

LEGISLATIVE BILL 91

Approved by the Governor February 15, 2013

Introduced by Haar, 21.

FOR AN ACT relating to geologists; to amend sections 81-3520, 81-3527, 81-3528, 81-3529, 81-3530, 81-3531, 81-3537, 81-3539, and 81-3540, Reissue Revised Statutes of Nebraska; to change provisions relating to membership on the Board of Geologists, requirements for seals, distribution of civil penalties, eligibility for geology examinations, and licensure; to change and eliminate provisions relating to signatures and seals; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 81-3520, Reissue Revised Statutes of Nebraska, is amended to read:

81-3520 (1) The Board of Geologists is created to administer the Geologists Regulation Act. The board may use any funds available to obtain suitable office space within Lincoln, Nebraska, for the board. The board shall consist of seven members appointed by the Governor for terms of five years each, ending on the last day of February. The members shall include one education member appointed pursuant to subsection (2) of this section and one public member. All members of the board shall be professional geologists with the exception of the one public member. Each member shall hold office after the expiration of his or her term until his or her successor is duly appointed and qualified. The length of the initial terms shall be staggered, as determined by the board. The Governor may remove any member of the board for misconduct, incompetency, or neglect of duty. Vacancies on the board, however created, shall be filled for the unexpired term by appointment by the Governor.

(2) The membership of the board shall include one education member who is licensed in geology representing and who is a member of the professional faculty of the a geology departments, including the Conservation and Survey Division, all within the University of Nebraska, as or related geosciences department of a college or university located in Nebraska, recommended by the president of the respective college or university, and appointed by the Governor.

(3) The membership of the board shall include one public member appointed by the Governor. The appointment is for five years.

(4) The board may designate a former member of the board as an emeritus member. Emeritus member status, when conferred, must be renewed annually. The emeritus member shall be a nonvoting member.

Sec. 2. Section 81-3527, Reissue Revised Statutes of Nebraska, is amended to read:

81-3527 (1) Application for licensure as a geologist or enrollment as a geologist-intern shall be made on a form prescribed and furnished by the board. ~~It~~ If required pursuant to section 81-3539, the application shall contain statements made under oath showing the applicant's education and a detailed summary of technical experience and shall include the names and complete mailing addresses of the references, none of whom shall be members of the board. The board may accept the verified information contained in the National Association of State Boards of Geology for applicants in lieu of the same information that is required on the form prescribed and furnished by the board.

(2) Application, licensure, and enrollment fees shall be established by the board and shall accompany the application. Original and reciprocal fees shall not exceed three hundred dollars for licensure as a geologist and one hundred dollars for enrollment as a geologist-intern and shall be in addition to the examination fee which shall be set to recover the costs of the examination and its administration.

(3) The certificate of authorization fee for organizations shall be established by the board and shall accompany the application. The fee shall not exceed three hundred dollars per year.

(4) The fee for emeritus status shall be established by the board and shall accompany the application. The fee shall not exceed one hundred dollars per year.

(5) If the board denies the issuance of a certificate to any applicant, including the application of an organization for a certificate of authorization, the board shall retain the fee.

Sec. 3. Section 81-3528, Reissue Revised Statutes of Nebraska, is

amended to read:

81-3528 (1) The practice or offer to practice for others of geology by individuals licensed under the Geologists Regulation Act through an organization is permitted if the criteria for organizational practice established by the board are met and the organization has been issued a certificate of authorization by the board. All technical submissions by an organization involving the practice of geology when issued or filed for public record shall be dated and bear the signature and seal of the licensed geologist who prepared the submission or under whose immediate direction it was prepared.

(2) An organization desiring a certificate of authorization shall file with the board an application, using the form provided by the board, which also contains a list of the names and addresses of all officers of the organization, duly licensed to practice geology in the state through the organization. Any change in the list of officers during the certificate period shall be designated on the same form and filed with the board within thirty days after the effective date of the change. If the requirements of this section are met, the board shall issue a certificate of authorization to the organization and the organization may contract for and collect fees for furnishing professional services.

(3) The Geologists Regulation Act shall not prevent an organization from performing professional services for itself.

