

House Bill 1047 (COMMITTEE SUBSTITUTE)

By: Representatives Hudson of the 95<sup>th</sup>, Purcell of the 122<sup>nd</sup>, McBee of the 74<sup>th</sup>, Houston of the 139<sup>th</sup>, Morris of the 120<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 43 of the Official Code of Georgia Annotated, relating to professions and  
2 businesses, so as to regulate the practice of soil science; to provide for a short title; to provide  
3 for legislative purpose; to define certain terms; to provide for inapplicability; to provide for  
4 the State Licensing Board for Professional Soil Scientists; to provide for board powers and  
5 duties; to provide for certain records; to provide for filing and service of documents; to  
6 provide for applications; to provide for eligibility; to provide for licensing; to provide for  
7 refusal and discipline; to provide for seals; to provide for a code of professional conduct; to  
8 provide for charges of violations; to require utilization of licensees by government entities;  
9 to provide for a legal adviser; to provide for exemptions; to make certain acts unlawful; to  
10 provide punishment for violations; to provide a provisional effective date; 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 and businesses,  
15 is amended by inserting a new chapter to read as follows:

16 **"CHAPTER 43B**

17 43-43B-1.

18 This chapter shall be known and may be cited as the 'Soil Scientists Licensing Act of 2004.'

19 43-43B-2.

20 The purpose of this chapter is to protect life, property, health, and public welfare through  
21 regulation of the practice of soil science in the state; to define the practice of soil science  
22 as a profession by establishing minimum standards of ethical conduct and professional  
23 responsibility and by establishing professional education and experience requirements; and

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1 to prevent abuses in the practice of soil science by untrained or unprincipled individuals.  
2 This action recommends itself through benefits to the people of this state and promotion  
3 of the public welfare. These benefits are in the field of soil science as related to on-site  
4 disposal of domestic waste water (septic systems), land treatment of various waste waters,  
5 byproducts, and residual solids on land, bioremediation, erosion and sedimentation, soil  
6 productivity, protection of surface and ground water, identification of wetlands and unique  
7 natural resources, and other soil matters of concern to the people of the state.

8 43-43B-3.

9 As used in this chapter, the term:

10 (1) 'Board' means the State Licensing Board for Professional Soil Scientists.

11 (2) 'License' means a certificate issued by the board to an individual who satisfies the  
12 requirements established for a licensed soil scientist under this chapter and the rules and  
13 regulations adopted pursuant to this chapter.

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

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

30 (5) 'Responsible charge of work' means the independent control and direction, by the use  
31 of initiative, skill, and independent judgment, of soil science work or the supervision of  
32 such work.

33 (6) 'Soil' means the unconsolidated mineral or organic matter on the surface of the earth  
34 that has been subjected to and influenced by genetic and environmental factors of parent  
35 material, climate (including water and temperature effects), microorganisms, and  
36 topography, all acting over time and producing a product that differs from the material

1 from which it is derived in many physical, chemical, biological, and morphological  
2 properties and characteristics.

3 (7) 'Soil science' means the science dealing with soils as an environmental resource. Soil  
4 science includes soil characterization, classification, and mapping; the physical, chemical,  
5 hydrologic, mineralogical, biological, and microbiological analysis of soil; and the  
6 assessment, analysis, modeling, testing, evaluation, and use of soil for the benefit of  
7 mankind. Soil science does not include design or creative works, the adequate  
8 performance of which requires extensive geological, engineering, land surveying,  
9 forestry, or landscape architecture education, training, and experience or requires  
10 registration as a geologist under Chapter 19 of this title, professional engineer or land  
11 surveyor under Chapter 15 of this title, or forester under Part 2 of Article 1 of Chapter 6  
12 of Title 12 or licensing as a landscape architect under Chapter 23 of this title.

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

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

18 43-43B-4.

