty not in excess of five thousand dollars (\$5,000) for any
5 licensee or corporate registrant who violates the provisions of this Chapter, the Board's
6 code of professional conduct, the Board's rules, or any order issued by the Board. All
7 civil penalties collected by the Board shall be remitted to the school fund of the county in
8 which the violation occurred. Before assessing a civil penalty, the Board shall consider
9 the following:

- 10 (1) The nature, gravity, and persistence of the violation.
11 (2) The appropriateness of the imposition of a civil penalty when
12 considered alone or in combination with other action taken by the
13 Board.
14 (3) Whether the violation was willful.
15 (4) Any other factors that tend to mitigate or aggravate the violation.

16 (d) The Board may bring a civil action in the superior court of the county in which
17 the violation occurred to recover a civil penalty if a licensee or corporate registrant does
18 one of the following:

- 19 (1) Fails to request a hearing on the imposition of a civil penalty and fails to
20 pay the civil penalty within 30 days after being notified that a civil
21 penalty has been imposed.
22 (2) Requests and receives a hearing on the imposition of a civil penalty but
23 fails to pay the civil penalty within 30 days after service of a written
24 copy of the Board's decision."

25 Section 3. This act is effective when it becomes law.