

## Senate Bill No. 2276

An act relating to professional geology; amending s. 492.113, F.S.; providing that violating a rule or order of the Board of Professional Geologists is grounds for disciplinary action; providing penalties; transferring certain duties relating to discipline from the Department of Business and Professional Regulation to the board; correcting terminology; amending ss. 492.111, 492.112, and 492.115, F.S.; correcting terminology; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (2) and (4) of section 492.111, Florida Statutes, are amended to read:

492.111 Practice of professional geology by a firm, corporation, or partnership; certificate of authorization.—The practice of, or offer to practice, professional geology by individual professional geologists licensed under the provisions of this chapter through a firm, corporation, or partnership offering geological services to the public through individually licensed professional geologists as agents, employees, officers, or partners thereof is permitted subject to the provisions of this chapter, provided that:

(2) The firm, corporation, or partnership has been issued a certificate of authorization by the department as provided in this chapter. For purposes of this section, a certificate of authorization shall be required of any firm, corporation, partnership, association, or person practicing under a fictitious name and offering geological services to the public; except that, when an individual is practicing professional geology in his ~~or her~~ or his own name, ~~he~~ ~~or she~~ ~~or he~~ shall not be required to obtain a certificate of authorization under this section. Such certificate of authorization shall be renewed every 2 years.

(4) The fact that a licensed professional geologist practices through a corporation or partnership shall not relieve the registrant from personal liability for negligence, misconduct, or wrongful acts committed by ~~him~~ ~~or her~~ or him. Partnership and all partners shall be jointly and severally liable for the negligence, misconduct, or wrongful acts committed by their agents, employees, or partners while acting in a professional capacity. Any officer, agent, or employee of a corporation shall be personally liable and accountable only for negligent acts, wrongful acts, or misconduct committed by ~~him~~ ~~or her~~ or him or committed by any person under ~~his~~ ~~or her~~ or his direct supervision and control, while rendering professional services on behalf of the corporation. The personal liability of a shareholder of a corporation, in ~~his~~ ~~or her~~ or his capacity as shareholder, shall be no greater than that of a shareholder-employee of a corporation incorporated under chapter 607. The corporation shall be liable up to the full value of its property for any negligent acts, wrongful acts, or misconduct committed by any of its officers, agents, or employees while they are engaged on behalf of the corporation in the rendering of professional services.

Section 2. Paragraphs (a), (b), and (f) of subsection (1) and subsection (2) of section 492.112, Florida Statutes, are amended to read:

492.112 Prohibitions; penalties.—

(1) A person may not knowingly:

(a) Practice professional geology unless the person is licensed under this chapter.

(b) Use the name or title “Professional Geologist” or any other title, designation, words, letters, abbreviations, or device tending to indicate that the person holds an active license as a professional geologist when the person is not licensed under this chapter.

(f) Employ unlicensed persons to practice professional geology.

(2) Any person who violates any of the provisions of this section commits ~~is guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 3. Section 492.113, Florida Statutes, is amended to read:

492.113 Disciplinary proceedings.—

(1) The following acts constitute grounds for which the disciplinary actions in subsection (3) may be taken:

(a) Violation of any provision of s. 492.112 or any other provision of this chapter.

(b) Attempting to procure a license to practice professional geology by bribery or fraudulent misrepresentations.

(c) Having a license to practice professional geology revoked, suspended, or otherwise acted against, including the denial of licensure by the licensing authority of another state, territory, or country.

(d) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of professional geology or the ability to practice professional geology.

(e) Making or filing a report or record that the licensee knows to be false, willfully failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records include only those that are signed in the capacity of a licensed professional geologist.

(f) Advertising goods or services in a manner that is fraudulent, false, deceptive, or misleading in form or content.

(g) Committing an act of fraud or deceit, negligence, incompetence, or misconduct in the practice of professional geology.

- (h) Violation of chapter 455.
  - (i) Practicing on a revoked, suspended, inactive, or delinquent license.
  - (j) Affixing or permitting to be affixed ~~his or her~~ or his name to geological papers, reports, or documents that were not prepared by ~~him or her~~ or him or under ~~his or her~~ or his responsible supervision, direction, or control.
  - (k) Violating a rule of the department or board or any order of the department or board previously entered in a disciplinary hearing.
- (2) The ~~board department~~ shall specify, by rule, what acts or omissions constitute a violation of subsection (1).
- (3) When the ~~board department~~ finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:
- (a) Denial of an application for licensure.
  - (b) Revocation or suspension of a license.
  - (c) Imposition of an administrative fine not to exceed \$1,000 for each count or separate offense.
  - (d) Issuance of a reprimand.
  - (e) Placement of the licensee on probation for a period of time and subject to such conditions as the board ~~department~~ may specify.
  - (f) Restriction of the authorized scope of practice by the licensee.
- (4) The department shall reissue the license of a disciplined professional geologist or business upon certification by the ~~board~~ department that the disciplined person has complied with all of the terms and conditions set forth in the final order.

Section 4. Section 492.115, Florida Statutes, is amended to read:

492.115 Roster of licensed professional geologists.—A roster showing the names and places of business or residence of all licensed professional geologists and all firms, corporations, or partnerships holding certificates of authorization to practice professional geology in the state shall be prepared annually by the department. A copy of this roster shall be obtainable by each licensed professional geologist and each firm, corporation, or partnership holding a certificate of authorization, and copies thereof shall be placed on file with the department.

Section 5. This act shall take effect July 1, 2004.

Approved by the Governor June 10, 2004.

Filed in Office Secretary of State June 10, 2004.