

Senate Bill 398

By: Senator Thompson of the 33rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 43 of the Official Code of Georgia Annotated, relating to professions, so as
2 to enact the "Georgia Soil Scientist Licensing Act"; to provide a short title; to provide a
3 statement of legislative intent; to define certain terms; to create the State Board for Licensing
4 Soil Scientists; to provide for membership, appointment, and terms; to provide for the filling
5 of vacancies; to provide for the reimbursement of expenses; to provide that the commissioner
6 of human resources shall act as the administrative agent for the board; to provide that the
7 Department of Human Resources shall have certain administrative duties; to provide for
8 appeals; to provide for records; to provide for application and requirements; to provide for
9 the issuance and renewal of a certificate of registration; to provide for legal representation;
10 to provide for exemptions; to provide for exceptions; to provide for unlawful acts; to repeal
11 conflicting laws; and for other purposes.

12 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

13 **SECTION 1.**

14 Title 43 of the Official Code of Georgia Annotated, relating to professions is amended by
15 inserting immediately following Chapter 43A a new Chapter 43B to read as follows:

16 **"CHAPTER 43B**

17 43-43B-1.

18 This chapter shall be known and may be cited as the 'Georgia Soil Scientist Licensing Act.'

19 43-43B-2

20 In order to safeguard life, health, and property and to promote the public welfare, the
21 practice of soil science in this state is declared to be subject to regulation in the public
22 interest. The purposes of this chapter are to protect life, property, health, and public welfare
23 through regulation of the practice of soil science in the state; to define the practice of soil
24 science as a profession by establishing minimum standards of ethical conduct and

1 professional responsibility and by establishing professional education and experience
2 requirements; and to prevent abuses in the practice of soil science by untrained or
3 unprincipled individuals.

4 43-43B-3

5 As used in this chapter, the term:

6 (1) 'Board' means the State Board for Licensing of Soil Scientists.

7 (2) 'License' means a certificate issued by the board to an individual who meets the
8 requirements established for a licensed soil scientist by this chapter and rules adopted
9 pursuant to this chapter.

10 (3) 'Licensed soil scientist' means a person who is licensed as a soil scientist under this
11 chapter.

12 (4) 'Practice of soil science' means any service or work, the adequate performance of
13 which requires education in the physical, chemical, and biological sciences, as well as
14 soil science; training and experience in the application of special knowledge of these
15 sciences to the use and management of soils by accepted principles and methods; and
16 investigation, evaluation, and consultation; and in which the performance is related to the
17 public welfare by safeguarding life, health, property, and the environment. 'Practice of
18 soil science' includes, but is not limited to, investigating and evaluating the interaction
19 between water, soil, nutrients, plants, and other living organisms that are used to prepare
20 soil scientist reports for: subsurface ground absorption systems, including infiltration
21 galleries; land application of residuals such as sludge, septage, and other wastes; spray
22 irrigation of wastewater; soil remediation at conventional rates; land application of
23 agricultural products; processing residues, bioremediation, and volatilization; soil
24 erodibility and sedimentation; and identification of hydric soil and redoximorphic
25 features.

26 (5) 'Responsible charge of work' means the independent control and direction by the use
27 of initiative, skill, and independent judgment in the practice of soil science or supervision
28 of the practice of soil science by soil scientists-in-training and subordinates.

29 (6) 'Soil' means the site or environmental setting consisting of soil material, saprolite,
30 weathered materials, and soil rock interface. 'Soil' includes the solid materials, waters,
31 gases, and other biological, chemical, and contaminant materials in the soil environment.

32 (7) 'Soil science' means the science dealing with soils as an environmental resource. 'Soil
33 science' includes the following tasks: soil characterization, classification, and mapping,
34 and the physical, chemical, hydrologic, mineralogical, biological, and microbiological
35 analysis of soil per se, and to its assessment, analysis, modeling, testing, evaluation, and
36 use for the benefit of mankind when specifically required to complete the investigation

1 and evaluation of interactions between water, soil, nutrients, plants, and other living
 2 organisms. 'Soil science' does not include design or creative works, the adequate
 3 performance of which requires extensive geological, engineering, or land surveying
 4 education, training, and experience or requires licensing as a geologist under Chapter 19
 5 of this title or as a professional engineer or land surveyor under Chapter 15.

6 (8) 'Soil scientist' means a person who practices soil science.

