

1 A bill to be entitled
2 An act relating to onsite sewage treatment and
3 disposal systems; amending s. 381.0065, F.S.; deleting
4 legislative intent; defining the term "bedroom";
5 conforming cross-references; providing for any permit
6 issued and approved by the Department of Health for
7 the installation, modification, or repair of an onsite
8 sewage treatment and disposal system to transfer with
9 the title of the property; providing conditions under
10 which governmental entities are prohibited from
11 requiring certain inspections and systems; providing
12 applicability; providing an exception; providing
13 circumstances in which an onsite sewage treatment and
14 disposal system is not considered abandoned; providing
15 for the validity of an onsite sewage treatment and
16 disposal system permit if rules change before final
17 approval of the constructed system, under certain
18 conditions; providing that a system modification,
19 replacement, or upgrade is not required unless a
20 bedroom is added to a single-family home; deleting
21 provisions requiring the department to administer an
22 evaluation and assessment program of onsite sewage
23 treatment and disposal systems and requiring property
24 owners to have such systems evaluated at least once
25 every 5 years; deleting obsolete provisions; creating
26 s. 381.00651, F.S.; requiring a county or municipality
27 containing a first magnitude spring to adopt by
28 ordinance, under certain circumstances, the program

29 | for the periodic evaluation and assessment of onsite
30 | sewage treatment and disposal systems; requiring the
31 | county or municipality to notify the Secretary of
32 | State of the ordinance; authorizing a county or
33 | municipality, in specified circumstances, to opt out
34 | by a majority plus one vote of certain requirements by
35 | a specified date; authorizing a county or municipality
36 | to adopt or repeal, after a specified date, an
37 | ordinance creating an evaluation and assessment
38 | program, subject to notification of the Secretary of
39 | State; providing criteria for evaluations, qualified
40 | contractors, and repair of systems; providing for
41 | certain procedures and exemptions in special
42 | circumstances; defining the term "system failure";
43 | requiring that certain procedures be used for
44 | conducting tank and drainfield evaluations; providing
45 | for certain procedures in special circumstances;
46 | providing for contractor immunity from liability under
47 | certain conditions; providing for assessment
48 | procedures; providing requirements for county health
49 | departments; requiring the Department of Health to
50 | allow county health departments and qualified
51 | contractors to access the state database to track data
52 | and evaluation reports; requiring counties and
53 | municipalities to notify the Secretary of
54 | Environmental Protection and the Department of Health
55 | when an evaluation program ordinance is adopted;
56 | requiring the Department of Environmental Protection

57 | to notify those counties or municipalities of the use
 58 | of, and access to, certain state and federal program
 59 | funds and to provide certain guidance and technical
 60 | assistance upon request; prohibiting the adoption of
 61 | certain rules by the Department of Health; providing
 62 | for applicability; repealing s. 381.00656, F.S.,
 63 | relating to a grant program for the repair of onsite
 64 | sewage treatment and disposal systems; amending s.
 65 | 381.0066, F.S.; lowering the fees imposed by the
 66 | department for certain permits; conforming cross-
 67 | references; providing an effective date.

68 |

69 | Be It Enacted by the Legislature of the State of Florida:

70 |

71 | Section 1. Subsections (1), (5), (6), and (7) of section
 72 | 381.0065, Florida Statutes, are amended, paragraphs (b) through
 73 | (p) of subsection (2) of that section are redesignated as
 74 | paragraphs (c) through (q), respectively, a new paragraph (b) is
 75 | added to that subsection, paragraph (j) of subsection (3) and
 76 | paragraph (n) of subsection (4) of that section are amended, and
 77 | paragraphs (w) through (z) are added to subsection (4) of that
 78 | section, to read:

79 | 381.0065 Onsite sewage treatment and disposal systems;
 80 | regulation.—

81 | (1) LEGISLATIVE INTENT.—

82 | ~~(a)~~ It is the intent of the Legislature that proper
 83 | management of onsite sewage treatment and disposal systems is
 84 | paramount to the health, safety, and welfare of the public. ~~††~~

85 ~~is further the intent of the Legislature that the department~~
 86 ~~shall administer an evaluation program to ensure the operational~~
 87 ~~condition of the system and identify any failure with the~~
 88 ~~system.~~

89 (b) It is the intent of the Legislature that where a
 90 publicly owned or investor-owned sewerage system is not
 91 available, the department shall issue permits for the
 92 construction, installation, modification, abandonment, or repair
 93 of onsite sewage treatment and disposal systems under conditions
 94 as described in this section and rules adopted under this
 95 section. It is further the intent of the Legislature that the
 96 installation and use of onsite sewage treatment and disposal
 97 systems not adversely affect the public health or significantly
 98 degrade the groundwater or surface water.

