

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 805

H. P. 608 House of Representatives, February 12, 1973
Referred to Committee on Business Legislation. Sent up for concurrence
and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. Ault of Wayne.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT Relating to the Certification and Regulation of Geologists.

Be it enacted by the People of the State of Maine, as follows:

R. S., T. 32, c. 22, additional. Title 32 of the Revised Statutes is amended
by adding a new chapter 22, to read as follows:

CHAPTER 22

GEOLOGISTS

§ 1510. Title

This chapter may be cited as the "Geologists Certification Act."

§ 1511. Construction

This chapter shall not be construed to affect or prevent the practice of any
other legally recognized profession.

§ 1512. Definitions

As used in this chapter, unless the context otherwise indicates, the follow-
ing words and phrases shall have the following meanings:

1. Certified geologist. "Certified geologist" means a person entitled under
this chapter to take and use the title.
2. Commission. "Commission" means the State Commission of Certifica-
tion for Geologists.
3. Geologist. "Geologist" means a person engaged in the practice of
geology.

4. **Geology.** "Geology" means that science which treats of the earth as a whole; the investigation of its composition, its size, shape and relationships between consolidated and unconsolidated rock units in the regolith and bed-rock; and the applied aspects of utilizing knowledge of the earth and its constituents; including its consolidated and unconsolidated rock units, its minerals, liquids, gases and other materials for the benefit of mankind.

5. **Practice of geology.** "Practice of geology" means the performance of geological work or service for the public, including, but not limited to, consultation, investigation, surveys, evaluation planning, mapping or inspection of geological work, wherein the performance is related to the public welfare or the safeguarding of life, health, property and the environment.

6. **Qualified geologist.** "Qualified geologist" means a person who possesses the qualifications specified for certification except that he is not certified.

7. **Responsible charge of work.** "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 such work.

8. **Subordinate.** "Subordinate" means any person who assists a certified geologist in the practice of geology without assuming the responsible charge of work.

§ 1513. Commission

The State Commission of Certification for Geologists shall be within the Division of Geological Survey, Maine Forestry Department. The commission shall consist of 5 members appointed by the Governor, with approval of the Executive Council, one of whom shall be the State Geologist and 4 of whom shall be certified geologists.

Each member of the commission shall be a citizen of the United States and shall have been a resident of this State for at least 5 years immediately preceding his appointment. Each of the first appointed geologist members of the commission shall have at least 10 years' active experience and shall be a qualified and practicing geologist. Each subsequent geologist member of the commission shall be a geologist certified under this chapter. The initial commission shall include the Maine State Geologist and professional geologists from other fields of geology not specified.

The terms of appointed members of the initial commission shall be for 5 years, 4 years, 3 years and 2 years. Vacancies occurring prior to the expiration of the term shall be filled by appointment for the unexpired term.

No person shall serve as a member of the commission for more than 2 consecutive terms, excepting the State Geologist.

Each member of the commission shall receive a per diem and expenses as provided by regulation.

The commission shall meet annually and at such other times as it may determine. A public announcement shall be made prior to such meetings.

The commission shall submit an annual report to the Governor each January covering its activities, a fiscal statement and a membership roster.

The commission, pursuant to the general statutes, may adopt, amend or repeal rules and regulations to carry out this chapter, and may receive and expend moneys derived from fees and other sources. A Certified Geologists Fund shall be established in a special revenue account.

The commission shall prepare annually a list of the names and addresses of every person who is certified by it and a list of every person whose certification has been suspended or revoked within the previous year.

The commission shall have the authority to appoint committees as required or as deemed advisable to perform such duties as the commission may direct. Such committees shall be composed of certified geologists, except that until the first anniversary of the effective date of this chapter qualified geologists may serve.

Membership on all such committees is at the pleasure of the commission.

No member of any such committee shall receive any other compensation than his necessary expenses and a per diem, as approved by the commission, connected with the performance of his duties as a member of such committee.

The commission shall establish relations with bodies which regulate the practice of geology, or closely related geologic disciplines, or which certify geologists in the other states, and may establish relations with such bodies in other countries for the purposes of achieving uniformly high professional standards and mutual recognition of certification.

A qualified geologist practising geology at the time of the effective date of this chapter may be certified upon approval of the commission, if he applies to the commission prior to April 30, 1974.

§ 1514. Use of name

After April 30, 1974, it shall be unlawful for anyone other than a geologist certified under this chapter to sign or endorse as a certified geologist any plans, specifications, plats, reports or other documents, or to use in any manner the title "certified geologist."

§ 1515. Violation

It is unlawful for anyone to sign or endorse plans, specifications, plats, reports or other documents after the certificate of the individual named thereon has expired or has been suspended or revoked, unless the certificate has been renewed or reissued.

§ 1516. Application

Any person, except as in this chapter specifically exempted, who shall practice or offer to practice geology for the public in this State is subject to this chapter.

§ 1517. Exemptions

This chapter does not prohibit one or more geologists from practicing through the medium of a sole proprietorship, partnership or corporation. In such partnership or corporation whose primary activity consists of geological services, at least one partner or officer shall be a certified geologist.

§ 1518. —others

This chapter does not prevent or prohibit an individual, firm, company, association, corporation or government agency whose principal business is other than the practice of geology from employing a noncertified geologist to perform professional services in geology incidental to the conduct of their business, if such activity does not concern the public.

