

1 A bill to be entitled
2 An act relating to wastewater treatment
3 systems; amending s. 381.0065, F.S.; revising
4 guidelines and procedures for granting
5 variances for such systems; revising membership
6 of the department's variance review and
7 advisory committee; providing criteria for use
8 of guttering; amending s. 381.0068, F.S.;
9 revising duties and procedures of the
10 department's technical review and advisory
11 panel; providing an effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Section 381.0064, Florida Statutes, is
16 amended to read:

17 381.0064 Continuing education courses for persons
18 installing or servicing septic tanks.--

19 (1) The Department of Health shall establish a program
20 for ~~conduct~~ continuing education which meets the purposes of
21 s. 381.0101, and s. 489.554 ~~courses for pumpout operators,~~
22 ~~environmental health specialists, and master plumbers who~~
23 ~~install septic tanks or service septic tanks. The course of~~
24 ~~study required must consist of at least two 6-classroom-hour~~
25 ~~courses of instruction a year~~ regarding the public health and
26 environmental effects of onsite sewage treatment and disposal
27 systems and any other matters the department determines
28 desirable for the safe installation and use of onsite sewage
29 treatment and disposal systems. The department may charge a
30 fee to cover the cost of such program ~~course of study;~~
31 ~~however, such fee must take into account any moneys collected~~

1 ~~under s. 381.0066 and appropriated to the department for the~~
2 ~~purpose of this section.~~

3 (2) The department shall by rule establish criteria
4 for the approval of continuing education courses and
5 providers, including requirements relating to the content of
6 courses and standards for approval of providers, and may by
7 rule establish criteria for accepting alternative nonclassroom
8 continuing education on an hour-for-hour basis.~~also approve~~
9 ~~other continuing education courses for pumpout operators,~~
10 ~~environmental health specialists, and master plumbers who~~
11 ~~install septic tanks or service septic tanks, which courses~~
12 ~~meet the purposes of this section and consist of at least two~~
13 ~~6-classroom-hour courses of instruction a year.~~

14 (3) Septic tank contractors and master septic tank
15 contractors registered under part III of chapter 489 shall
16 meet the continuing education requirements set forth in s.
17 489.554.

18 Section 2. Paragraph (g) of subsection (4) of section
19 381.0065, Florida Statutes, is amended and paragraphs (r) and
20 (s) are added to that subsection to read:

21 381.0065 Onsite sewage treatment and disposal systems;
22 regulation.--

23 (4) PERMITS; INSTALLATION; AND CONDITIONS.--A person
24 may not construct, repair, modify, abandon, or operate an
25 onsite sewage treatment and disposal system without first
26 obtaining a permit approved by the department. The department
27 may issue permits to carry out this section. A construction
28 permit is valid for 18 months from the issuance date and may
29 be extended by the department for one 90-day period under
30 rules adopted by the department. A repair permit is valid for
31 90 days from the date of issuance. An operating permit is

1 valid for 1 year from the date of issuance and must be renewed
2 annually. If all information pertaining to the siting,
3 location, and installation conditions or repair of an onsite
4 sewage treatment and disposal system remains the same, a
5 construction or repair permit for the onsite sewage treatment
6 and disposal system may be transferred to another person, if
7 the transferee files, within 60 days after the transfer of
8 ownership, an amended application providing all corrected
9 information and proof of ownership of the property. There is
10 no fee associated with the processing of this supplemental
11 information. A person may not contract to construct, modify,
12 alter, repair, service, abandon, or maintain any portion of an
13 onsite sewage treatment and disposal system without being
14 registered under part III of chapter 489. A property owner
15 who personally performs construction, maintenance, or repairs
16 to a system serving his or her own owner-occupied
17 single-family residence is exempt from registration
18 requirements for performing such construction, maintenance, or
19 repairs on that residence, but is subject to all permitting
20 requirements.

21 (g)1. The department may grant variances in hardship
22 cases which may be less restrictive than the provisions
23 specified in this section. If a variance is granted and the
24 onsite sewage treatment and disposal system construction
25 permit has been issued, the variance may be transferred with
26 the system construction permit, if the transferee files,
27 within 60 days after the transfer of ownership, an amended
28 construction permit application providing all corrected
29 information and proof of ownership of the property and if the
30 same variance would have been required for the new owner of
31 the property as was originally granted to the original

1 applicant for the variance. There is no fee associated with
2 the processing of this supplemental information. A variance
3 may not be granted under this section until the department is
4 satisfied that:

5 a. The hardship was not caused intentionally by the
6 action of the applicant;

7 b. No reasonable alternative, taking into
8 consideration factors such as cost, exists for the treatment
9 of the sewage; and

10 c. The discharge from the onsite sewage treatment and
11 disposal system will not adversely affect the health of the
12 applicant or the public or significantly degrade the
13 groundwater or surface waters.