99 (2) DEFINITIONS.—As used in ss. 381.0065–381.0067, the
 100 term:

101 (b)1. "Bedroom" means a room that can be used for sleeping
 102 and that:

103 a. For site-built dwellings, has a minimum of 70 square
 104 feet of conditioned space;

105 b. For manufactured homes, is constructed according to
 106 standards of the United States Department of Housing and Urban
 107 Development and has a minimum of 50 square feet of floor area;

108 c. Is located along an exterior wall;

109 d. Has a closet and a door or an entrance where a door
 110 could be reasonably installed; and

111 e. Has an emergency means of escape and rescue opening to
 112 the outside.

113 2. A room may not be considered a bedroom if it is used to
 114 access another room except a bathroom or closet.

115 3. "Bedroom" does not include a hallway, bathroom,
 116 kitchen, living room, family room, dining room, den, breakfast
 117 nook, pantry, laundry room, sunroom, recreation room,
 118 media/video room, or exercise room.

119 (3) DUTIES AND POWERS OF THE DEPARTMENT OF HEALTH.—The
 120 department shall:

121 (j) Supervise research on, demonstration of, and training
 122 on the performance, environmental impact, and public health
 123 impact of onsite sewage treatment and disposal systems within
 124 this state. Research fees collected under s. 381.0066(2)(k)
 125 ~~381.0066(2)(1)~~ must be used to develop and fund hands-on
 126 training centers designed to provide practical information about
 127 onsite sewage treatment and disposal systems to septic tank
 128 contractors, master septic tank contractors, contractors,
 129 inspectors, engineers, and the public and must also be used to
 130 fund research projects which focus on improvements of onsite
 131 sewage treatment and disposal systems, including use of
 132 performance-based standards and reduction of environmental
 133 impact. Research projects shall be initially approved by the
 134 technical review and advisory panel and shall be applicable to
 135 and reflect the soil conditions specific to Florida. Such
 136 projects shall be awarded through competitive negotiation, using
 137 the procedures provided in s. 287.055, to public or private
 138 entities that have experience in onsite sewage treatment and
 139 disposal systems in Florida and that are principally located in
 140 Florida. Research projects shall not be awarded to firms or

141 entities that employ or are associated with persons who serve on
142 either the technical review and advisory panel or the research
143 review and advisory committee.

144 (4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may
145 not construct, repair, modify, abandon, or operate an onsite
146 sewage treatment and disposal system without first obtaining a
147 permit approved by the department. The department may issue
148 permits to carry out this section, but shall not make the
149 issuance of such permits contingent upon prior approval by the
150 Department of Environmental Protection, except that the issuance
151 of a permit for work seaward of the coastal construction control
152 line established under s. 161.053 shall be contingent upon
153 receipt of any required coastal construction control line permit
154 from the Department of Environmental Protection. A construction
155 permit is valid for 18 months from the issuance date and may be
156 extended by the department for one 90-day period under rules
157 adopted by the department. A repair permit is valid for 90 days
158 from the date of issuance. An operating permit must be obtained
159 prior to the use of any aerobic treatment unit or if the
160 establishment generates commercial waste. Buildings or
161 establishments that use an aerobic treatment unit or generate
162 commercial waste shall be inspected by the department at least
163 annually to assure compliance with the terms of the operating
164 permit. The operating permit for a commercial wastewater system
165 is valid for 1 year from the date of issuance and must be
166 renewed annually. The operating permit for an aerobic treatment
167 unit is valid for 2 years from the date of issuance and must be
168 renewed every 2 years. If all information pertaining to the

169 siting, location, and installation conditions or repair of an
170 onsite sewage treatment and disposal system remains the same, a
171 construction or repair permit for the onsite sewage treatment
172 and disposal system may be transferred to another person, if the
173 transferee files, within 60 days after the transfer of
174 ownership, an amended application providing all corrected
175 information and proof of ownership of the property. There is no
176 fee associated with the processing of this supplemental
177 information. A person may not contract to construct, modify,
178 alter, repair, service, abandon, or maintain any portion of an
179 onsite sewage treatment and disposal system without being
180 registered under part III of chapter 489. A property owner who
181 personally performs construction, maintenance, or repairs to a
182 system serving his or her own owner-occupied single-family
183 residence is exempt from registration requirements for
184 performing such construction, maintenance, or repairs on that
185 residence, but is subject to all permitting requirements. A
186 municipality or political subdivision of the state may not issue
187 a building or plumbing permit for any building that requires the
188 use of an onsite sewage treatment and disposal system unless the
189 owner or builder has received a construction permit for such
190 system from the department. A building or structure may not be
191 occupied and a municipality, political subdivision, or any state
192 or federal agency may not authorize occupancy until the
193 department approves the final installation of the onsite sewage
194 treatment and disposal system. A municipality or political
195 subdivision of the state may not approve any change in occupancy
196 or tenancy of a building that uses an onsite sewage treatment

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197 and disposal system until the department has reviewed the use of
 198 the system with the proposed change, approved the change, and
 199 amended the operating permit.

