

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1999

SESSION LAW 1999-355  
SENATE BILL 1004

AN ACT REVISING THE PROCEDURE USED BY THE NORTH CAROLINA BOARD FOR LICENSING OF GEOLOGISTS TO ADDRESS COMPLAINTS AND INVESTIGATIONS AND AUTHORIZING THE BOARD TO ASSESS CIVIL PENALTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 89E-17 reads as rewritten:

"§ 89E-17. ~~Complaints.~~ **Complaints and investigations.**

(a) Any person may file written charges with the Board against any licensee pursuant to rules and regulations adopted by the Board; provided however, such charges or allegations shall be in writing and shall be sworn to by the person or persons making them and shall be filed with the secretary. The Board shall have the authority and shall be under a duty to investigate reasonably all valid complaints.

(b) The Board may appoint, employ, or retain investigators for the purpose of examining or inquiring into any acts committed in this State that may violate the provisions of this Chapter, the Board's code of professional conduct, or the Board's rules. The Board may expend funds for salaries and fees in connection with an investigation conducted pursuant to this Chapter.

(c) Investigations by the Board shall be confidential until the Board takes disciplinary action against a licensee or corporate registrant. Records, papers, and other documents containing information collected or compiled by the Board, its members, or employees as a result of an investigation, inquiry, or interview conducted pursuant to this Chapter shall not be a public record within the meaning of Chapter 132 of the General Statutes, except any notice or statement of charges or notice of hearing in any proceeding conducted by the Board and any records, papers, or other documents containing information collected and compiled by the Board and admitted into evidence in a hearing before the Board shall be a public record."

Section 2. G.S. 89E-19 reads as rewritten:

"§ 89E-19. **Disciplinary procedures.**

~~The Board may, consistent with the provisions of Chapter 150B of the General Statutes, refuse to grant or to renew, may suspend, or may revoke the license of any person licensed under this Chapter who has violated the provisions of this Chapter or a rule or regulation of the Board, or who has been convicted of a misdemeanor under this Chapter, or who has been convicted of a felony or who has been found by the Board to have been guilty of gross unprofessional conduct, dishonest practice or incompetence or~~

~~fraud or deceit in obtaining a license or in aiding or abetting by fraud or deceit another person's obtaining a license.~~

(a) The Board, consistent with the provisions of Article 3A of Chapter 150B of the General Statutes, may refuse to grant a license to any applicant who does not meet the qualifications required by this Chapter, the Board's code of professional conduct, or the Board's rules, or to any corporate registrant that does not meet such qualifications and the requirements of Chapter 55B of the General Statutes. The Board, consistent with the provisions of Article 3A of Chapter 150B of the General Statutes, may refuse to renew, suspend, or revoke a license or certificate of registration if a licensee or corporate registrant:

- (1) Violates the provisions of this Chapter, the Board's code of professional conduct, the Board's rules, or an order issued by the Board.
- (2) Has been convicted of a misdemeanor under G.S. 89E-22.
- (3) Has been convicted of a felony.
- (4) Engages in gross unprofessional conduct, dishonest practice, or professional incompetence.
- (5) Commits fraud or deceit in obtaining a license or certificate of registration or in assisting another person in obtaining a license or certificate of registration.

(b) If the Board finds that a licensee is professionally incompetent, the Board may require the licensee to take an oral or written examination or to meet other requirements to demonstrate the licensee's fitness to practice geology, and the Board may suspend the licensee's license until he or she establishes professional competence to the satisfaction of the Board.

(c) In addition to the authority granted in subsections (a) and (b) of this section, the Board may levy a civil penalty not in excess of five thousand dollars (\$5,000) for any licensee or corporate registrant who violates the provisions of this Chapter, the Board's code of professional conduct, the Board's rules, or any order issued by the Board. All civil penalties collected by the Board shall be remitted to the school fund of the county in which the violation occurred. Before assessing a civil penalty, the Board shall consider the following:

- (1) The nature, gravity, and persistence of the violation.
- (2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other action taken by the Board.
- (3) Whether the violation was willful.
- (4) Any other factors that tend to mitigate or aggravate the violation.

(d) The Board may bring a civil action in the superior court of the county in which the violation occurred to recover a civil penalty if a licensee or corporate registrant does one of the following:

- (1) Fails to request a hearing on the imposition of a civil penalty and fails to pay the civil penalty within 30 days after being notified that a civil penalty has been imposed.

(2) Requests and receives a hearing on the imposition of a civil penalty but fails to pay the civil penalty within 30 days after service of a written copy of the Board's decision."

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 14th day of July, 1999.

s/ Dennis A. Wicker  
President of the Senate

s/ James B. Black  
Speaker of the House of Representatives

s/ James B. Hunt, Jr.  
Governor

Approved 9:49 p.m. this 22nd day of July, 1999