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2004

A bill to be entitled

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;

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30 except that, when an individual is practicing professional
 31 geology in ~~his~~ or her or his own name, ~~he~~ or she or he shall not
 32 be required to obtain a certificate of authorization under this
 33 section. Such certificate of authorization shall be renewed
 34 every 2 years.

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

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

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59 492.112 Prohibitions; penalties.--

60 (1) A person may not knowingly:

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

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

68 (f) Employ unlicensed persons to practice professional
69 geology.

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

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

75 492.113 Disciplinary proceedings.--

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

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

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

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

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

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

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

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

104 (h) Violation of chapter 455.

105 (i) Practicing on a revoked, suspended, inactive, or
 106 delinquent license.

107 (j) Affixing or permitting to be affixed ~~his or~~ her or his
 108 name to geological papers, reports, or documents that were not
 109 prepared by ~~him or~~ her or him or under ~~his or~~ her or his
 110 responsible supervision, direction, or control.

111 (k) Violating a rule of the department or board or any
 112 order of the department or board previously entered in a
 113 disciplinary hearing.

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

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

119 (a) Denial of an application for licensure.

120 (b) Revocation or suspension of a license.

121 (c) Imposition of an administrative fine not to exceed
 122 \$1,000 for each count or separate offense.

123 (d) Issuance of a reprimand.

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

127 (f) Restriction of the authorized scope of practice by the
 128 licensee.

129 (4) The department shall reissue the license of a
 130 disciplined professional geologist or business upon
 131 certification by the board ~~department~~ that the disciplined
 132 person has complied with all of the terms and conditions set
 133 forth in the final order.

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

136 492.115 Roster of licensed professional geologists.--A
 137 roster showing the names and places of business or residence of
 138 all licensed professional geologists and all firms,
 139 corporations, or partnerships holding certificates of
 140 authorization to practice professional geology in the state
 141 shall be prepared annually by the department. A copy of this
 142 roster shall be obtainable by each licensed professional
 143 geologist and each firm, corporation, or partnership holding a

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144 certificate of authorization, and copies thereof shall be placed
145 on file with the department.

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