(4) An organization is not relieved of its responsibility for the conduct or acts of its agents, employees, officers, or partners by reason of its compliance with this section. An individual practicing geology is not relieved of his or her responsibility for services performed by reason of employment or any other relationship with an organization holding a certificate of authorization.

(5) Commencing one year after January 1, 1999, the Secretary of State shall not issue a certificate of authority to an applicant or a registration of name to a foreign firm to an organization which includes among the objectives for which it is established geology or any modification or derivation of geology, unless the board has issued the applicant a certificate of authorization or a letter indicating the eligibility of the applicant to receive a certificate of authorization. The organization shall supply the certificate or letter with its application for incorporation or licensure.

(6) Commencing one year after January 1, 1999, the Secretary of State shall not register any trade name or service mark which includes the words professional geologist, or any modification or derivative of such word, in its firm name or logotype except to those organizations holding a certificate of authorization issued by the board.

(7) The certificate of authorization shall be renewed periodically as required by the board.

(8) A geologist who renders occasional, part-time, or consulting services to or for an organization may not for purposes of this section be designated as being responsible for the professional activities of the organization.

Sec. 4. Section 81-3529, Reissue Revised Statutes of Nebraska, is amended to read:

81-3529 (1) The board shall issue to any applicant who, on the basis of education, experience, and examination, if required pursuant to section 81-3539, has met the requirements of the Geologists Regulation Act a certificate of licensure giving the licensed geologist proper authority to carry out the prerogatives of the act. The certificate of licensure shall carry the designation Licensed Professional Geologist. The certificate of licensure shall give the full name of the licensee and the license number and shall be signed by the chairperson of the board and the secretary of the board.

(2) The certificate shall be prima facie evidence that the person is entitled to all rights, privileges, and responsibilities of a professional geologist while the certificate of licensure remains unrevoked and unexpired.

(3)(a) Each licensee authorized to practice geology must obtain a seal. ~~It shall be unlawful for a licensee to affix his or her seal and signature or to permit his or her seal and signature to be affixed to any document after the expiration of the certificate of licensure or for the purpose of aiding or abetting any other person to evade or attempt to evade any provisions of the act.~~ The design of the seal shall be determined by the board. The following information shall be on the seal: State of Nebraska; licensee's name; licensee's license number; and the words Licensed Professional Geologist.

(b) ~~The seal may be a rubber stamp or may be generated electronically.~~ Whenever the seal is applied, the licensee's ~~written~~ signature

and the date shall be across the seal. No further words or wording are required. Electronic signatures applied to electronic seals shall be protected with an electronic revision approval system. Documents without electronic revision approval system protection that are transmitted electronically to a client or a governmental agency shall have the seal removed from the file. The electronic media shall have the following inserted in lieu of the seal, signature, and date: The board may adopt and promulgate rules and regulations for application of the seal.

~~This document was originally issued and sealed by (name of sealer), (license number), on (date of sealing). This media should not be considered a certified document.~~

(c) The seal, signature, and the date of its placement shall be placed on all technical submissions and calculations whenever presented to a client or any public or governmental agency. It shall be unlawful for a licensee to affix his or her seal or to permit his or her seal to be affixed to any document after the expiration of the certificate or for the purpose of aiding or abetting any other person to evade or attempt to evade the act.

(d) The seal, signature, and date shall be placed on all originals, copies, tracings, or other reproducible documents in such a manner that the seal, signature, and date will be reproduced. The application of the licensee's seal and signature shall constitute certification that the work was done by the licensee or under the licensee's control. In the case of multiple sealings, the first or title page shall be sealed, signed, and dated by all involved. In addition, each sheet shall be sealed, signed, and dated by the licensee responsible for each sheet. In the case of an organization, each sheet shall be sealed, signed, and dated by the licensee involved. The geologist in responsible charge shall sign, seal, and date the title or first sheet.

(e) In the case of a temporary permit issued to a licensee of another state, the licensee shall use his or her state of licensure seal and shall affix his or her signature and temporary permit to all his or her work.