200 (n) Evaluations for determining the seasonal high-water
 201 table elevations or the suitability of soils for the use of a
 202 new onsite sewage treatment and disposal system shall be
 203 performed by department personnel, professional engineers
 204 registered in the state, or such other persons with expertise,
 205 as defined by rule, in making such evaluations. Evaluations for
 206 determining mean annual flood lines shall be performed by those
 207 persons identified in paragraph (2) (j) ~~(2) (i)~~. The department
 208 shall accept evaluations submitted by professional engineers and
 209 such other persons as meet the expertise established by this
 210 section or by rule unless the department has a reasonable
 211 scientific basis for questioning the accuracy or completeness of
 212 the evaluation.

213 (w) Any permit issued and approved by the department for
 214 the installation, modification, or repair of an onsite sewage
 215 treatment and disposal system shall transfer with the title to
 216 the property in a real estate transaction. A title may not be
 217 encumbered at the time of transfer by new permit requirements by
 218 a governmental entity for an onsite sewage treatment and
 219 disposal system which differ from the permitting requirements in
 220 effect at the time the system was permitted, modified, or
 221 repaired. No inspection of a system shall be mandated by any
 222 governmental entity at the point of sale in a real estate
 223 transaction.

224 (x) No governmental entity, including a municipality,

225 county, or statutorily created commission, may require an
226 engineer-designed performance-based treatment system, excluding
227 a passive engineer-designed performance-based treatment system,
228 before the completion of the Florida Onsite Sewage Nitrogen
229 Reduction Strategies Project or before December 31, 2014,
230 whichever occurs first. This paragraph does not apply to a
231 governmental entity, including a municipality, county, or
232 statutorily created commission, that adopted a local law,
233 ordinance, or regulation on or before January 31, 2012.
234 Notwithstanding this paragraph, an engineer-designed
235 performance-based treatment system may be used to meet the
236 requirements of the Variance Review and Advisory Committee
237 recommendations.

238 (y)1. An onsite sewage treatment and disposal system is
239 not considered abandoned if the system is disconnected from a
240 structure that was made unusable or destroyed following a
241 disaster and was properly functioning at the time of
242 disconnection and not adversely affected by the disaster. The
243 onsite sewage treatment and disposal system may be reconnected
244 to a rebuilt structure if:

245 a. The reconnection of the system is to the same type of
246 structure which contains the same number of bedrooms or less,
247 provided the square footage of the structure is less than or
248 equal to 110 percent of the original square footage of the
249 structure that existed prior to the disaster;

250 b. The system is not a sanitary nuisance; and

251 c. The system has not been altered without prior
252 authorization.

253 2. An onsite sewage treatment and disposal system that
254 serves a property that is foreclosed upon is not considered
255 abandoned.

256 (z) If an onsite sewage treatment and disposal system
257 permittee receives, relies upon, and undertakes construction of
258 a system based upon a validly issued construction permit under
259 rules applicable at the time of construction but a change to a
260 rule occurs within 5 years after the approval of the system for
261 construction but before the final approval of the system, the
262 rules applicable and in effect at the time of construction
263 approval apply at the time of final approval if fundamental site
264 conditions have not changed between the time of construction
265 approval and final approval.

266 (aa) A modification, replacement, or upgrade of an onsite
267 sewage treatment and disposal system is not required for a
268 remodeling addition to a single-family home if a bedroom is not
269 added.

270 ~~(5) EVALUATION AND ASSESSMENT.~~

271 ~~(a) Beginning July 1, 2011, the department shall~~
272 ~~administer an onsite sewage treatment and disposal system~~
273 ~~evaluation program for the purpose of assessing the fundamental~~
274 ~~operational condition of systems and identifying any failures~~
275 ~~within the systems. The department shall adopt rules~~
276 ~~implementing the program standards, procedures, and~~
277 ~~requirements, including, but not limited to, a schedule for a 5-~~
278 ~~year evaluation cycle, requirements for the pump-out of a system~~
279 ~~or repair of a failing system, enforcement procedures for~~
280 ~~failure of a system owner to obtain an evaluation of the system,~~

281 ~~and failure of a contractor to timely submit evaluation results~~
 282 ~~to the department and the system owner. The department shall~~
 283 ~~ensure statewide implementation of the evaluation and assessment~~
 284 ~~program by January 1, 2016.~~

285 ~~(b) Owners of an onsite sewage treatment and disposal~~
 286 ~~system, excluding a system that is required to obtain an~~
 287 ~~operating permit, shall have the system evaluated at least once~~
 288 ~~every 5 years to assess the fundamental operational condition of~~
 289 ~~the system, and identify any failure within the system.~~

290 ~~(c) All evaluation procedures must be documented and~~
 291 ~~nothing in this subsection limits the amount of detail an~~
 292 ~~evaluator may provide at his or her professional discretion. The~~
 293 ~~evaluation must include a tank and drainfield evaluation, a~~
 294 ~~written assessment of the condition of the system, and, if~~
 295 ~~necessary, a disclosure statement pursuant to the department's~~
 296 ~~procedure.~~