7 (9) 'Soil scientist-in-training' means a person who has passed the examination and
 8 satisfied all other requirements for licensure under this chapter except for the professional
 9 work experience requirement.

10 (10) 'Subordinate' means any person who assists a licensed soil scientist in the practice
 11 of soil science without assuming the responsible charge of work.

12 43-43B-4.

13 (a) The State Board for Licensing of Soil Scientists is created. The board shall consist of
 14 five members appointed by the Governor as follows:

15 (1) One member shall be a soil scientist employed by a federal or state agency;

16 (2) One member shall be a soil scientist employed by a local government agency;

17 (3) One member shall be a soil scientist employed by an institution of higher education;

18 (4) One member who shall be a soil scientist who is privately employed; and

19 (5) One member who shall be a member of the public who is not a soil scientist.

20 (b) The initial terms of office of members filling positions the positions described in
 21 paragraphs (1), (2), and (3) of subsection (a) of this Code section shall expire on June 30,
 22 2004. The initial terms of office of members filling positions (4) and (5) of subsection (a)
 23 of this Code section shall expire on June 30, 2005. Thereafter, members shall serve
 24 staggered terms of office of three years. No member shall serve more than six consecutive
 25 years without an interruption in service of at least one year. Members shall serve until their
 26 successors are appointed and duly qualified.

27 (c) Vacancies in appointments shall be filled for the unexpired term by appointment by the
 28 Governor.

29 (d) A majority of the members of the board appointed pursuant to subsection (a) of this
 30 Code section shall constitute a quorum for the transaction of business.

31 (e) Each member of the board shall be reimbursed as provided in subsection (f) of Code
 32 Section 43-1-2.

33 43-43B-5.

34 (a) The commissioner of human resources or his designee shall act as the administrative
 35 agent for the board.

1 (b) The Department of Human Resources shall have the duty to bring together and keep
 2 all records of the board; to receive all applications for licenses; to schedule a time and place
 3 for examinations, with the consent of the board; to schedule a time and place for all
 4 hearings; to issue certificates upon authority of the board; and to collect all fees and to
 5 remit them to the state treasury.

6 (c) All orders and processes of the council shall be signed and attested by the
 7 commissioner or his or her designee, and any notice or legal process necessary to be served
 8 upon the council may be served upon the commissioner.

9 43-43B-6.

10 In addition to other powers and duties specified in this chapter, the board shall:

11 (1) Adopt and amend rules and regulations which may be reasonably necessary for this
 12 chapter and the regulation of proceedings before the board. The board and all of its rules,
 13 regulations, and procedures are subject to and shall comply with Chapter 13 of Title 50,
 14 the 'Georgia Administrative Procedure Act';

15 (2) Adopt and have an official seal;

16 (3) Issue, renew, and reinstate the certificates of duly qualified persons;

17 (4) Initiate investigations for the purpose of discovering violations of this chapter;

18 (5) Conduct hearings upon charges calling for the discipline of a licensee or on violations
 19 of this chapter;

20 (6) Adopt a code of professional conduct; and

21 (7) Have such other powers and duties as are necessary to effectuate this chapter.

22 43-43B-7.

23 All appeals from a decision of the board, all documents or applications required by law to
 24 be filed with the board, and any notice or legal process to be served upon the board shall
 25 be filed with or served upon the division director at his or her office in Atlanta.

26 43-43B-8.

27 All official records of the board, or affidavits by the division director as to the content of
 28 such records, shall be prima-facie evidence of all matters required to be kept therein.

29 43-43B-9.

30 It shall be unlawful for any person to practice publicly or offer to practice publicly soil
 31 science in this state, as defined in this chapter, or to use in connection with his or her name
 32 or otherwise assume or advertise any title or description tending to convey the impression
 33 that he or she is a registered soil scientist unless such person has been duly registered or

1 exempted under this chapter. The right to engage in the practice of soil science shall be
2 deemed a personal right, based on the qualifications of the individual as evidenced by his
3 certificate of registration, and shall not be transferable.

4 43-43B-10.

5 An application for a license as a soil scientist shall be made under oath, shall show the
6 applicant's education and a summary of the applicant's professional work experience as
7 a soil scientist, and shall show any other relevant criteria as determined by the board.

8 43-43B-11.