19 This chapter does not apply to the following individuals:

20 (1) An officer or employee of:

21 (A) The federal government;

22 (B) The state government; or

23 (C) Any local government

24 while such officer or employee is providing soil science services for the officer's or  
25 employee's employer;

26 (2) An individual engaged solely in soil science research or the instruction of soil  
27 science;

28 (3) An individual not engaged in the public practice of soil science;

29 (4) A professional engineer registered under Chapter 15 of this title who applies soil  
30 science to the practice of engineering;

31 (5) A professional geologist registered under Chapter 19 of this title who applies soil  
32 science to the practice of geology;

33 (6) A professional forester registered under Part 2 of Article 1 of Chapter 6 of Title 12  
34 who applies soil science to the practice of forestry;

1 (7) A person who is a certified professional in erosion and sediment control (CPESC) or  
2 soil conservationist who uses soil science in making land use decisions for the  
3 conservation of soil and water resources;

4 (8) A professional wetlands specialist who applies soil science to make wetland  
5 delineations or determinations; or

6 (9) A person who conducts soil sampling solely for the purpose of determining plant  
7 nutrient and lime application rates for gardening and agricultural purposes.

8 43-43B-5.

9 (a) The State Licensing Board for Professional Soil Scientists is created, whose duty it  
10 shall be to administer this chapter. The board shall be comprised of:

11 (1) Five members who shall be eligible for licensure under this chapter and who on and  
12 after July 1 of the year following the effective date of this chapter shall be soil scientists  
13 licensed under this chapter, one of whom shall be an academic soil scientist, one a  
14 governmental soil scientist, one a salaried company soil scientist, one an independent or  
15 consultant soil scientist, and one a soil scientist at large;

16 (2) A sixth member who shall be appointed from the public at large and who shall have  
17 no connection whatsoever with the practice of professional soil science; and

18 (3) The commissioner of human resources, ex officio, or his or her designated agent.

19 (b) The members of the board provided for in paragraphs (1) and (2) of subsection (a) of  
20 this Code section shall be appointed by the Governor, subject to approval as to  
21 qualifications by the Secretary of State and confirmation by the Senate, for terms of five  
22 years and until their successors are appointed and qualified. On the expiration of the term  
23 of any member, the member's successor shall be appointed in the same manner as regular  
24 appointments.

25 (c) Each member of the board shall be a citizen of the United States and a resident of the  
26 State of Georgia.

27 (d) No person shall serve as a member of the board for more than one consecutive  
28 five-year term.

29 (e) The Governor may remove any member of the board pursuant to the authority of Code  
30 Section 43-1-17. Vacancies in the membership of the board shall be filled for the unexpired  
31 term by appointment by the Governor as provided for in this chapter.

32 (f) The members of the board shall, before entering upon the discharge of their duty,  
33 subscribe to and file with the office of the Governor the required oath of office, whereupon  
34 the Governor shall issue to each appointee a certificate of appointment.

35 (g) Each member of the board shall be reimbursed as provided for in subsection (f) of  
36 Code Section 43-1-2.

1 43-43B-6.

2 (a) In addition to other powers and duties specified in this chapter, the board shall:

3 (1) Promulgate, adopt, amend, and repeal all rules and regulations necessary for its  
4 government and for carrying this chapter into effect for the regulation of proceedings  
5 before the board. The board and all of its rules, regulations, and procedures are subject  
6 to and shall comply with Chapter 13 of Title 50, the 'Georgia Administrative Procedure  
7 Act';

8 (2) Adopt and have an official seal;

9 (3) Elect from its membership a chairperson, a vice chairperson, and any other officers  
10 deemed necessary who shall hold office for a term of one year;

11 (4) Issue, renew, refuse to renew, deny, suspend, revoke, and reinstate licenses or  
12 otherwise discipline licensees under this chapter;

13 (5) Initiate investigations for the purpose of discovering violations of this chapter;

