

By Senator Clary

4-979A-04

See HB 991

1 A bill to be entitled
2 An act relating to professional geology;
3 amending s. 492.113, F.S.; providing that
4 violating a rule or order of the Board of
5 Professional Geologists is grounds for
6 disciplinary action; providing penalties;
7 transferring certain duties relating to
8 discipline from the Department of Business and
9 Professional Regulation to the board;
10 correcting terminology; amending ss. 492.111,
11 492.112, and 492.115, F.S.; correcting
12 terminology; providing an effective date.

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

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

18 492.111 Practice of professional geology by a firm,
19 corporation, or partnership; certificate of
20 authorization.--The practice of, or offer to practice,
21 professional geology by individual professional geologists
22 licensed under the provisions of this chapter through a firm,
23 corporation, or partnership offering geological services to
24 the public through individually licensed professional
25 geologists as agents, employees, officers, or partners thereof
26 is permitted subject to the provisions of this chapter,
27 provided that:

28 (2) The firm, corporation, or partnership has been
29 issued a certificate of authorization by the department as
30 provided in this chapter. For purposes of this section, a
31 certificate of authorization shall be required of any firm,

1 corporation, partnership, association, or person practicing
2 under a fictitious name and offering geological services to
3 the public; except that, when an individual is practicing
4 professional geology in ~~his~~ or her or his own name, ~~he~~ or she
5 or he shall not be required to obtain a certificate of
6 authorization under this section. Such certificate of
7 authorization shall be renewed every 2 years.

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

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

4 492.112 Prohibitions; penalties.--

5 (1) A person may not knowingly:

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

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

13 (f) Employ unlicensed persons to practice professional
14 geology.

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

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

20 492.113 Disciplinary proceedings.--

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

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

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

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

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

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

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

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

19 (h) Violation of chapter 455.

20 (i) Practicing on a revoked, suspended, inactive, or
21 delinquent license.

22 (j) Affixing or permitting to be affixed ~~his or her~~ or
23 his name to geological papers, reports, or documents that were
24 not prepared by ~~him or her~~ or him or under ~~his or her~~ or his
25 responsible supervision, direction, or control.

26 (k) Violating a rule of the department or board or
27 any order of the department or board previously entered in a
28 disciplinary hearing.

29 (2) The board ~~department~~ shall specify, by rule, what
30 acts or omissions constitute a violation of subsection (1).

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1 (3) When the board ~~department~~ finds any person guilty
2 of any of the grounds set forth in subsection (1), it may
3 enter an order imposing one or more of the following
4 penalties:

5 (a) Denial of an application for licensure.

6 (b) Revocation or suspension of a license.

7 (c) Imposition of an administrative fine not to exceed
8 \$1,000 for each count or separate offense.

9 (d) Issuance of a reprimand.

10 (e) Placement of the licensee on probation for a
11 period of time and subject to such conditions as the board
12 ~~department~~ may specify.

13 (f) Restriction of the authorized scope of practice by
14 the licensee.

15 (4) The department shall reissue the license of a
16 disciplined professional geologist or business upon
17 certification by the board ~~department~~ that the disciplined
18 person has complied with all of the terms and conditions set
19 forth in the final order.

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

22 492.115 Roster of licensed professional geologists.--A
23 roster showing the names and places of business or residence
24 of all licensed professional geologists and all firms,
25 corporations, or partnerships holding certificates of
26 authorization to practice professional geology in the state
27 shall be prepared annually by the department. A copy of this
28 roster shall be obtainable by each licensed professional
29 geologist and each firm, corporation, or partnership holding a
30 certificate of authorization, and copies thereof shall be
31 placed on file with the department.

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