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CHAPTER 77

Geologists

**SECTION 40‑77‑5.** Application of chapter; conflict of law.

 Unless otherwise provided for in this chapter, Article 1, Chapter 1 of Title 40 applies to geologists regulated by the Department of Labor, Licensing and Regulation. If there is a conflict between this chapter and Article 1, Chapter 1 of Title 40, the provisions of this chapter control.

HISTORY: 1998 Act No. 354, Section 1.

**SECTION 40‑77‑10.** State Board of Registration for Geologists; member qualifications; term; vacancies; removal.

 There is created the State Board of Registration for Geologists which shall administer the provisions of this chapter. The board shall consist of four registered professional geologists of varied geological backgrounds who have been engaged in the practice of geology for at least twelve years and have been in responsible charge of important geologic work for at least five years, which may include being in responsible charge of geologic teaching or research, and one lay member who is not a geologist. At all times, at least one member of the board must be an academic geologist, one member must be a salaried company geologist, one member must be an independent or consultant geologist, and one member must be a geologist from a state agency. Each member must be appointed by the Governor for a term of five years and until his successor possessing the same qualifications is appointed and qualifies. Vacancies in the membership of the board must be filled for unexpired terms by appointment by the Governor as provided in this section. The Governor may remove a member of the board in accordance with Section 1‑3‑240.

HISTORY: 1986 Act No. 507, Section 1; 1998 Act No. 354, Section 1.

**SECTION 40‑77‑20.** Definitions.

 As used in this chapter:

 (1) “Board” means the State Board of Registration for Geologists.

 (2) “Geologist” means a person with special knowledge of the science of geology, hydrology, geophysics, and related earth sciences and principles and methods of geological analysis acquired by professional education and practical experience.

 (3) “Geologist‑in‑training” means a person who possesses the qualifications prescribed in Section 40‑77‑230 and who has been certified as a geologist‑in‑training.

 (4) “Geology” means the science dealing with the earth and its history; investigation, prediction, and location of the materials and structures which compose it; the natural processes that cause change in the earth; and the applied science of utilizing knowledge of the earth and its constituent rocks, minerals, liquids, gases, and other materials for the benefit of mankind. This definition does not include a service or creative work, the adequate performance of which requires engineering education, training, and experience.

 (5) “Public practice of geology” means the performance of geological service or work in the nature of consultation, investigation, surveys, evaluations, planning, mapping, and inspection of geologic work required for or supporting compliance with municipal, county, State of South Carolina, or federal regulations. The “public practice of geology” does not include the practice of engineering as defined in Chapter 21.

 (6) “Registered professional geologist” means a person registered as a professional geologist by the board pursuant to Section 40‑77‑230.

 (7) “Responsible charge of work” means the independent control and direction by the use of initiative, skill, and independent judgment of geological work or the supervision of geological work. Responsible charge of geologic teaching or research may be construed as responsible charge of important geological work.

HISTORY: 1986 Act No. 507, Section 1; 1998 Act No. 354, Section 1.

**SECTION 40‑77‑30.** Submission of evidence of qualification to practice; requirement to register.

 (A) In order to safeguard life, health, and property and to promote the public welfare, a person engaged in the public practice of geology or offering to engage in the public practice of geology is required to submit evidence that he is qualified to practice and must be registered. It is unlawful for a person to offer or engage in the public practice of geology in this State or to use in connection with his name or otherwise assume, use, or advertise any title or description tending to convey the impression that he is a registered professional geologist, unless he has been registered under the provisions of this chapter. The public practice of geology does not include the work ordinarily performed by persons who practice engineering as defined in Chapter 21.

 (B) A person is construed to practice or offer to practice geology or the public practice of geology within the meaning and intent of this chapter who:

 (1) practices in any branch of the profession of geology;

 (2) by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a registered professional geologist or through the use of some other title implies that he is a professional geologist, or

 (3) holds himself out as able to perform or does perform any geological service or work or any other professional service designated by the practitioner or recognized by educational authorities as geology.

HISTORY: 1986 Act No. 507, Section 1; 1998 Act No. 354, Section 1.

**SECTION 40‑77‑50.** Provision of staffing, fiscal, and licensing operations and activities by Department of Labor, Licensing and Regulation.

 The Department of Labor, Licensing and Regulation shall provide all administrative, fiscal, investigative, inspectional, clerical, secretarial, and license renewal operations and activities of the board in accordance with Section 40‑1‑50.

HISTORY: 1986 Act No. 507, Section 1; 1998 Act No. 354, Section 1.

