

1 A bill to be entitled
 2 An act relating to professional geology; repealing chapter
 3 492, F.S., relating to the regulation, licensure, and
 4 discipline of professional geologists, the Board of
 5 Professional Geologists of the Department of Business and
 6 Professional Regulation, and the practice of professional
 7 geology by firms, corporations, and partnerships; amending
 8 ss. 20.165, 373.1175, 376.80, 377.075, 403.087, 403.0877,
 9 469.004, 627.706, 627.707, 627.7072, 627.7073, and
 10 627.7074, F.S.; conforming provisions; providing an
 11 effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. Chapter 492, Florida Statutes, consisting of
 16 sections 492.101, 492.102, 492.103, 492.104, 492.105, 492.106,
 17 492.107, 492.108, 492.109, 492.1101, 492.111, 492.112, 492.113,
 18 492.114, 492.115, 492.116, and 492.1165, is repealed.

19 Section 2. Paragraph (a) of subsection (4) of section
 20 20.165, Florida Statutes, is amended to read:

21 20.165 Department of Business and Professional
 22 Regulation.—There is created a Department of Business and
 23 Professional Regulation.

24 (4) (a) The following boards and programs are established
 25 within the Division of Professions:

26 1. Board of Architecture and Interior Design, created
 27 under part I of chapter 481.

28 2. Florida Board of Auctioneers, created under part VI of

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29 chapter 468.

30 3. Barbers' Board, created under chapter 476.

31 4. Florida Building Code Administrators and Inspectors

32 Board, created under part XII of chapter 468.

33 5. Construction Industry Licensing Board, created under

34 part I of chapter 489.

35 6. Board of Cosmetology, created under chapter 477.

36 7. Electrical Contractors' Licensing Board, created under

37 part II of chapter 489.

38 8. Board of Employee Leasing Companies, created under part

39 XI of chapter 468.

40 9. Board of Landscape Architecture, created under part II

41 of chapter 481.

42 10. Board of Pilot Commissioners, created under chapter

43 310.

44 11. Board of Professional Engineers, created under chapter

45 471.

46 ~~12. Board of Professional Geologists, created under~~

47 ~~chapter 492.~~

48 12.13. Board of Veterinary Medicine, created under chapter

49 474.

50 13.14. Home inspection services licensing program, created

51 under part XV of chapter 468.

52 14.15. Mold-related services licensing program, created

53 under part XVI of chapter 468.

54 Section 3. Subsection (1) of section 373.1175, Florida

55 Statutes, is amended to read:

56 373.1175 Signing and sealing by ~~professional~~ geologists.-

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57 (1) If an application for a permit or license, or the
58 performance of an activity regulated under this chapter,
59 requires the services of a ~~professional~~ geologist ~~as provided~~
60 ~~for in chapter 492~~, the department or governing board of a water
61 management district may require that a ~~professional~~ geologist
62 ~~licensed under chapter 492~~ sign and seal any documents and
63 reports submitted in connection with the permit application or
64 regulated activity.

65 Section 4. Paragraph (b) of subsection (5) of section
66 376.80, Florida Statutes, is amended to read:

67 376.80 Brownfield program administration process.—

68 (5) The person responsible for brownfield site
69 rehabilitation must enter into a brownfield site rehabilitation
70 agreement with the department or an approved local pollution
71 control program if actual contamination exists at the brownfield
72 site. The brownfield site rehabilitation agreement must include:

73 (b) A commitment to conduct site rehabilitation activities
74 under the observation of professional engineers ~~or geologists~~
75 who are registered in accordance with the requirements of
76 chapter 471 or geologists ~~or chapter 492~~, respectively.

77 Submittals provided by the person responsible for brownfield
78 site rehabilitation must be signed and sealed by a professional
79 engineer registered under chapter 471, or a ~~professional~~
80 geologist ~~registered under chapter 492~~, certifying that the
81 submittal and associated work comply with the law and rules of
82 the department and those governing the profession. In addition,
83 upon completion of the approved remedial action, the department
84 shall require a professional engineer registered under chapter

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85 471 or a ~~professional~~ geologist ~~registered under chapter 492~~ to
 86 certify that the corrective action was, to the best of his or
 87 her knowledge, completed in substantial conformance with the
 88 plans and specifications approved by the department.

89 Section 5. Subsection (3) of section 377.075, Florida
 90 Statutes, is amended to read:

91 377.075 Division of Technical Services; geological
 92 functions.—

93 (3) STATE GEOLOGIST.—The geological functions of the
 94 division shall be under the direction of a full-time
 95 ~~professional geologist who is registered in this state,~~ who
 96 shall be of established reputation, and who shall be known as
 97 the State Geologist.

