

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 1004

Short Title: Geologist Licensure.

(Public)

Sponsors: Senator Kinnaird.

Referred to: Finance.

April 15, 1999

A BILL TO BE ENTITLED

1 AN ACT REVISING THE PROCEDURE USED BY THE NORTH CAROLINA
2 BOARD FOR LICENSING OF GEOLOGISTS TO ADDRESS COMPLAINTS AND
3 INVESTIGATIONS AND AUTHORIZING THE BOARD TO ASSESS CIVIL
4 PENALTIES.
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6 The General Assembly of North Carolina enacts:

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

8 "**§ 89E-17. Complaints. Complaints and investigations.**

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

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

1 participate in matters that may directly involve punitive action against a licensee or
2 corporate registrant as a result of the investigation.

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

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

13 **"§ 89E-19. Disciplinary procedures.**

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

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

30 (1) Violates the provisions of this Chapter, the Board's code of professional
31 conduct, the Board's rules, or an order issued by the Board.

32 (2) Has been convicted of a misdemeanor.

33 (3) Has been convicted of a felony.

34 (4) Engages in gross unprofessional conduct, dishonest practice, or
35 professional incompetence.

36 (5) Commits fraud or deceit in obtaining a license or certificate of
37 registration or in assisting another person in obtaining a license or
38 certificate of registration.

39 (b) If the Board finds that a licensee is professionally incompetent, the Board may
40 require the licensee to take an oral or written examination or to meet other requirements
41 to demonstrate the licensee's fitness to practice geology, and the Board may suspend the
42 licensee's license until he or she establishes professional competence to the satisfaction of
43 the Board.

1 (c) In addition to the authority granted in subsections (a) and (b) of this section,
2 the Board may levy a civil penalty not in excess of five thousand dollars (\$5,000) per
3 violation per day for violations of the provisions of this Chapter, the Board's code of
4 professional conduct, the Board's rules, or any order issued by the Board. Before
5 assessing a civil penalty, the Board shall consider the following:

6 (1) The nature, gravity, and persistence of the violation.

7 (2) The appropriateness of the imposition of a civil penalty when
8 considered alone or in combination with other action taken by the
9 Board.

10 (3) Whether the violation was willful.

11 (4) Any other factors that tend to mitigate or aggravate the violation.

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

15 (1) Fails to request a hearing on the imposition of a civil penalty and fails to
16 pay the civil penalty within 30 days after being notified that a civil
17 penalty has been imposed.

18 (2) Requests and receives a hearing on the imposition of a civil penalty but
19 fails to pay the civil penalty within 30 days after service of a written
20 copy of the Board's decision."

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