14
15 Where soil conditions, water table elevation, and setback
16 provisions are determined by the department to be
17 satisfactory, special consideration must be given to those
18 lots platted before 1972.

19 2. The department shall appoint and staff a variance
20 review and advisory committee, which shall meet monthly to
21 recommend agency action on variance requests. The committee
22 shall make its recommendations on variance requests at the
23 meeting in which the application is scheduled for
24 consideration, except for an extraordinary change in
25 circumstances, the receipt of new information that raises new
26 issues, or when the applicant requests an extension. The
27 committee shall consider the criteria in subparagraph 1. in
28 its recommended agency action on variance requests and shall
29 also strive to allow property owners the full use of their
30 land where possible.The committee ~~board~~ consists of the
31 following:

1 a. The Division Director for Environmental Health of
2 the department or his or her designee.

3 b. A representative from the county health
4 departments.

5 c. A representative from the home building industry
6 recommended by the Florida Home Builders Association.

7 d. A representative from the septic tank industry
8 recommended by the Florida Septic Tank Association.

9 e. A representative from the Department of
10 Environmental Protection.

11 f. A representative from the real estate industry who
12 is also a developer in this state who develops lots using
13 onsite sewage treatment and disposal systems, recommended by
14 the Florida Association of Realtors.

15 g. A representative from the engineering profession
16 recommended by the Florida Engineering Society.

17
18 Members shall be appointed for a term of 3 years, with such
19 appointments being staggered so that the terms of no more than
20 two members expire in any one year. Members shall serve
21 without remuneration, but if requested, shall ~~may~~ be
22 reimbursed for per diem and travel expenses as provided in s.
23 112.061.

24 (r) In the siting of onsite sewage treatment and
25 disposal systems, including drainfields, shoulders, and
26 slopes, guttering shall not be required on single-family
27 residential dwelling units for systems located greater than 5
28 feet from the roof drip line of the house. If guttering is
29 used on residential dwelling units, the downspouts shall be
30 directed away from the drainfield.

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1 (s) Notwithstanding the provisions of subparagraph
2 (f)1. of this subsection, onsite sewage treatment and disposal
3 systems located in floodways of the Suwannee and Aucilla
4 Rivers must adhere to the following requirements:
5 1. The absorption surface of the drainfield shall not
6 be subject to flooding based on 10-year flood elevations.
7 Provided, however, for lots or parcels created by the
8 subdivision of land in accordance with applicable local
9 government regulations prior to January 17, 1990, if an
10 applicant cannot construct a drainfield system with the
11 absorption surface of the drainfield at an elevation equal to
12 or above 10-year flood elevation, the department shall issue a
13 permit for an onsite sewage treatment and disposal system
14 within the 10-year floodplain of rivers, streams and other
15 bodies of flowing water if all of the following criteria are
16 met:
17 a. The lot is at least one-half acre in size;
18 b. The bottom of the drainfield is at least 36 inches
19 above the 2-year flood elevation; and
20 c. The applicant installs either: a waterless,
21 incinerating, or organic waste composting toilet and a
22 graywater system and drainfield in accordance with department
23 rules; an aerobic treatment unit and drainfield in accordance
24 with department rules; a system approved by the State Health
25 Office that is capable of reducing effluent nitrate by at
26 least 50 percent; or a system approved by the county health
27 department pursuant to department rule other than a system
28 using alternative drainfield materials. USDA Soil
29 Conservation Service soil maps, State of Florida Water
30 Management District data, and Federal Emergency Management
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1 Agency Flood Insurance maps are resources that shall be used
2 to identify floor prone areas.

3 2. The use of fill or mounding to elevate a drainfield
4 system out of the 10-year floodplain of rivers, streams, or
5 other bodies of flowing water shall not be permitted if such a
6 system lies within a regulatory floodway of the Suwannee and
7 Aucilla Rivers. In cases where the 10-year flood elevation
8 does not coincide with the boundaries of the regulatory
9 floodway, the regulatory floodway will be considered for the
10 purposes of this subsection to extend at a minimum to the
11 10-year flood elevation.

12 Section 3. Section 381.0068, Florida Statutes, is
13 amended to read:

14 381.0068 Technical review and advisory panel.--

15 (1) The Department of Health shall, by July 1, 1996,
16 establish and staff a technical review and advisory panel to
17 assist the department with rule adoption.