§ 1519. Plans prepared

All geologic plans, specifications, reports or documents which shall enter the public record shall be prepared by a certified geologist, or by a subordinate under his direction. In addition, such documents shall be signed by him which shall indicate his responsibility for them.

§ 1520. United States employees

Officers and employees of the United State of America practicing geology solely as such officers or employees are exempt from certification under this chapter.

§ 1521. Subordinate

A subordinate to a geologist certified under this chapter, insofar as he acts solely in such capacity, is exempt from certification under this chapter. This exemption does not permit any such subordinate to practice geology for others in his own right or to use the title "certified geologist," if he is so qualified.

§ 1522. Certification procedure

An application for certification as a geologist shall be made to the commission on a form prescribed by it and shall be accompanied by the application fee fixed by this chapter.

An applicant for certification as a geologist shall have all the following qualifications:

1. Be of high ethical professional standards;
2. Be qualified, by either education or experience, or both, as a geologist pursuant to the rules and regulations for certification to be established by the commission;
3. Sit for and pass an examination before the commission or its authorized representatives. Such examination will be held at certain specified times and of such scope as prescribed by the commission.

Generally, the examinations shall test the applicant's knowledge basic to geology and his ability to apply that knowledge and to assume responsible charge in the professional practice of geology.

An applicant for certification shall meet all the requirements of this chapter and, in addition, shall have 5 years in the practice of geology as defined by this chapter and in the rules and regulations of the commission to be provided.

An applicant failing in an examination may be examined again upon filing a new application and the payment of the application fee fixed by this chapter.

The commission, upon application therefor, on its prescribed form and upon the payment of the application and certification fees fixed by this chapter, may issue a certificate as a geologist, without written examination, to any person holding a certificate as a geologist issued to him by any state or country having similar requirements, when the applicant's qualifications meet the other requirements of this chapter and the rules established by the commission.

A temporary authorization for the practice of geology may be granted to a geologist, for a specific project, upon application and payment of the fee prescribed in section 1526, and :

1. He maintains no office for the practice of geology, other than for the authorized project, in this State;
2. He is qualified under the conditions of this chapter, exclusive of examination, to practice geology and is not legally prohibited from practicing in the state or country where he maintains an office for such practice;
3. The applicant demonstrates by means of an individual appearance before the commission, or before a committee appointed by the commission for such purpose, or by other means satisfactory evidence of adequate knowledge in that phase of geology for which the applicant proposes to practice under the temporary authorization;
4. Upon completion of these requirements as necessary, the secretary, on direction of the commission, shall issue a temporary authorization to the applicant;
5. In determining the qualifications of an applicant for certification or temporary authorization, a majority vote of the commission is required.

Any applicant who has passed the examination or has otherwise qualified hereunder as a geologist, upon payment of the certification fee fixed by this chapter, shall have a certificate as a geologist.

Any applicant who is denied certification or authorization shall, in writing, be so notified and informed of the reason therefor. Within 30 days after receipt of notice, such applicant may make written request to the commission for a hearing which, if granted, shall be conducted under the Administrative Hearing Code.

§ 1523. Expiration

A certificate as a geologist expires at 12 p.m. on December 31st of each even-numbered year. A certificate may be renewed by applying to the commission in writing prior to the expiration date and by paying the renewal fee prescribed by this chapter.

§ 1524. Renewal

Certificates as a geologist which are not renewed within 5 years after expiration may not be renewed, restored, reinstated or reissued thereafter. The holder of such certificate may apply for and obtain a new certificate if:

1. No fact, circumstance or condition exists which, if the certificate were issued, would justify its revocation or suspension;
2. He takes and passes the examination which would be required of him if he were then applying for the certificate for the first time.

§ 1525. Special revenue account

The moneys paid into the Geology Fund are continuously appropriated to the commission in a special revenue account to carry out this chapter.

§ 1526. Fees

The amount of the fees prescribed by this chapter shall be fixed by the commission in accordance with the following schedule:

1. The fee for filing each application for certification as a geologist is \$25;
2. The initial and renewal fees for certification as a geologist shall be fixed at \$15;
3. The fee for late filing, provided under section 1524, is \$25.

§ 1527. Complaints

The commission may receive and investigate complaints against certified geologists and persons granted temporary authorizations pursuant to this chapter and make findings thereon.

§ 1528. Investigations

The commission shall have the duty and authority to investigate violations of this chapter.

§ 1529. Enforcement

It shall be the duty of the respective officers charged with the enforcement of laws and ordinances to prosecute all persons charged with the violation of any of the provisions of this chapter.

It shall be the duty of the secretary of the commission, under the direction of the commission, to aid such officers in the enforcement of this chapter.

§ 1530. Penalty

Every person found guilty under this chapter of a misdemeanor and for each offense of which he is convicted shall be punished by a fine of not more than \$500 or by imprisonment not to exceed 3 months, or by both.

STATEMENT OF FACT

The purpose of this bill is to introduce qualifying criteria in a presently unregulated professional field in which unqualified individuals may injure the public, would benefit the safety, health and property of the people of Maine, as related to engineering, ground and surface waters, mining, surface materials, geologic hazards, marine and terrestrial processes, further development of the science of geology and other geologic matters of concern to the people of the State.