~~(f) The design of the seal shall be determined by the board. The following information shall be on the seal: State of Nebraska; licensee's name; licensee's license number; and the words Professional Geologist.~~

~~(g) (4) The board shall issue to any applicant who, in the opinion of the board, has met the requirements of the act, an enrollment card as geologist-intern which indicates that his or her name has been recorded as such in the board office. The geologist-intern enrollment card does not authorize the holder to practice as a professional geologist.~~

Sec. 5. Section 81-3530, Reissue Revised Statutes of Nebraska, is amended to read:

81-3530 (1) A professional geologist shall only use affix his or her seal and signature when he or she was in responsible charge of the work, ~~being stamped.~~

(2) A professional geologist shall use affix his or her seal and signature on geologic reports, documents, maps, plans, logs, and sections, or other public records offered to the public and prepared or issued by or under the direct supervision of the professional geologist.

Sec. 6. Section 81-3531, Reissue Revised Statutes of Nebraska, is amended to read:

81-3531 (1) Certificates of licensure and certificates of authorization shall expire on a date established by the board and shall become invalid after that date unless renewed. The secretary of the board shall notify every person licensed under the Geologists Regulation Act and every organization holding a certificate of authorization under the act of the date of the expiration of the certificate of licensure or certificate of authorization and the amount of the fee required for renewal. The notice shall be mailed to the licensee or organization at the last-known address on file with the board at least one month in advance of the date of the expiration. Renewal may be effected at any time prior to or during the period established by the board upon application pursuant to this section and payment of a renewal fee. The fee shall not exceed two hundred dollars per year. Renewal of an expired certificate may be effected under rules and regulations of the board regarding requirements for reexamination and for penalty fees. The board may adopt a program of continuing education as a requirement for renewal for individual licensees.

(2) An applicant for renewal of a certificate of licensure shall apply on a form prescribed and furnished by the board. The application shall contain statements made under oath showing the applicant's fitness to maintain licensure, including felony convictions in any jurisdiction, convictions involving moral turpitude in any jurisdiction, and suspension or revocation of a professional license in any other jurisdiction. The board

shall review the application for renewal. If the board takes no action, the license shall be renewed. The board may deny renewal if it determines the applicant does not meet the requirements for licensure or renewal.

Sec. 7. Section 81-3537, Reissue Revised Statutes of Nebraska, is amended to read:

81-3537 (1) The board may after hearing, by majority vote, take any or all of the following actions, upon proof satisfactory to the board that any person or organization has violated the Geologists Regulation Act or any rules or regulations adopted and promulgated pursuant to the act:

- (a) Issuance of censure or reprimand;
- (b) Suspension of judgment;
- (c) Placement of the offender on probation with the board;
- (d) Placement of a limitation or limitations on the holder of a license and upon the right of the holder of a license to practice the profession to such extent, scope, or type of practice for such time and under such conditions as are found necessary and proper;
- (e) Imposition of a civil penalty not to exceed ten thousand dollars. The amount of the penalty shall be based on the severity of the violation;
- (f) Entrance of an order of revocation, suspension, or cancellation of the certificate of licensure;
- (g) Issuance of a cease and desist order;
- (h) Imposition of costs as in an ordinary civil action in the district court, which may include attorney's fees and hearing officer fees incurred by the board and the expenses of any investigation undertaken by the board; or
- (i) Dismissal of the action.

In hearings under this section, the board may take into account suitable evidence of reform.

(2) Civil penalties collected under subdivision (1)(e) of this section shall be remitted to the State Treasurer for ~~credit to the permanent school fund.~~ distribution in accordance with Article VII, section 5, of the Constitution of Nebraska. All costs collected under subdivision (1)(h) of this section shall be remitted to the State Treasurer for credit to the Geologists Regulation Fund.

Sec. 8. Section 81-3539, Reissue Revised Statutes of Nebraska, is amended to read:

81-3539 (1) Applications for licensure as a professional geologist, for temporary or reciprocal licensure, or for enrollment as a geologist-intern shall be on forms prescribed and furnished by the board and shall be accompanied by the fee established by the board. The requirements of subdivisions (1) through (3) of this section may be considered by the board to be fulfilled if the applicant maintains a current certificate of licensure to practice geology issued pursuant to the authority of any state or possession of the United States or the District of Columbia based on requirements that do not conflict with the Geologists Regulation Act and were of a standard not lower than that specified in the applicable licensure law in effect in this state at the time the certification was issued.