18 (2) The primary purpose of the panel is to assist
19 ~~enhance the department's~~ the department in rulemaking and
20 decisionmaking by drawing on the expertise of representatives
21 from several groups that are affected by ~~have an interest in~~
22 onsite sewage treatment and disposal systems. The panel may
23 also review and comment on any legislation or any existing or
24 proposed state policy or issue related to onsite sewer
25 treatment and disposal systems. If requested by the panel,
26 the chair will advise any affected person or member of the
27 Legislature of the panel's position on the legislation or any
28 existing or proposed state policy or issue. The chair may also
29 take such other action as is appropriate to allow the panel to
30 function.At a minimum, the ~~technical review and advisory~~
31 panel shall consist of a soil scientist; a professional

1 engineer registered in this state who is recommended by the
2 Florida Engineering Society and who has work experience in
3 onsite sewage treatment and disposal systems; two
4 representatives from the home-building industry recommended by
5 the Florida Home Builders Association, including one who is a
6 developer in this state who develops lots using onsite sewage
7 treatment and disposal systems; a representative from the
8 county health departments who has experience permitting and
9 inspecting the installation of onsite sewage treatment and
10 disposal systems in this state; a representative from the real
11 estate industry who is recommended by the Florida Association
12 of Realtors; a consumer representative with a science
13 background; two representatives of the septic tank industry
14 recommended by the Florida Septic Tank Association, including
15 one who is a manufacturer of onsite sewage treatment and
16 disposal systems; and a representative from the environmental
17 health profession who is recommended by the Florida
18 Environmental Health Association and who is not employed by a
19 county health department. Members are to be appointed for a
20 term of 2 years. The panel may also, as needed, be expanded
21 to include ad hoc, nonvoting representatives who have
22 topic-specific expertise. All rules proposed by the
23 department which relate to onsite sewage treatment and
24 disposal systems must be presented to the panel for review and
25 comment prior to adoption. The panel's position on proposed
26 rules shall be made a part of the rulemaking record that is
27 maintained by the agency. The panel shall select a chair, who
28 shall serve for a period of 1 year and who shall direct,
29 coordinate, and execute the duties of the panel. The panel
30 shall also solicit input from the department's variance review
31 and advisory committee before submitting any comments to the

1 department concerning proposed rules. The panel's comments
2 must include any dissenting points of view concerning proposed
3 rules. The panel shall hold meetings as it determines
4 necessary to conduct its business, except that the chair, a
5 quorum of the voting members of the panel, or the department
6 may call meetings. The department shall keep minutes of all
7 meetings of the panel. Panel members shall serve without
8 remuneration, but if requested, shall ~~may~~ be reimbursed for
9 per diem and travel expenses as provided in s. 112.061.

10 Section 4. Subsection (2) of section 489.551, Florida
11 Statutes, is amended to read:

12 489.551 Definitions.--As used in this part:

13 (2) "Master septic tank contractor" means a septic
14 tank contractor whose services are unlimited in the septic
15 tank trade who has had at least 3 years' experience as a
16 Florida-registered septic tank contractor or a plumbing
17 contractor certified under part 1 of this chapter who has
18 provided septic tank contracting services for at least 3 years
19 and who has the experience, knowledge, and skills to install,
20 maintain, repair, close repairs of, and alter all types of
21 onsite sewage treatment and disposal systems, to design onsite
22 sewage treatment and disposal systems, where not prohibited by
23 law, to perform and submit soil evaluations, when determined
24 to meet site-evaluation expertise established by rule, and to
25 use materials and items used in the installation and
26 maintenance of all types of onsite sewage treatment and
27 disposal systems.

28 Section 5. Section 489.554, Florida Statutes, is
29 amended to read:

30 489.554 Registration renewal.--The department shall
31 prescribe by rule the method for approval of continuing

1 education courses and for renewal of annual registration. At
2 a minimum, annual renewal,~~which~~ shall include continuing
3 education requirements of not less than 6 classroom hours
4 annually for septic tank contractors and not less than 12
5 classroom hours annually for master septic tank contractors.
6 The 12 classroom hours of continuing education required for
7 master septic tank contractors may include the 6 classroom
8 hours required for septic tank contractors, but at a minimum
9 must include 6 classroom hours of approved master septic tank
10 contractor coursework.

11 Section 6. Subsection (5) is added to section 489.555,
12 Florida Statutes, to read:

13 489.555 Certification of partnerships and
14 corporations.--

15 (5) When a certificate of authorization has been
16 revoked, any person authorized by law to provide septic tank
17 contracting services may not use the name or fictitious name
18 of the entity whose certificate was revoked, or any other
19 identifiers for the entity, including telephone numbers,
20 advertisements, or logos.

21 Section 7. This act shall take effect upon becoming a
22 law.

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