297 ~~(d)1. Systems being evaluated that were installed prior to~~
 298 ~~January 1, 1983, shall meet a minimum 6-inch separation from the~~
 299 ~~bottom of the drainfield to the wettest season water table~~
 300 ~~elevation as defined by department rule. All drainfield repairs,~~
 301 ~~replacements or modifications to systems installed prior to~~
 302 ~~January 1, 1983, shall meet a minimum 12-inch separation from~~
 303 ~~the bottom of the drainfield to the wettest season water table~~
 304 ~~elevation as defined by department rule.~~

305 ~~2. Systems being evaluated that were installed on or after~~
 306 ~~January 1, 1983, shall meet a minimum 12-inch separation from~~
 307 ~~the bottom of the drainfield to the wettest season water table~~
 308 ~~elevation as defined by department rule. All drainfield repairs,~~

309 ~~replacements or modification to systems developed on or after~~
 310 ~~January 1, 1983, shall meet a minimum 24-inch separation from~~
 311 ~~the bottom of the drainfield to the wettest season water table~~
 312 ~~elevation.~~

313 ~~(c) If documentation of a tank pump-out or a permitted new~~
 314 ~~installation, repair, or modification of the system within the~~
 315 ~~previous 5 years is provided, and states the capacity of the~~
 316 ~~tank and indicates that the condition of the tank is not a~~
 317 ~~sanitary or public health nuisance pursuant to department rule,~~
 318 ~~a pump-out of the system is not required.~~

319 ~~(f) Owners are responsible for paying the cost of any~~
 320 ~~required pump-out, repair, or replacement pursuant to department~~
 321 ~~rule, and may not request partial evaluation or the omission of~~
 322 ~~portions of the evaluation.~~

323 ~~(g) Each evaluation or pump-out required under this~~
 324 ~~subsection must be performed by a septic tank contractor or~~
 325 ~~master septic tank contractor registered under part III of~~
 326 ~~chapter 489, a professional engineer with wastewater treatment~~
 327 ~~system experience licensed pursuant to chapter 471, or an~~
 328 ~~environmental health professional certified under chapter 381 in~~
 329 ~~the area of onsite sewage treatment and disposal system~~
 330 ~~evaluation.~~

331 ~~(h) The evaluation report fee collected pursuant to s.~~
 332 ~~381.0066(2)(b) shall be remitted to the department by the~~
 333 ~~evaluator at the time the report is submitted.~~

334 ~~(i) Prior to any evaluation deadline, the department must~~
 335 ~~provide a minimum of 60 days' notice to owners that their~~
 336 ~~systems must be evaluated by that deadline. The department may~~

337 ~~include a copy of any homeowner educational materials developed~~
338 ~~pursuant to this section which provides information on the~~
339 ~~proper maintenance of onsite sewage treatment and disposal~~
340 ~~systems.~~

341 (5)~~(6)~~ ENFORCEMENT; RIGHT OF ENTRY; CITATIONS.-

342 (a) Department personnel who have reason to believe
343 noncompliance exists, may at any reasonable time, enter the
344 premises permitted under ss. 381.0065-381.0066, or the business
345 premises of any septic tank contractor or master septic tank
346 contractor registered under part III of chapter 489, or any
347 premises that the department has reason to believe is being
348 operated or maintained not in compliance, to determine
349 compliance with the provisions of this section, part I of
350 chapter 386, or part III of chapter 489 or rules or standards
351 adopted under ss. 381.0065-381.0067, part I of chapter 386, or
352 part III of chapter 489. As used in this paragraph, the term
353 "premises" does not include a residence or private building. To
354 gain entry to a residence or private building, the department
355 must obtain permission from the owner or occupant or secure an
356 inspection warrant from a court of competent jurisdiction.

357 (b)1. The department may issue citations that may contain
358 an order of correction or an order to pay a fine, or both, for
359 violations of ss. 381.0065-381.0067, part I of chapter 386, or
360 part III of chapter 489 or the rules adopted by the department,
361 when a violation of these sections or rules is enforceable by an
362 administrative or civil remedy, or when a violation of these
363 sections or rules is a misdemeanor of the second degree. A
364 citation issued under ss. 381.0065-381.0067, part I of chapter

365 386, or part III of chapter 489 constitutes a notice of proposed
366 agency action.

367 2. A citation must be in writing and must describe the
368 particular nature of the violation, including specific reference
369 to the provisions of law or rule allegedly violated.

370 3. The fines imposed by a citation issued by the
371 department may not exceed \$500 for each violation. Each day the
372 violation exists constitutes a separate violation for which a
373 citation may be issued.

374 4. The department shall inform the recipient, by written
375 notice pursuant to ss. 120.569 and 120.57, of the right to an
376 administrative hearing to contest the citation within 21 days
377 after the date the citation is received. The citation must
378 contain a conspicuous statement that if the recipient fails to
379 pay the fine within the time allowed, or fails to appear to
380 contest the citation after having requested a hearing, the
381 recipient has waived the recipient's right to contest the
382 citation and must pay an amount up to the maximum fine.