**SECTION 40‑77‑60.** Promulgation of rules and regulations; code of ethics.

 The board may adopt rules governing its proceedings and may promulgate regulations necessary to carry out the provisions of this chapter. The board may establish by regulation a code of ethics binding on persons licensed under or subject to this chapter.

HISTORY: 1986 Act No. 507, Section 1; 1998 Act No. 354, Section 1.

**SECTION 40‑77‑70.** Seal.

 In addition to those powers and duties provided for in this chapter and in Section 40‑1‑70, the board shall adopt an official seal.

HISTORY: 1986 Act No. 507, Section 1; 1998 Act No. 354, Section 1.

**SECTION 40‑77‑80.** Complaints and violations of chapter; investigation.

 The Department of Labor, Licensing and Regulation shall investigate complaints and violations of this chapter as provided for in Section 40‑1‑80.

HISTORY: 1986 Act No. 507, Section 1; 1998 Act No. 354, Section 1.

**SECTION 40‑77‑90.** Investigation results; procedures to conduct hearing.

 The results of an investigation must be presented to the board and any subsequent hearing must be conducted in accordance with Section 40‑1‑90.

HISTORY: 1986 Act No. 507, Section 1; 1998 Act No. 354, Section 1.

**SECTION 40‑77‑100.** Cease and desist order, temporary restraining order, and other equitable relief.

 In addition to other remedies provided for in this chapter or Chapter 1, Title 40, the board in accordance with Section 40‑1‑100 may issue a cease and desist order or may petition an administrative law judge for a temporary restraining order or other equitable relief to enjoin a violation of this chapter.

HISTORY: 1986 Act No. 507, Section 1; 1993 Act No. 181, Section 956; 1998 Act No. 354, Section 1.

**SECTION 40‑77‑110.** Revocation of registration; grounds.

 The board may revoke the registration of a registrant who has been declared mentally incompetent by a court of competent jurisdiction and has not subsequently been lawfully declared competent or who is found guilty of aiding or abetting any person in the violation of any provision of this chapter.

HISTORY: 1986 Act No. 507, Section 1; 1993 Act No. 181, Section 957; 1998 Act No. 354, Section 1.

**SECTION 40‑77‑115.** Jurisdiction of board.

 The board has jurisdiction over the actions of licensees and former licensees as provided for in Section 40‑1‑115.

HISTORY: 1998 Act No. 354, Section 1.

**SECTION 40‑77‑120.** Sanctions and disciplinary actions.

 In addition to the sanctions the board may take against a person pursuant to Section 40‑38‑110, the board may take disciplinary action against a person as provided for in Section 40‑1‑120.

HISTORY: 1986 Act No. 507, Section 1; 1998 Act No. 354, Section 1.

**SECTION 40‑77‑130.** Denial of license; grounds same as for disciplinary actions.

 As provided for in Section 40‑1‑130, the board may deny licensure to an applicant based on the same grounds for which the board may take disciplinary action against a licensee.

HISTORY: 1986 Act No. 507, Section 1; 1998 Act No. 354, Section 1.

**SECTION 40‑77‑140.** Denial of license; prior criminal record.

 A license may be denied based on a person’s prior criminal record as provided for in Section 40‑1‑140.

HISTORY: 1986 Act No. 507, Section 1; 1998 Act No. 354, Section 1.

**SECTION 40‑77‑150.** Voluntary surrender of license.

 A licensee under investigation for a violation of this chapter or a regulation promulgated under this chapter may voluntarily surrender the license in accordance with Section 40‑1‑150.

HISTORY: 1986 Act No. 507, Section 1; 1992 Act No. 434, Section 1; 1998 Act No. 354, Section 1.

**SECTION 40‑77‑160.** Appeal.

 A person aggrieved by a final action of the board may seek review of the decision in accordance with Section 40‑1‑160.

HISTORY: 1986 Act No. 507, Section 1; 1998 Act No. 354, Section 1.

**SECTION 40‑77‑170.** Payment of costs for investigation and prosecution.

 A person found in violation of this chapter or regulations promulgated under this chapter may be required to pay costs associated with the investigation and prosecution of the case in accordance with Section 40‑1‑170.

HISTORY: 1998 Act No. 354, Section 1.

**SECTION 40‑77‑180.** Collection and enforcement provisions.

 All costs and fines imposed pursuant to this chapter must be paid in accordance with and are subject to the collection and enforcement provisions of Section 40‑1‑180.

HISTORY: 1986 Act No. 507, Section 1; 1998 Act No. 354, Section 1.

**SECTION 40‑77‑190.** Confidentiality of proceedings; privileged communications.

 Investigations and proceedings conducted under this chapter are confidential and all communications are privileged as provided for in Section 40‑1‑190.