14 (6) Hold hearings on all matters properly brought before the board and, in conjunction  
15 therewith, to administer oaths, receive evidence, make necessary findings, and enter  
16 orders consistent with the findings. The board may designate one or more of its members  
17 as its hearing officer;

18 (7) Adopt a code of professional conduct;

19 (8) Establish and receive fees as required by this chapter;

20 (9) Examine and determine the qualifications and fitness of applicants for licenses to  
21 practice soil science in this state;

22 (10) Bring proceedings in the courts for the enforcement of this chapter or any rules or  
23 regulations promulgated pursuant to this chapter;

24 (11) Establish reasonable standards for continuing professional education for soil  
25 scientists; provided, however, that no examination shall be required for a renewal of a  
26 license; and

27 (12) Have such other powers and duties as are necessary to effectuate the purposes of  
28 this chapter.

29 (b) The board shall be assigned to the office of the Secretary of State for administrative  
30 purposes, shall operate under the jurisdiction of the division director, and shall operate in  
31 accordance with and pursuant to the provisions of Chapter 1 of this title, as applicable.

32 43-43B-7.

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

1 43-43B-8.

2 An application for licensing as a soil scientist shall be made under oath and shall show the  
3 applicant's education and a detailed summary of the applicant's professional work  
4 experience as a soil scientist. The application shall be accompanied by an application fee  
5 fixed by the board.

6 43-43B-9.

7 (a) To be eligible for a license as a soil scientist in this state, an applicant shall meet each  
8 of the following minimum qualifications:

9 (1) Be of good ethical character;

10 (2) Hold at least a bachelor's degree in science from an accredited college or university  
11 with a major in soil science or a related field of science. Such degree shall include a  
12 minimum of 30 semester hours or equivalent quarter credit hours in agricultural,  
13 biological, chemical, physical, or earth sciences, with a minimum of 15 semester credit  
14 hours or equivalent quarter credit hours in soil science courses;

15 (3) Have at least four years of professional work experience as a soil scientist under the  
16 supervision of a licensed soil scientist or a soil scientist who is eligible for licensure  
17 under this chapter. An applicant may substitute an advanced degree in soil science for a  
18 portion of the professional work experience requirement. The board, in its discretion, may  
19 allow an applicant to substitute a master's degree in soil science for one year of  
20 professional work experience and to substitute a doctoral degree in soil science for two  
21 years of professional work experience. The board, in its discretion, may allow an  
22 applicant to substitute experience gained through teaching upper-level soil science  
23 courses at the college or university level or research in soil science for all or any portion  
24 of the professional work experience requirement if the board finds the teaching or  
25 research to be equivalent to the responsible charge of work by a soil scientist; and

26 (4) Successfully pass such examinations as are established by the board and which are  
27 designed to demonstrate that the applicant has the necessary knowledge and skill to  
28 exercise the responsibilities of the public practice of soil science.

29 (b) The board shall designate an applicant who meets all the requirements for a license  
30 under this chapter except the professional work experience requirement as a soil  
31 scientist-in-training. A soil scientist-in-training may apply for a license upon completion  
32 of the professional work experience requirement.

33 (c)(1) The board shall waive examination requirements for licensing for an individual  
34 who, on the effective date of this chapter, is certified as a soil scientist or soil classifier  
35 by:

1 (A) The American Registry of Certified Professionals in Agronomy, Crops, and Soils  
2 (ARCP ACS); or

3 (B) The Department of Human Resources.

4 (2) Examinations shall be held at least annually.

5 (3) The board shall determine the fee for and the scope, form, and content of the  
6 examinations provided for under this chapter.

7 (d) A person holding a license to engage in the practice of soil science on the basis of  
8 comparable licensing requirements issued to him or her by a proper authority of another  
9 state, territory, or possession of the United States or the District of Columbia and who, in  
10 the opinion of the board, otherwise meets the requirements of this chapter based on verified  
11 evidence may be licensed upon application without further examination.

12 43-43B-10.