98 Section 6. Paragraph (a) of subsection (6) of section
 99 403.087, Florida Statutes, is amended to read:

100 403.087 Permits; general issuance; denial; revocation;
 101 prohibition; penalty.—

102 (6) (a) The department shall require a processing fee in an
 103 amount sufficient, to the greatest extent possible, to cover the
 104 costs of reviewing and acting upon any application for a permit
 105 or request for site-specific alternative criteria or for an
 106 exemption from water quality criteria and to cover the costs of
 107 surveillance and other field services and related support
 108 activities associated with any permit or plan approval issued
 109 pursuant to this chapter. The department shall review the fees
 110 authorized under this chapter at least once every 5 years and
 111 shall adjust the fees upward, as necessary, within the fee caps
 112 established in this paragraph to reflect changes in the Consumer

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113 Price Index or similar inflation indicator. The department shall
114 establish by rule the inflation index to be used for this
115 purpose. In the event of deflation, the department shall consult
116 with the Executive Office of the Governor and the Legislature to
117 determine whether downward fee adjustments are appropriate based
118 on the current budget and appropriation considerations. However,
119 when an application is received without the required fee, the
120 department shall acknowledge receipt of the application and
121 shall immediately return the unprocessed application to the
122 applicant and shall take no further action until the application
123 is received with the appropriate fee. The department shall adopt
124 a schedule of fees by rule, subject to the following
125 limitations:

126 1. The fee for any of the following may not exceed
127 \$32,500:

- 128 a. Hazardous waste, construction permit.
129 b. Hazardous waste, operation permit.
130 c. Hazardous waste, postclosure permit, or clean closure
131 plan approval.
132 d. Hazardous waste, corrective action permit.

133 2. The permit fee for a drinking water construction or
134 operation permit, not including the operation license fee
135 required under s. 403.861(7), shall be at least \$500 and may not
136 exceed \$15,000.

137 3. The permit fee for a Class I injection well
138 construction permit may not exceed \$12,500.

139 4. The permit fee for any of the following permits may not
140 exceed \$10,000:

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- 141 a. Solid waste, construction permit.
- 142 b. Solid waste, operation permit.
- 143 c. Class I injection well, operation permit.
- 144 5. The permit fee for any of the following permits may not
- 145 exceed \$7,500:
- 146 a. Air pollution, construction permit.
- 147 b. Solid waste, closure permit.
- 148 c. Domestic waste residuals, construction or operation
- 149 permit.
- 150 d. Industrial waste, operation permit.
- 151 e. Industrial waste, construction permit.
- 152 6. The permit fee for any of the following permits may not
- 153 exceed \$5,000:
- 154 a. Domestic waste, operation permit.
- 155 b. Domestic waste, construction permit.
- 156 7. The permit fee for any of the following permits may not
- 157 exceed \$4,000:
- 158 a. Wetlands resource management—(dredge and fill and
- 159 mangrove alteration).
- 160 b. Hazardous waste, research and development permit.
- 161 c. Air pollution, operation permit, for sources not
- 162 subject to s. 403.0872.
- 163 d. Class III injection well, construction, operation, or
- 164 abandonment permits.
- 165 8. The permit fee for a drinking water distribution system
- 166 permit, including a general permit, shall be at least \$500 and
- 167 may not exceed \$1,000.
- 168 9. The permit fee for Class V injection wells,

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169 construction, operation, and abandonment permits may not exceed
 170 \$750.

171 10. The permit fee for domestic waste collection system
 172 permits may not exceed \$500.

173 11. The permit fee for stormwater operation permits may
 174 not exceed \$100.

175 12. Except as provided in subparagraph 8., the general
 176 permit fees for permits that require certification by a
 177 registered professional engineer or a ~~professional~~ geologist may
 178 not exceed \$500, and the general permit fee for other permit
 179 types may not exceed \$100.

180 13. The fee for a permit issued pursuant to s. 403.816 is
 181 \$5,000, and the fee for any modification of such permit
 182 requested by the applicant is \$1,000.

183 14. The regulatory program and surveillance fees for
 184 facilities permitted pursuant to s. 403.088 or s. 403.0885, or
 185 for facilities permitted pursuant to s. 402 of the Clean Water
 186 Act, as amended, 33 U.S.C. ss. 1251 et seq., and for which the
 187 department has been granted administrative authority, shall be
 188 limited as follows:

189 a. The fees for domestic wastewater facilities shall not
 190 exceed \$7,500 annually. The department shall establish a sliding
 191 scale of fees based on the permitted capacity and shall ensure
 192 smaller domestic waste dischargers do not bear an inordinate
 193 share of costs of the program.