383 5. The department may reduce or waive the fine imposed by
384 the citation. In determining whether to reduce or waive the
385 fine, the department must consider the gravity of the violation,
386 the person's attempts at correcting the violation, and the
387 person's history of previous violations including violations for
388 which enforcement actions were taken under ss. 381.0065-
389 381.0067, part I of chapter 386, part III of chapter 489, or
390 other provisions of law or rule.

391 6. Any person who willfully refuses to sign and accept a
392 citation issued by the department commits a misdemeanor of the

393 second degree, punishable as provided in s. 775.082 or s.
 394 775.083.

395 7. The department, pursuant to ss. 381.0065-381.0067, part
 396 I of chapter 386, or part III of chapter 489, shall deposit any
 397 fines it collects in the county health department trust fund for
 398 use in providing services specified in those sections.

399 8. This section provides an alternative means of enforcing
 400 ss. 381.0065-381.0067, part I of chapter 386, and part III of
 401 chapter 489. This section does not prohibit the department from
 402 enforcing ss. 381.0065-381.0067, part I of chapter 386, or part
 403 III of chapter 489, or its rules, by any other means. However,
 404 the department must elect to use only a single method of
 405 enforcement for each violation.

406 (6)~~(7)~~ LAND APPLICATION OF SEPTAGE PROHIBITED.—Effective
 407 January 1, 2016, the land application of septage from onsite
 408 sewage treatment and disposal systems is prohibited. ~~By February~~
 409 ~~1, 2011, the department, in consultation with the Department of~~
 410 ~~Environmental Protection, shall provide a report to the~~
 411 ~~Governor, the President of the Senate, and the Speaker of the~~
 412 ~~House of Representatives, recommending alternative methods to~~
 413 ~~establish enhanced treatment levels for the land application of~~
 414 ~~septage from onsite sewage and disposal systems. The report~~
 415 ~~shall include, but is not limited to, a schedule for the~~
 416 ~~reduction in land application, appropriate treatment levels,~~
 417 ~~alternative methods for treatment and disposal, enhanced~~
 418 ~~application site permitting requirements including any~~
 419 ~~requirements for nutrient management plans, and the range of~~
 420 ~~costs to local governments, affected businesses, and individuals~~

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421 ~~for alternative treatment and disposal methods. The report shall~~
422 ~~also include any recommendations for legislation or rule~~
423 ~~authority needed to reduce land application of septage.~~

424 Section 2. Section 381.00651, Florida Statutes, is created
425 to read:

426 381.00651 Periodic evaluation and assessment of onsite
427 sewage treatment and disposal systems.-

428 (1) For the purposes of this section, the term "first
429 magnitude spring" means a spring that has a median water
430 discharge of greater than or equal to 100 cubic feet per second
431 for the period of record, as determined by the Department of
432 Environmental Protection.

433 (2) A county or municipality that contains a first
434 magnitude spring shall, by no later than January 1, 2013,
435 develop and adopt by local ordinance an onsite sewage treatment
436 and disposal system evaluation and assessment program that meets
437 the requirements of this section. The ordinance may apply within
438 all or part of its geographic area. Those counties or
439 municipalities containing a first magnitude spring which have
440 already adopted an onsite sewage treatment and disposal system
441 evaluation and assessment program and which meet the
442 grandfathering requirements contained in this section, or have
443 chosen to opt out of this section in the manner provided herein,
444 are exempt from the requirement to adopt an ordinance
445 implementing an evaluation and assessment program. The governing
446 body of a local government that chooses to opt out of this
447 section, by a majority plus one vote of the members of the
448 governing board, shall do so by adopting a resolution that

449 indicates an intent on the part of such local government not to
450 adopt an onsite sewage treatment and disposal system evaluation
451 and assessment program. Such resolution shall be addressed and
452 transmitted to the Secretary of State. Absent an interlocal
453 agreement or county charter provision to the contrary, a
454 municipality may elect to opt out of the requirements of this
455 section, by a majority plus one vote of the members of the
456 governing board, notwithstanding a contrary decision of the
457 governing body of a county. Any local government that has
458 properly opted out of this section but subsequently chooses to
459 adopt an evaluation and assessment program may do so only
460 pursuant to the requirements of this section and may not deviate
461 from such requirements.

462 (3) Any county or municipality that does not contain a
463 first magnitude spring may at any time develop and adopt by
464 local ordinance an onsite sewage treatment and disposal system
465 evaluation and assessment program, provided such program meets
466 and does not deviate from the requirements of this section.

467 (4) Notwithstanding any other provision in this section, a
468 county or municipality that has adopted a program before July 1,
469 2011, may continue to enforce its current program without having
470 to meet the requirements of this section, provided such program
471 does not require an evaluation at the point of sale in a real
472 estate transaction.