9 (a) To be eligible for a license as a soil scientist in this state, an applicant shall satisfy the
10 following minimum qualifications:

11 (1) Be of good moral and ethical character as attested to by four letters of reference, two
12 of which shall be written by licensed soil scientists or persons who are eligible for
13 licensure under this chapter, and an agreement signed by the applicant to adhere to the
14 Code of Professional Conduct adopted by the board. For purposes of this paragraph,
15 'good moral and ethical character' means character that tends to ensure faithful discharge
16 of the duties of a licensed soil scientist;

17 (2) Hold at least a Bachelor of Science degree from an accredited college or university
18 with a minimum of 30 semester hours or 45 quarter hours in agricultural, biological,
19 physical, or earth sciences and at least 15 semester hours or an equivalent number of
20 quarter hours in soil science. The board may adopt rules specifying combinations of
21 education and experience that an applicant may substitute for a Bachelor of Science
22 degree;

23 (3) Successfully pass an examination established by the board. The examination shall be
24 designed to demonstrate whether the applicant has the necessary knowledge and requisite
25 skill to exercise the responsibilities of the practice of soil science; and

26 (4) Subject to subsection (b) of this Code section, have at least three years of
27 professional work experience as a soil scientist under the supervision of a licensed soil
28 scientist, or a soil scientist who is eligible for licensure, under this chapter, or a minimum
29 of three cumulative years of professional work experience as a soil scientist in
30 responsible charge of work satisfactory to the board and in accordance with standards
31 established by the board by rule.

32 (b) An applicant may substitute an advanced degree in soil science for a portion of the
33 professional work experience requirement. The board, in its discretion, may allow an
34 applicant to substitute a masters degree in soil science for one year of professional work
35 experience and to substitute a doctoral degree in soil science for two years of professional

1 work experience. The board, in its discretion, may allow an applicant to substitute
2 experience gained through teaching upper level soil science courses at the college or
3 university level or research in soil science for all or any portion of the professional work
4 experience requirement if the board finds the teaching or research to be equivalent to the
5 responsible charge of work by a soil scientist.

6 (c) The board shall designate an applicant who meets all the requirements for a license
7 under this chapter except the professional work experience requirement as a soil scientist-
8 in-training. A soil scientist-in-training may apply for a license upon completion of the
9 professional work experience requirement.

10 43-43B-12.

11 (a) Examinations shall be held at least annually. The board shall determine the fee for and
12 the scope, form, and content of the examinations provided for under this chapter.

13 43-43B-13.

14 A person holding a certificate of registration to engage in the practice of soil science, on
15 the basis of comparable licensing requirements issued to him or her by a proper authority
16 of a state, territory or possession of the United States, or the District of Columbia, and who,
17 in the opinion of the board, otherwise meets the requirements of this chapter based on
18 verified evidence may be registered, upon application, without further examination.

19 43-43B-14.

20 (a) The board shall issue a certificate of registration, upon payment of the registration fee
21 as fixed by the board, to any applicant who, in the opinion of the board, has satisfactorily
22 met all the requirements of this chapter. The issuance of a certificate of registration by the
23 board shall be prima-facie evidence that the person named therein is entitled to all the
24 rights and privileges of a registered soil scientist while the certificate remains unrevoked
25 or unexpired.

26 (b) All certificates shall be renewable biennially at such time as may be designated by the
27 division director. All applications for renewal shall be filed with the division director prior
28 to the expiration date, accompanied by the renewal fee prescribed by the board. A license
29 which has expired for failure to renew may only be restored after application and payment
30 of the prescribed restoration fee.

31 (c) A new certificate of registration to replace any certificate lost, destroyed, or mutilated
32 may be issued subject to the rules of the board and payment of a fee set by the board.

1 43-43B-15.

2 (a) The board shall have the authority to refuse to grant a certificate to an applicant
3 therefor or to revoke or suspend the certificate of a person registered by the board or to
4 discipline a person registered by the board as provided in Code Section 43-1-19.

5 (b) The action by the board in granting or refusing to grant or renew a certificate under this
6 chapter or in revoking or suspending or in refusing to revoke or suspend such a certificate
7 may be appealed in accordance with Chapter 13 of Title 50, the 'Georgia Administrative
8 Procedure Act,' to the superior court of the county of domicile of the board; provided that,
9 if the findings of the board are supported by any evidence, such findings shall be accepted
10 by the court.

11 43-43B-16.