HISTORY: 1986 Act No. 507, Section 1; 1998 Act No. 354, Section 1.

**SECTION 40‑77‑200.** Unlicensed practice of geology; submission of false information; penalty.

 A person who engages in or offers to engage in the practice or public practice of geology in this State without being licensed or who knowingly submits false information for the purpose of obtaining a license is in violation of this chapter and is guilty of a misdemeanor and, upon conviction, must be imprisoned for not more than three months or fined not less than one hundred dollars nor more than five hundred dollars.

HISTORY: 1986 Act No. 507, Section 1; 1998 Act No. 354, Section 1.

**SECTION 40‑77‑210.** Injunctive relief.

 The department, on behalf of the board and in accordance with Section 40‑1‑120, may petition an administrative law judge, in the name of the State, for injunctive relief against a person violating this chapter.

HISTORY: 1986 Act No. 507, Section 1; 1998 Act No. 354, Section 1.

**SECTION 40‑77‑230.** Eligibility for registration; qualifications; certificate of registration.

 (A) An applicant is eligible for registration as a registered professional geologist if the applicant:

 (1) graduated in an approved geologic curriculum of four or more years with a minimum of thirty semester hours or forty‑five quarter hours in geology or geophysics from a school or college approved by the board and furnishes a specific record of an additional five years or more of full‑time experience as a geologist‑in‑training in geologic work or at least five years of geologic work germane to public practice satisfactory to the board indicating that the applicant is competent to practice geology and has passed written examinations required by the board. In counting years of experience the board may give credit, not in excess of one year, for each graduate degree in geology; or

 (2) graduated in geology or a related science curriculum approved by the board of four years or more with a minimum of thirty semester hours or forty‑five quarter hours in geology or geophysics in a school or college other than those approved by the board, furnishes a specific record of eight years or more of experience on geologic work of a character satisfactory to the board indicating that the applicant is competent to practice geology and has passed a written examination designed to measure knowledge and skill approximating that attained through graduation in an approved four‑year geologic curriculum, and passes the examinations required of applicants in item (1).

 (B) The minimum evidence that an applicant is qualified for registration as a geologist‑in‑training is proof that the applicant:

 (1) graduated in an accredited geologic curriculum of four scholastic years or more with a minimum of thirty semester hours or forty‑five quarter hours in geology or geophysics from a school or college approved by the board and passing a written examination required by the board; or

 (2) graduated in a geologic or a related science curriculum of four scholastic years or more with a minimum of thirty semester hours or forty‑five quarter hours in geology or geophysics from a school or college other than those approved by the board in item (1) with a specific record of five years or more of experience in geological work of a character satisfactory to the board or passing written examinations in geologic subjects designed to measure knowledge and skill approximating that attained through graduation in an approved geologic curriculum and passing the written examinations as required in item (1).

 (C) The board shall issue a certificate of registration, upon payment of the registration fee, to an applicant who satisfactorily has met the requirements of this chapter. For a registered professional geologist, the certificate must authorize the practice of geology. For a geologist‑in‑training the registration card must be issued as the certificate of registration and must state that the applicant has been enrolled as a geologist‑in‑training. The registration cards must show the full name of the registrant, the board assigned serial number, and must be signed by the chairman of the board bearing the seal of the board.

HISTORY: 1986 Act No. 507, Section 1; 1998 Act No. 354, Section 1.

**SECTION 40‑77‑240.** Establishment of fees; examinations.

 (A) The board in regulation shall establish application, examination, reexamination, registration, and reregistration fees which must be paid at the time of each application or reapplication.

 (B) If the board denies the issuance of a certificate of registration to an applicant the initial fee deposited must be retained as an application fee. A registration fee must be collected before issuance of a certificate of registration to a qualified applicant and a reregistration fee is due and payable in accordance with Section 40‑1‑50.

 (C) When examinations are required on fundamental geological subjects ordinarily given in college curricula, the applicant may take that part of the examination before completing the requisite years of scholastic studies in geology. The examination must be prepared and conducted as prescribed by the board with special reference to the applicant’s ability to ensure the safety of life, health, and property.

 (D) When written examinations are required to practice geology in this State, the examinations must be held at a time and place determined by the board. Examinations must be held at least annually.

HISTORY: 1986 Act No. 507, Section 1; 1998 Act No. 354, Section 1.

**SECTION 40‑77‑250.** Reexamination; continuing education authorized for license renewal.

 (A) A candidate failing an examination may apply for reexamination at the next examination date and must be reexamined upon payment of the appropriate fee.