473 (5) Any county or municipality may repeal an ordinance
474 adopted pursuant to this section only if the county or
475 municipality notifies the Secretary of State by letter of the
476 repeal. No county or municipality may adopt an onsite sewage

477 treatment and disposal system evaluation and assessment program
478 except pursuant to this section.

479 (6) The requirements for an onsite sewage treatment and
480 disposal system evaluation and assessment program are as
481 follows:

482 (a) Evaluations.—An evaluation of each onsite sewage
483 treatment and disposal system within all or part of the county's
484 or municipality's jurisdiction must take place once every 5
485 years to assess the fundamental operational condition of the
486 system and to identify system failures. The ordinance may not
487 mandate an evaluation at the point of sale in a real estate
488 transaction and may not require a soil examination. The location
489 of the system shall be identified. A tank and drainfield
490 evaluation and a written assessment of the overall condition of
491 the system pursuant to the assessment procedure prescribed in
492 subsection (7) are required.

493 (b) Qualified contractors.—Each evaluation required under
494 this subsection must be performed by a qualified contractor, who
495 may be a septic tank contractor or master septic tank contractor
496 registered under part III of chapter 489, a professional
497 engineer having wastewater treatment system experience and
498 licensed under chapter 471, or an environmental health
499 professional certified under this chapter in the area of onsite
500 sewage treatment and disposal system evaluation. Evaluations and
501 pump-outs may also be performed by an authorized employee
502 working under the supervision of an individual listed in this
503 paragraph; however, all evaluation forms must be signed by a
504 qualified contractor in writing or by electronic signature.

505 (c) Repair of systems.—The local ordinance may not require
506 a repair, modification, or replacement of a system as a result
507 of an evaluation unless the evaluation identifies a system
508 failure. For purposes of this subsection, the term "system
509 failure" means a condition existing within an onsite sewage
510 treatment and disposal system which results in the discharge of
511 untreated or partially treated wastewater onto the ground
512 surface or into surface water or that results in the failure of
513 building plumbing to discharge properly and presents a sanitary
514 nuisance. A system is not in failure if the system does not have
515 a minimum separation distance between the drainfield and the
516 wettest season water table or if an obstruction in a sanitary
517 line or an effluent screen or filter prevents effluent from
518 flowing into a drainfield. If a system failure is identified and
519 several allowable remedial measures are available to resolve the
520 failure, the system owner may choose the least costly allowable
521 remedial measure to fix the system. There may be instances in
522 which a pump-out is sufficient to resolve a system failure.
523 Allowable remedial measures to resolve a system failure are
524 limited to what is necessary to resolve the failure and must
525 meet, to the maximum extent practicable, the requirements of the
526 repair code in effect when the repair is made, subject to the
527 exceptions specified in s. 381.0065(4)(g). An engineer-designed
528 performance-based treatment system to reduce nutrients may not
529 be required as an alternative remediation measure to resolve the
530 failure of a conventional system.

531 (d) Exemptions.—

532 1. The local ordinance shall exempt from the evaluation

533 requirements any system that is required to obtain an operating
534 permit pursuant to state law or that is inspected by the
535 department pursuant to the annual permit inspection requirements
536 of chapter 513.

537 2. The local ordinance may provide for an exemption or an
538 extension of time to obtain an evaluation and assessment if
539 connection to a sewer system is available, connection to the
540 sewer system is imminent, and written arrangements for payment
541 of any utility assessments or connection fees have been made by
542 the system owner.

543 3. An onsite sewage treatment and disposal system serving
544 a residential dwelling unit on a lot with a ratio of one bedroom
545 per acre or greater is exempt from the requirements of this
546 section and may not be included in any onsite sewage treatment
547 and disposal system inspection program.

548 (7) The following procedures shall be used for conducting
549 evaluations:

550 (a) Tank evaluation.—The tank evaluation shall assess the
551 apparent structural condition and watertightness of the tank and
552 shall estimate the size of the tank. The evaluation must include
553 a pump-out. However, an ordinance may not require a pump-out if
554 there is documentation indicating that a tank pump-out or a
555 permitted new installation, repair, or modification of the
556 system has occurred within the previous 5 years, identifying the
557 capacity of the tank, and indicating that the condition of the
558 tank is structurally sound and watertight. Visual inspection of
559 the tank must be made when the tank is empty to detect cracks,
560 leaks, or other defects. Baffles or tees must be checked to

561 ensure that they are intact and secure. The evaluation shall
562 note the presence and condition of outlet devices, effluent
563 filters, and compartment walls; any structural defect in the
564 tank; the condition and fit of the tank lid, including manholes;
565 whether surface water can infiltrate the tank; and whether the
566 tank was pumped out. If the tank, in the opinion of the
567 qualified contractor, is in danger of being damaged by leaving
568 the tank empty after inspection, the tank shall be refilled
569 before concluding the inspection. Broken or damaged lids or
570 manholes shall be replaced without obtaining a repair permit.