12 Each registrant under this chapter, upon issuance of a certificate of registration, may use
13 a seal of such design as is authorized by the board, bearing the registrant's name and the
14 legend 'Registered Professional Soil Scientist.' All drawings, reports, or other papers or
15 documents involving the practice of soil science, as defined in this chapter, which shall
16 have been prepared or approved by a registered soil scientist or a subordinate employee
17 under his or her direction for the use of or for delivery to any person or for public record
18 within this state shall be signed by him or her and impressed with the seal provided for in
19 this Code section or the seal of a nonresident practicing under this chapter, either of which
20 shall indicate his or her responsibility for them.

21 43-43B-17.

22 This state and its political subdivisions, such as a county, a municipality, or a legally
23 constituted board, district, commission, or authority, shall contract for soil science services
24 only with persons registered under this chapter or with a firm employing a registered soil
25 scientist.

26 43-43B-18.

27 The Attorney General of this state or any assistant designated by him or her shall act as
28 legal advisor of the board.

29 43-43B-19.

30 Any person, except as specifically exempted below, who shall publicly practice or offer to
31 practice publicly soil science in this state is subject to this chapter. The following persons
32 are exempt:

- 1 (1) Persons engaged solely in teaching soil science or engaged in nonpublic soil science
2 research in this state;
- 3 (2) Officers and employees of the United States or this state, practicing solely as such
4 officers or employees; and
- 5 (3) A subordinate to a soil scientist registered under this chapter or to a registered
6 engineer, insofar as he or she acts solely in such capacity. This exemption, however, does
7 not permit any such subordinate to practice soil science for others in his or her own right
8 or use the title 'registered soil scientist.'

9 43-43B-20.

10 (a) This chapter does not prohibit one or more soil scientists from practicing through the
11 medium of a sole proprietorship, partnership, limited liability company, or corporation. In
12 a partnership, limited liability company, or corporation whose primary activity consists of
13 soil science services, at least one partner, member, or officer shall be a registered soil
14 scientist.

15 (b) This chapter does not prevent or prohibit an individual, firm, company, association, or
16 corporation whose principal business is other than the public practice of soil science from
17 employing a nonregistered soil scientist to perform nonpublic soil science services
18 necessary to the conduct of its business.

19 (c) This chapter shall not be construed to prevent or to affect:

20 (1) The practice of any profession or trade for which a license is required under any other
21 law of this state; the practice of registered professional engineers from lawfully practicing
22 soils mechanics, foundation engineering, and other professional engineering as provided
23 in this title; or licensed architects from lawfully practicing architecture as provided in this
24 title; or

25 (2) The practice of a person who is not a resident of and has no established place of
26 business in this state or who has recently become a resident hereof practicing or offering
27 to practice the profession of soil science herein for more than 90 days in any calendar
28 year if the person shall have filed with the board an application for a certificate of
29 registration and shall have paid the fee required by this chapter. Such practice shall
30 continue only for such time as the board requires for the consideration of the applicant
31 for registration.

32 43-43B-21.

33 A person who does any of the following shall be guilty of a misdemeanor:

34 (1) Willfully practices soil science or offers to practice soil science for any other person
35 in this state without being licensed in accordance with the provisions of this chapter;

- 1 (2) Presents, or attempts to use as his or her own, the license or the seal of any other soil
2 scientist;
- 3 (3) Gives any false or forged evidence in the course of applying for a license under this
4 chapter;
- 5 (4) Impersonates a licensed soil scientist;
- 6 (5) Attempts to use an expired or revoked license, or practice at any time while the
7 license is suspended or revoked; or
- 8 (6) Violates the provisions of this chapter or rules adopted pursuant to this chapter.

9 43-43B-22.

10 Any person who publicly practices or offers to practice publicly soil science for others in
11 this state without being registered in accordance with this chapter; any person presenting
12 or attempting to use as his or her own the certificate of registration or the seal of another;
13 any person who gives any false or forged evidence of any kind to the board or to any
14 member thereof in obtaining a certificate of registration; any person who falsely
15 impersonates any other registrant of like or different name; or any person who attempts to
16 use an expired or revoked certificate of registration or who attempts to practice at any time
17 during a period when the board has suspended or revoked his or her certificate of
18 registration shall be guilty of a misdemeanor."

19 **SECTION 2.**

20 All laws and parts of laws in conflict with this Act are repealed.