194 b. The annual fees for industrial waste facilities shall
 195 not exceed \$11,500. The department shall establish a sliding
 196 scale of fees based upon the volume, concentration, or nature of

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197 the industrial waste discharge and shall ensure smaller
 198 industrial waste dischargers do not bear an inordinate share of
 199 costs of the program.

200 c. The department may establish a fee, not to exceed the
 201 amounts in subparagraphs 5. and 6., to cover additional costs of
 202 review required for permit modification or construction
 203 engineering plans.

204 Section 7. Subsection (1) of section 403.0877, Florida
 205 Statutes, is amended to read:

206 403.0877 Certification by professionals regulated by the
 207 Department of Business and Professional Regulation.—

208 (1) Nothing in this section shall be construed as specific
 209 authority for a water management district or the department to
 210 require certification by a professional engineer licensed under
 211 chapter 471, a professional landscape architect licensed under
 212 part II of chapter 481, ~~a professional geologist licensed under~~
 213 ~~chapter 492,~~ or a professional surveyor and mapper licensed
 214 under chapter 472, for an activity that is not within the
 215 definition or scope of practice of the regulated profession.

216 Section 8. Subsection (1) of section 469.004, Florida
 217 Statutes, is amended to read:

218 469.004 License; asbestos consultant; asbestos
 219 contractor.—

220 (1) All asbestos consultants must be licensed by the
 221 department. An asbestos consultant's license may be issued only
 222 to an applicant who holds a current, valid, active license as an
 223 architect issued under chapter 481; holds a current, valid,
 224 active license as a professional engineer issued under chapter

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225 ~~471; holds a current, valid, active license as a professional~~
 226 ~~geologist issued under chapter 492;~~ is a diplomat of the
 227 American Board of Industrial Hygiene; or has been awarded
 228 designation as a Certified Safety Professional by the Board of
 229 Certified Safety Professionals.

230 Section 9. Subsection (2) of section 627.706, Florida
 231 Statutes, is amended to read:

232 627.706 Sinkhole insurance; catastrophic ground cover
 233 collapse; definitions.—

234 (2) As used in ss. 627.706-627.7074, and as used in
 235 connection with any policy providing coverage for a catastrophic
 236 ground cover collapse or for sinkhole losses:

237 (a) "Catastrophic ground cover collapse" means geological
 238 activity that results in all the following:

- 239 1. The abrupt collapse of the ground cover;
- 240 2. A depression in the ground cover clearly visible to the
 241 naked eye;
- 242 3. Structural damage to the building, including the
 243 foundation; and
- 244 4. The insured structure being condemned and ordered to be
 245 vacated by the governmental agency authorized by law to issue
 246 such an order for that structure.

247
 248 Contents coverage applies if there is a loss resulting from a
 249 catastrophic ground cover collapse. Structural damage consisting
 250 merely of the settling or cracking of a foundation, structure,
 251 or building does not constitute a loss resulting from a
 252 catastrophic ground cover collapse.

253 (b) ~~(f)~~ "Professional Geologist" means a person, ~~as defined~~
 254 ~~by s. 492.102,~~ who has a bachelor's degree or higher in geology
 255 or related earth science with expertise in the geology of
 256 Florida. A ~~professional~~ geologist must have geological
 257 experience and expertise in the identification of sinkhole
 258 activity as well as other potential geologic causes of damage to
 259 the structure.

260 (c) ~~(e)~~ "Professional engineer" means a person, as defined
 261 in s. 471.005, who has a bachelor's degree or higher in
 262 engineering with a specialty in the geotechnical engineering
 263 field. A professional engineer must have geotechnical experience
 264 and expertise in the identification of sinkhole activity as well
 265 as other potential causes of damage to the structure.

266 (d) ~~(b)~~ "Sinkhole" means a landform created by subsidence
 267 of soil, sediment, or rock as underlying strata are dissolved by
 268 groundwater. A sinkhole may form by collapse into subterranean
 269 voids created by dissolution of limestone or dolostone or by
 270 subsidence as these strata are dissolved.

271 (e) ~~(d)~~ "Sinkhole activity" means settlement or systematic
 272 weakening of the earth supporting such property only when such
 273 settlement or systematic weakening results from movement or
 274 raveling of soils, sediments, or rock materials into
 275 subterranean voids created by the effect of water on a limestone
 276 or similar rock formation.

277 (f) ~~(e)~~ "Sinkhole loss" means structural damage to the
 278 building, including the foundation, caused by sinkhole activity.
 279 Contents coverage shall apply only if there is structural damage
 280 to the building caused by sinkhole activity.