571 (b) Drainfield evaluation.—The drainfield evaluation must
572 include a determination of the approximate size and location of
573 the drainfield. The evaluation shall state whether there is any
574 sewage or effluent visible on the ground or discharging to a
575 ditch or other water body and the location of any downspout or
576 other source of water near or in the vicinity of the drainfield.

577 (c) Special circumstances.—If the system contains pumps,
578 siphons, or alarms, the following information may be provided at
579 the request of the homeowner:

580 1. An assessment of dosing tank integrity, including the
581 approximate volume and the type of material used in the tank's
582 construction;

583 2. Whether the pump is elevated off the bottom of the
584 chamber and its operational status;

585 3. Whether the system has a check valve and purge hole;
586 and

587 4. Whether the system has a high-water alarm, and if so
588 whether the alarm is audio or visual or both, the location and

589 operational condition of the alarm, and whether the electrical
590 connections to the alarm appear satisfactory.

591
592 If the homeowner does not request this information, the
593 qualified contractor and its employee are not liable for any
594 damages directly relating from a failure of the system's pumps,
595 siphons, or alarms. This exclusion of liability must be stated
596 on the front cover of the report required under paragraph (d).

597 (d) Assessment procedure.—All evaluation procedures used
598 by a qualified contractor shall be documented in the
599 environmental health database of the Department of Health. The
600 qualified contractor shall provide a copy of a written, signed
601 evaluation report to the property owner upon completion of the
602 evaluation and to the county health department within 30 days
603 after the evaluation. The report shall contain the name and
604 license number of the company providing the report. A copy of
605 the evaluation report shall be retained by the local county
606 health department for a minimum of 5 years and until a
607 subsequent inspection report is filed. The front cover of the
608 report must identify any system failure and include a clear and
609 conspicuous notice to the owner that the owner has a right to
610 have any remediation of the failure performed by a qualified
611 contractor other than the contractor performing the evaluation.
612 The report must further identify any crack, leak, improper fit,
613 or other defect in the tank, manhole, or lid, and any other
614 damaged or missing component; any sewage or effluent visible on
615 the ground or discharging to a ditch or other surface water
616 body; any downspout, stormwater, or other source of water

617 directed onto or toward the system; and any other maintenance
618 need or condition of the system at the time of the evaluation
619 which, in the opinion of the qualified contractor, would
620 possibly interfere with or restrict any future repair or
621 modification to the existing system. The report shall conclude
622 with an overall assessment of the fundamental operational
623 condition of the system.

624 (8) The county health department shall administer any
625 evaluation program on behalf of a county, or a municipality
626 within the county, that has adopted an evaluation program
627 pursuant to this section. In order to administer the evaluation
628 program, the county or municipality, in consultation with the
629 county health department, may develop a reasonable fee schedule
630 to be used solely to pay for the costs of administering the
631 evaluation program. Such a fee schedule shall be identified in
632 the ordinance that adopts the evaluation program. When arriving
633 at a reasonable fee schedule, the estimated annual revenues to
634 be derived from fees may not exceed reasonable estimated annual
635 costs of the program. Fees shall be assessed to the system owner
636 during an inspection and separately identified on the invoice of
637 the qualified contractor. Fees shall be remitted by the
638 qualified contractor to the county health department. The county
639 health department's administrative responsibilities include the
640 following:

641 (a) Providing a notice to the system owner at least 60
642 days before the system is due for an evaluation. The notice may
643 include information on the proper maintenance of onsite sewage
644 treatment and disposal systems.

645 (b) In consultation with the Department of Health,
 646 providing uniform disciplinary procedures and penalties for
 647 qualified contractors who do not comply with the requirements of
 648 the adopted ordinance, including, but not limited to, failure to
 649 provide the evaluation report as required in this subsection to
 650 the system owner and the county health department. Only the
 651 county health department may assess penalties against system
 652 owners for failure to comply with the adopted ordinance,
 653 consistent with existing requirements of law.

654 (9) (a) A county or municipality that adopts an onsite
 655 sewage treatment and disposal system evaluation and assessment
 656 program pursuant to this section shall notify the Secretary of
 657 Environmental Protection, the Department of Health, and the
 658 applicable county health department upon the adoption of its
 659 ordinance establishing the program.

660 (b) Upon receipt of the notice under paragraph (a), the
 661 Department of Environmental Protection shall, within existing
 662 resources, notify the county or municipality of the potential
 663 use of, and access to, program funds under the Clean Water State
 664 Revolving Fund or s. 319 of the Clean Water Act, provide
 665 guidance in the application process to receive such moneys, and
 666 provide advice and technical assistance to the county or
 667 municipality on how to establish a low-interest revolving loan
 668 program or how to model a revolving loan program after the low-
 669 interest loan program of the Clean Water State Revolving Fund.
 670 This paragraph does not obligate the Department of Environmental
 671 Protection to provide any county or municipality with money to
 672 fund such programs.

673 (c) The Department of Health may not adopt any rule that
674 alters the provisions of this section.