13 (a) The board shall issue a license, upon payment of the license fee set by the board, to any  
14 applicant who, in the opinion of the board, has satisfactorily met the requirements of this  
15 chapter.

16 (b) All licenses shall be renewable biennially at such time as may be designated by the  
17 board. All applications for renewal shall be filed with the board prior to the expiration date,  
18 accompanied by the renewal fee prescribed by the board. A license which has expired for  
19 failure to renew may only be reinstated after application and payment of the prescribed  
20 reinstatement fee within six months of the expiration date, provided that the applicant  
21 meets such requirements as the board may establish by rule.

22 (c) A new license to replace any license that is lost, destroyed, or mutilated may be issued  
23 subject to the rules of the board and payment of a fee set by the board.

24 43-43B-11.

25 (a) The board shall have the authority to refuse to grant a license to an applicant therefor  
26 or to revoke or suspend the license of a person licensed by the board or to otherwise  
27 discipline a person licensed by the board the same as provided in Code Section 43-1-19 for  
28 professional licensing boards.

29 (b) The action by the board in granting or refusing to grant or renew a license under this  
30 chapter or in revoking or suspending or in refusing to revoke or suspend such a license may  
31 be appealed in accordance with Chapter 13 of Title 50, the 'Georgia Administrative  
32 Procedure Act,' to the superior court of the county of domicile of the board; provided,  
33 however, that if the findings of the board are supported by any evidence, such findings  
34 shall be accepted by the court.

1 43-43B-12.

2 Each licensee under this chapter may use a seal of such design as is authorized by the  
3 board, bearing the licensee's name and the legend 'Licensed Professional Soil Scientist.'  
4 All drawings, reports, or other papers or documents involving the practice of soil science,  
5 as defined in this chapter, which shall have been prepared or approved by a licensed soil  
6 scientist or a subordinate employee under his or her direction for the use of or for delivery  
7 to any person or for public record within this state shall be signed by him or her and  
8 impressed with the seal provided for in this Code section or the seal of a nonresident  
9 practicing under this chapter, either of which shall indicate his or her responsibility for  
10 them.

11 43-43B-13.

12 The board shall keep a record and shall publish annually a roster showing the names, places  
13 of business, and residence addresses of all soil scientists licensed under this chapter. Copies  
14 of such roster shall be made available to the public upon request and payment of a  
15 reasonable fee, established by the board, for copying.

16 43-43B-14.

17 The board shall prepare and adopt by rule a code of professional conduct that shall be made  
18 known in writing to every licensee and applicant for licensing under this chapter and shall  
19 be published by the board. Publication of the code of professional conduct shall be due  
20 notice to all licensees of its contents. The board may revise and amend such code of  
21 professional conduct. Prior to adoption of any revision or amendments, all licensed  
22 members and the public shall receive due notice and an opportunity to be heard.

23 43-43B-15.

24 Any person may file written charges of violations of this chapter or any rules adopted  
25 pursuant to this chapter with the board against any licensee. Any charges or allegations  
26 shall be in writing, shall be sworn to by the person making them, and shall be filed with  
27 the board. The board shall investigate reasonably all valid complaints.

28 43-43B-16.

29 On and after January 1 of the year following the effective date of this chapter, this state and  
30 its political subdivisions, such as a county, a municipality, or a legally constituted board,  
31 district, commission, or authority, shall contract for soil science services only with persons  
32 licensed under this chapter or with a firm employing a licensed soil scientist.



1 43-43B-17.

2 (a) This chapter shall not prohibit one or more soil scientists from practicing through the  
3 medium of a sole proprietorship, partnership, limited liability company, or corporation. In  
4 a partnership, limited liability company, or corporation whose primary activity consists of  
5 soil science services, at least one partner, member, or officer shall be a licensed soil  
6 scientist.