281 Section 10. Subsections (2), (3), and (6) of section
 282 627.707, Florida Statutes, are amended to read:

283 627.707 Standards for investigation of sinkhole claims by
 284 insurers; nonrenewals.—Upon receipt of a claim for a sinkhole
 285 loss, an insurer must meet the following standards in
 286 investigating a claim:

287 (2) Following the insurer's initial inspection, the
 288 insurer shall engage a professional engineer or a ~~professional~~
 289 geologist to conduct testing as provided in s. 627.7072 to
 290 determine the cause of the loss within a reasonable professional
 291 probability and issue a report as provided in s. 627.7073, if:

292 (a) The insurer is unable to identify a valid cause of the
 293 damage or discovers damage to the structure which is consistent
 294 with sinkhole loss; or

295 (b) The policyholder demands testing in accordance with
 296 this section or s. 627.7072.

297 (3) Following the initial inspection of the insured
 298 premises, the insurer shall provide written notice to the
 299 policyholder disclosing the following information:

300 (a) What the insurer has determined to be the cause of
 301 damage, if the insurer has made such a determination.

302 (b) A statement of the circumstances under which the
 303 insurer is required to engage a professional engineer or a
 304 ~~professional~~ geologist to verify or eliminate sinkhole loss and
 305 to engage a professional engineer to make recommendations
 306 regarding land and building stabilization and foundation repair.

307 (c) A statement regarding the right of the policyholder to
 308 request testing by a professional engineer or a ~~professional~~

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309 geologist and the circumstances under which the policyholder may
 310 demand certain testing.

311 (6) Except as provided in subsection (7), the fees and
 312 costs of the professional engineer or the ~~professional~~ geologist
 313 shall be paid by the insurer.

314 Section 11. Section 627.7072, Florida Statutes, is amended
 315 to read:

316 627.7072 Testing standards for sinkholes.—The professional
 317 engineer and the ~~professional~~ geologist shall perform such tests
 318 as sufficient, in their professional opinion, to determine the
 319 presence or absence of sinkhole loss or other cause of damage
 320 within reasonable professional probability and for the
 321 professional engineer to make recommendations regarding
 322 necessary building stabilization and foundation repair.

323 Section 12. Subsection (1) of section 627.7073, Florida
 324 Statutes, is amended to read:

325 627.7073 Sinkhole reports.—

326 (1) Upon completion of testing as provided in s. 627.7072,
 327 the professional engineer or the ~~professional~~ geologist shall
 328 issue a report and certification to the insurer and the
 329 policyholder as provided in this section.

330 (a) Sinkhole loss is verified if, based upon tests
 331 performed in accordance with s. 627.7072, a professional
 332 engineer or a ~~professional~~ geologist issues a written report and
 333 certification stating:

334 1. That the cause of the actual physical and structural
 335 damage is sinkhole activity within a reasonable professional
 336 probability.

337 2. That the analyses conducted were of sufficient scope to
 338 identify sinkhole activity as the cause of damage within a
 339 reasonable professional probability.

340 3. A description of the tests performed.

341 4. A recommendation by the professional engineer of
 342 methods for stabilizing the land and building and for making
 343 repairs to the foundation.

344 (b) If sinkhole activity is eliminated as the cause of
 345 damage to the structure, the professional engineer or the
 346 ~~professional~~ geologist shall issue a written report and
 347 certification to the policyholder and the insurer stating:

348 1. That the cause of the damage is not sinkhole activity
 349 within a reasonable professional probability.

350 2. That the analyses and tests conducted were of
 351 sufficient scope to eliminate sinkhole activity as the cause of
 352 damage within a reasonable professional probability.

353 3. A statement of the cause of the damage within a
 354 reasonable professional probability.

355 4. A description of the tests performed.

356 (c) The respective findings, opinions, and recommendations
 357 of the professional engineer or the ~~professional~~ geologist as to
 358 the cause of distress to the property and the findings,
 359 opinions, and recommendations of the professional engineer as to
 360 land and building stabilization and foundation repair shall be
 361 presumed correct.

362 Section 13. Paragraph (b) of subsection (1) of section
 363 627.7074, Florida Statutes, is amended to read:

364 627.7074 Alternative procedure for resolution of disputed

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365 sinkhole insurance claims.-

366 (1) As used in this section, the term:

367 (b) "Neutral evaluator" means a professional engineer or a
368 ~~professional~~ geologist who has completed a course of study in
369 alternative dispute resolution designed or approved by the
370 department for use in the neutral evaluation process, who is
371 determined to be fair and impartial.

372 Section 14. This act shall take effect July 1, 2011.