675 (d) The Department of Health must allow county health
676 departments and qualified contractors access to the
677 environmental health database to track relevant information and
678 assimilate data from assessment and evaluation reports of the
679 overall condition of onsite sewage treatment and disposal
680 systems. The environmental health database must be used by
681 contractors to report each service and evaluation event and by a
682 county health department to notify owners of onsite sewage
683 treatment and disposal systems when evaluations are due. Data
684 and information must be recorded and updated as service and
685 evaluations are conducted and reported.

686 (10) This section does not:

687 (a) Limit county and municipal home rule authority to act
688 outside the scope of the evaluation and assessment program set
689 forth in this section;

690 (b) Repeal or affect any other law relating to the subject
691 matter of onsite sewage treatment and disposal systems; or

692 (c) Prohibit a county or municipality from:

693 1. Enforcing existing ordinances or adopting new
694 ordinances relating to onsite sewage treatment facilities to
695 address public health and safety if such ordinances do not
696 repeal, suspend, or alter the requirements or limitations of
697 this section.

698 2. Adopting local environmental and pollution abatement
699 ordinances for water quality improvement as provided for by law
700 if such ordinances do not repeal, suspend, or alter the

701 requirements or limitations of this section.

702 3. Exercising its independent and existing authority to
703 meet the requirements of s. 381.0065.

704 Section 3. Section 381.00656, Florida Statutes, is
705 repealed.

706 Section 4. Subsection (2) of section 381.0066, Florida
707 Statutes, is amended to read:

708 381.0066 Onsite sewage treatment and disposal systems;
709 fees.—

710 (2) The minimum fees in the following fee schedule apply
711 until changed by rule by the department within the following
712 limits:

713 (a) Application review, permit issuance, or system
714 inspection, including repair of a subsurface, mound, filled, or
715 other alternative system or permitting of an abandoned system: a
716 fee of not less than \$25, or more than \$125.

717 ~~(b) A 5-year evaluation report submitted pursuant to s.~~
718 ~~381.0065(5): a fee not less than \$15, or more than \$30. At least~~
719 ~~\$1 and no more than \$5 collected pursuant to this paragraph~~
720 ~~shall be used to fund a grant program established under s.~~
721 ~~381.00656.~~

722 ~~(b)(e)~~ Site evaluation, site reevaluation, evaluation of a
723 system previously in use, or a per annum septage disposal site
724 evaluation: a fee of not less than \$40, or more than \$115.

725 ~~(c)(d)~~ Biennial Operating permit for aerobic treatment
726 units or performance-based treatment systems: a fee of not more
727 than \$100.

728 ~~(d)(e)~~ Annual operating permit for systems located in

729 areas zoned for industrial manufacturing or equivalent uses or
 730 where the system is expected to receive wastewater which is not
 731 domestic in nature: a fee of not less than \$150, or more than
 732 \$300.

733 (e)~~(f)~~ Innovative technology: a fee not to exceed \$25,000.

734 (f)~~(g)~~ Septage disposal service, septage stabilization
 735 facility, portable or temporary toilet service, tank
 736 manufacturer inspection: a fee of not less than \$25, or more
 737 than \$200, per year.

738 (g)~~(h)~~ Application for variance: a fee of not less than
 739 \$150, or more than \$300.

740 (h)~~(i)~~ Annual operating permit for waterless,
 741 incinerating, or organic waste composting toilets: a fee of not
 742 less than \$15 ~~\$50~~, or more than \$30 ~~\$150~~.

743 (i)~~(j)~~ Aerobic treatment unit or performance-based
 744 treatment system maintenance entity permit: a fee of not less
 745 than \$25, or more than \$150, per year.

746 (j)~~(k)~~ Reinspection fee per visit for site inspection
 747 after system construction approval or for noncompliant system
 748 installation per site visit: a fee of not less than \$25, or more
 749 than \$100.

750 (k)~~(l)~~ Research: An additional \$5 fee shall be added to
 751 each new system construction permit issued to be used to fund
 752 onsite sewage treatment and disposal system research,
 753 demonstration, and training projects. Five dollars from any
 754 repair permit fee collected under this section shall be used for
 755 funding the hands-on training centers described in s.
 756 381.0065(3)(j).

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757 (1)~~(m)~~ Annual operating permit, including annual
758 inspection and any required sampling and laboratory analysis of
759 effluent, for an engineer-designed performance-based system: a
760 fee of not less than \$150, or more than \$300.

761
762 ~~On or before January 1, 2011, the Surgeon General, after~~
763 ~~consultation with the Revenue Estimating Conference, shall~~
764 ~~determine a revenue neutral fee schedule for services provided~~
765 ~~pursuant to s. 381.0065(5) within the parameters set in~~
766 ~~paragraph (b). Such determination is not subject to the~~
767 ~~provisions of chapter 120.~~ The funds collected pursuant to this
768 subsection must be deposited in a trust fund administered by the
769 department, to be used for the purposes stated in this section
770 and ss. 381.0065 and 381.00655.

771 Section 5. This act shall take effect upon becoming a law.