 (B) The board may require continuing education as a condition of license renewal.

HISTORY: 1986 Act No. 507, Section 1; 1989 Act No. 168, Section 1; 1998 Act No. 354, Section 1.

**SECTION 40‑77‑260.** University teaching and research considered work experience.

 In considering the qualifications of applicants, full‑time geologic teaching at the university level supported by research work may be considered as geologic work experience.

HISTORY: 1986 Act No. 507, Section 1; 1989 Act No. 168, Section 2; 1998 Act No. 354, Section 1.

**SECTION 40‑77‑270.** Registration eligibility of nonpracticing geologists.

 A person having the necessary qualifications prescribed in this chapter is eligible for registration although the person may not be practicing the profession at the time of making application.

HISTORY: 1986 Act No. 507, Section 1; 1989 Act No. 168, Section 3; 1998 Act No. 354, Section 1.

**SECTION 40‑77‑280.** Persons licensed in other states or countries; reciprocity.

 A person holding a license to practice geology, based on comparable licensing requirements by a state, territory, or possession of the United States, the District of Columbia, or of any foreign country and who, in the opinion of the board, otherwise meets the requirements of this chapter may, upon application, and payment of applicable fees be licensed without further examination.

HISTORY: 1986 Act No. 507, Section 1; 1998 Act No. 354, Section 1.

**SECTION 40‑77‑290.** Seal.

 Upon registration, each registered professional geologist shall obtain a seal of the design authorized by the board, bearing his name, assigned serial number, and the title “registered professional geologist”. All drawings, reports, or other geologic papers or documents involving geologic work which have been prepared or approved by a registered professional geologist or a subordinate employee under the geologist’s direction for the use of or for delivery to a person or for public record within this State must be signed by the registered professional geologist and impressed with his seal or the seal of a nonresident practicing under the provisions of this chapter.

HISTORY: 1986 Act No. 507, Section 1; 1989 Act No. 168, Section 4; 1998 Act No. 354, Section 1.

**SECTION 40‑77‑300.** Reinstatement of expired or suspended certificate; replacement certificates.

 The board may reinstate a certificate of registration to a person whose registration has expired or has been suspended if three or more members of the board vote in favor of reinstatement. A new certificate of registration to replace a certificate revoked, lost, destroyed, or mutilated may be issued, subject to the regulations of the board, and payment of a fee determined by the board in regulation.

HISTORY: 1986 Act No. 507, Section 1; 1998 Act No. 354, Section 1.

**SECTION 40‑77‑310.** Activities not subject to chapter.

 This chapter does not prevent or affect the:

 (1) practice of another legally recognized profession or trade;

 (2) practice of a person not a resident of and having no established place of business in this State, practicing or offering to practice in this State the profession of geology, when the practice does not exceed in the aggregate the number of days approved by the board for a calendar year, if the person legally is qualified by registration to practice the profession in another state or country, in which the requirements and qualifications for obtaining registration are not lower than those specified in this chapter. The person shall apply to the board in writing and after payment of a fee established by the board may be granted a written permit for a definite period of time to do a specific job. However, no right to practice geology accrues to the applicant with respect to other work not set forth in the permit;

 (3) practice of a person not a resident of and having no established place of business in this State or who recently has become a resident of South Carolina, practicing or offering to practice geology in this State for the number of days approved by the board for a calendar year if the person files an application for registration and has paid the fee required, when the person legally is qualified by registration to practice geology in another state or country, in which the requirements and qualifications for obtaining registration are not lower than those specified in this chapter, and the practice may continue only for the time the board requires for the consideration of the application for registration;

 (4) work of an employee, or a subordinate, of a person holding a certificate of registration under this chapter, or an employee of a person practicing lawfully under item (2) or (3), if the work does not include final designs or decisions and is done under the direct responsibility, checking, and supervision of a person holding a certificate of registration issued pursuant to this chapter or a person practicing lawfully pursuant to item (2) or (3);

 (5) practice of officers and employees of the federal government while engaged within this State in the practice of geology for the federal government unless that practice contributes to or results in a state or federal permitted activity;

 (6) practice of teaching or research in geology in South Carolina colleges or universities, if the work is confined to teaching or research and does not affect the public as stated in Section 40‑77‑20(5).

HISTORY: 1986 Act No. 507, Section 1; 1998 Act No. 354, Section 1.

**SECTION 40‑77‑320.** Severability.

 If a provision of this chapter or the application of a provision to a person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

HISTORY: 1986 Act No. 507, Section 1; 1993 Act No. 181, Section 958; 1998 Act No. 354, Section 1.