(2) The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for licensure as a professional geologist or enrollment as a geologist-intern:

~~(1)~~ (a) The applicant is of good character and reputation and submits four references with his or her application for licensure as a professional geologist. Two of the references shall be professional geologists having personal knowledge of his or her geological experience or, in the case of the application for enrollment as a geologist-intern, acting only as character references;

~~(2)~~ (b) The applicant has successfully completed a minimum of thirty semester hours or forty-five quarter hours of course work in geology and has received a baccalaureate or advanced degree in geology or a geologic specialty from a program accredited by an organization recognized by the board;

~~(3)~~ (c) The applicant has a documented record of a minimum of five years of progressive experience, obtained subsequent to completion of the education requirements, in geologic work of a grade and character which indicates to the board that the applicant is qualified to assume responsible charge of such work upon licensure as a geologist, including geologic teaching of advanced subjects and the design of geologic research and projects in a college or university offering a geologic curriculum, except that no work experience is required for enrollment as a geologist-intern; and

~~(4)~~ (d) The applicant has completed an examination covering the fundamentals and practice of geology prescribed by the board. Upon passing the fundamentals of geology examination, the applicant may be enrolled as

a geologist-intern. Upon passing the practice of geology examination, the applicant ~~shall~~ may be granted a certificate of licensure to practice geology in this state if otherwise qualified.

(3) A person who holds a valid certificate of licensure to engage in the practice of geology, issued pursuant to the authority of any state or possession of the United States or the District of Columbia based on requirements that do not conflict with the act and were of a standard not lower than that specified in the applicable licensing law in effect in this state at the time the certificate was issued, may, upon application, be considered by the board to have fulfilled the requirements of subdivisions (2) (b) and (c) of this section and be licensed without further examination- ~~Geologic teaching of advanced subjects and the design of geologic research and projects in a college or university offering an accredited geologic curriculum may be considered by the board as geologic experience-~~ as required under subdivision (2) (d) of this section.

(4) The requirements of subdivisions (2) (b) through (d) of this section may be waived by the board if the applicant is licensed to practice geology at the time of application and has maintained a current certificate of licensure to practice geology for at least fifteen years issued pursuant to the authority of a state or possession of the United States or the District of Columbia based on requirements that do not conflict with the Geologists Regulation Act and if the applicant has lawfully practiced geology for at least fifteen years in such jurisdiction. Lawful practice includes any practice that is in compliance with the licensure law in effect in the jurisdiction where the practice occurs.

Sec. 9. Section 81-3540, Reissue Revised Statutes of Nebraska, is amended to read:

81-3540 (1) The board or its agent shall direct the time and place of geology examinations. The board shall determine the acceptable grade on examinations.

(2) The examination shall be given in two sections as follows:

(a) A fundamentals of geology examination designed to test the academic preparation of the applicant in geology. At the board's discretion, the examination may be taken at any time following substantial completion of the applicant's educational requirements. Passing this examination qualifies the examinee for a geologist-intern enrollment card, if all other requirements for enrollment as a geologist-intern are met; and

(b) A principles and practice of geology examination designed to test the applicant's ability to apply geologic knowledge and to assume responsible charge of geologic work. The geologic practice examination may be taken only after the applicant has acquired the education and experience required for licensure as a geologist.

(3) A candidate failing one examination may apply for reexamination, which may be granted upon payment of a fee established by the board. In the event of a second failure, the examinee may, at the discretion of the board, be required to appear before the board with evidence of having acquired the necessary additional knowledge to qualify before admission to the examination.

(4) The board may prepare and adopt specifications for the examinations. The specifications shall be published and be available to any person interested in being licensed.

Sec. 10. Original sections 81-3520, 81-3527, 81-3528, 81-3529, 81-3530, 81-3531, 81-3537, 81-3539, and 81-3540, Reissue Revised Statutes of Nebraska, are repealed.