7 (b) This chapter shall not prevent or prohibit an individual, firm, company, association, or  
8 corporation whose principal business is other than the public practice of soil science from  
9 employing a unlicensed soil scientist to perform nonpublic soil science services necessary  
10 to the conduct of its business.

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

12 (1) The practice of any profession or trade for which a license is required under any other  
13 provision of this Code;

14 (2) The practice of registered professional engineers from lawfully practicing soils  
15 mechanics, foundation engineering, and other professional engineering as provided in this  
16 title; or

17 (3) The practice of a person who is not a resident of and has no established place of  
18 business in this state or who has recently become a resident hereof practicing or offering  
19 to practice the profession of soil science herein for more than 30 days in any calendar  
20 year if the person shall have filed with the board an application for a license and shall  
21 have paid the fee required by this chapter. Such practice shall continue only for such time  
22 as the board requires for the consideration of the applicant for licensing.

23 43-43B-18.

24 (a) It shall be unlawful for any person other than a licensed soil scientist or a subordinate  
25 under the soil scientist's direction and not otherwise exempt under this chapter to conduct  
26 or participate in any practice of soil science or prepare any soil science reports, maps, or  
27 documents related to the public welfare or the safeguarding of life, health, property, or the  
28 environment.

29 (b) It shall be unlawful for any person, including a soil scientist-in-training or a  
30 subordinate, to practice, or offer to practice, soil science in this state or to use in connection  
31 with his or her name, otherwise assume, or advertise any title or description tending to  
32 convey the impression that he or she is a licensed soil scientist unless that person has been  
33 duly licensed or is exempted under the provisions of this chapter.

34 (c) It shall be unlawful for anyone other than a licensed soil scientist to stamp or seal any  
35 soils related plans, maps, reports, or other soils related documents with the seal or stamp

1 of a licensed soil scientist or use in any manner the title 'soil scientist' unless that person  
2 is licensed under this chapter.

3 (d) It shall be unlawful for any person to affix his or her signature to, stamp, or seal any  
4 soils related plans, maps, reports, or other soils related documents after the license of the  
5 person has expired or been suspended or revoked.

6 (e) It shall be unlawful for a licensed soil scientist to prepare plats and maps so as to  
7 engage in the practice of land surveying as defined in Code Section 43-15-2 unless the  
8 licensed soil scientist is also a registered land surveyor under Chapter 15 of this title.

9 (f) It shall be unlawful for a licensed soil scientist to engage in the design of engineering  
10 works and systems unless the licensed soil scientist is also a registered professional  
11 engineer under Chapter 15 of this title.

12 (g) It shall be unlawful for a licensed soil scientist to engage in the practice of geology  
13 unless the licensed soil scientist is also a registered geologist under Chapter 19 of this title.

14 (h) Subsections (a) and (b) of this Code section shall apply only to acts committed on or  
15 after January 1 of the year following the effective date of this chapter.

16 43-43B-19.

17 (a) A person who:

18 (1) Willfully practices soil science or offers to practice soil science for any other person  
19 in this state without being licensed and who is not otherwise exempt in accordance with  
20 the provisions of this chapter;

21 (2) Presents or attempts to use as his or her own the license or the seal of any other soil  
22 scientist;

23 (3) Gives any false or forged evidence in the course of applying for a license under this  
24 chapter;

25 (4) Impersonates a licensed soil scientist;

26 (5) Practices or attempts to practice at any time while his or her license is suspended or  
27 revoked; or

28 (6) Commits any other act made unlawful by this chapter

29 shall be guilty of a misdemeanor.

30 (b) Paragraph (1) of subsection (a) of this Code section shall apply only to acts committed  
31 on or after January 1 of the year following the effective date of this chapter."

## 32 SECTION 2.

33 This Act shall become effective only upon the effective date of an appropriation of funds for  
34 the purposes of this Act as expressed in a line item making specific reference to the full  
35 funding of this Act in an appropriations Act enacted by the General Assembly.

1

**SECTION 3.**

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