

By the Committee on Health Care Licensing & Regulation and Representative Argenziano

1 A bill to be entitled
2 An act relating to onsite sewage treatment and
3 disposal systems; amending s. 381.0065, F.S.,
4 providing for regulation of maintenance
5 entities for performance-based treatment
6 systems and aerobic treatment unit systems;
7 amending s. 381.0066, F.S.; reducing the annual
8 operating permit fee for aerobic treatment
9 units; providing an annual operating permit fee
10 and an annual maintenance entity permit fee for
11 performance-based treatment systems; providing
12 an effective date.

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14 Be It Enacted by the Legislature of the State of Florida:

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16 Section 1. Paragraph (i) of subsection (4) of section
17 381.0065, Florida Statutes, 1998 Supplement, is amended,
18 paragraph (t) is added to said subsection, and paragraph (n)
19 is added to subsection (3) of said section, to read:

20 381.0065 Onsite sewage treatment and disposal systems;
21 regulation.--

22 (3) DUTIES AND POWERS OF THE DEPARTMENT OF
23 HEALTH.--The department shall:

24 (n) Regulate and permit maintenance entities for
25 performance-based treatment systems and aerobic treatment unit
26 systems. To ensure systems are maintained and operated
27 according to manufacturer's specifications and designs, the
28 department shall establish by rule minimum qualifying criteria
29 for maintenance entities. The criteria shall include:
30 training; access to approved spare parts and components;
31 access to manufacturer's maintenance and operation manuals;

1 and service response time. The maintenance entity shall employ
2 a contractor licensed under s. 489.105(3)(m) or part III of
3 chapter 489, or a state licensed wastewater plant operator,
4 who is responsible for maintenance and repair of all systems
5 under contract. The maintenance entity shall file a surety
6 bond with the department in an amount equal to the cost of
7 annual permitting for all systems under maintenance contract.
8 The bond shall be executed by the maintenance entity as
9 principal and a surety company authorized and licensed to do
10 business in the state as surety. The bond shall be contingent
11 upon the faithful compliance of the maintenance entity with
12 this section or rules adopted under this section and shall run
13 to the department for benefit of any system owner who suffers
14 a financial loss as a result of the misuse or misappropriation
15 by the maintenance entity of funds collected pursuant to this
16 section and s. 381.0066. Any surety company which cancels or
17 does not renew the bond of any licensee shall notify the
18 department in writing not less than 30 days in advance of such
19 action, giving the reason for the cancellation or nonrenewal.

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

1 commercial waste shall be inspected by the department at least
2 annually to assure compliance with the terms of the operating
3 permit. The operating permit is valid for 1 year from the date
4 of issuance and must be renewed annually. If all information
5 pertaining to the siting, location, and installation
6 conditions or repair of an onsite sewage treatment and
7 disposal system remains the same, a construction or repair
8 permit for the onsite sewage treatment and disposal system may
9 be transferred to another person, if the transferee files,
10 within 60 days after the transfer of ownership, an amended
11 application providing all corrected information and proof of
12 ownership of the property. There is no fee associated with
13 the processing of this supplemental information. A person may
14 not contract to construct, modify, alter, repair, service,
15 abandon, or maintain any portion of an onsite sewage treatment
16 and disposal system without being registered under part III of
17 chapter 489. A property owner who personally performs
18 construction, maintenance, or repairs to a system serving his
19 or her own owner-occupied single-family residence is exempt
20 from registration requirements for performing such
21 construction, maintenance, or repairs on that residence, but
22 is subject to all permitting requirements. A municipality or
23 political subdivision of the state may not issue a building or
24 plumbing permit for any building that requires the use of an
25 onsite sewage treatment and disposal system unless the owner
26 or builder has received a construction permit for such system
27 from the department. A building or structure may not be
28 occupied and a municipality, political subdivision, or any
29 state or federal agency may not authorize occupancy until the
30 department approves the final installation of the onsite
31 sewage treatment and disposal system. A municipality or

1 political subdivision of the state may not approve any change
2 in occupancy or tenancy of a building that uses an onsite
3 sewage treatment and disposal system until the department has
4 reviewed the use of the system with the proposed change,
5 approved the change, and amended the operating permit.

6 (i) An onsite sewage treatment and disposal system for
7 a single-family residence that is designed by a professional
8 engineer registered in the state and certified by such
9 engineer as complying with performance criteria adopted by the
10 department must be approved by the department subject to the
11 following:

12 1. The performance criteria applicable to
13 engineer-designed systems must be limited to those necessary
14 to ensure that such systems do not adversely affect the public
15 health or significantly degrade the groundwater or surface
16 water. Such performance criteria shall include consideration
17 of the quality of system effluent, the proposed total sewage
18 flow per acre, wastewater treatment capabilities of the
19 natural or replaced soil, water quality classification of the
20 potential surface-water-receiving body, and the structural and
21 maintenance viability of the system for the treatment of
22 domestic wastewater. However, performance criteria shall
23 address only the performance of a system and not a system's
24 design.

25 2. The technical review and advisory panel shall
26 assist the department in the development of performance
27 criteria applicable to engineer-designed systems. Workshops
28 on the development of the rules delineating such criteria
29 shall commence not later than September 1, 1996, and the
30 department shall advertise such rules for public hearing no
31 later than October 1, 1997.

1 3. A person electing to utilize an engineer-designed
2 system shall, upon completion of the system design, submit
3 such design, certified by a registered professional engineer,
4 to the county health department. The county health department
5 may utilize an outside consultant to review the
6 engineer-designed system, with the actual cost of such review
7 to be borne by the applicant. Within 5 working days after
8 receiving an engineer-designed system permit application, the
9 county health department shall request additional information
10 if the application is not complete. Within 15 working days
11 after receiving a complete application for an
12 engineer-designed system, the county health department either
13 shall issue the permit or, if it determines that the system
14 does not comply with the performance criteria, shall notify
15 the applicant of that determination and refer the application
16 to the department for a determination as to whether the system
17 should be approved, disapproved, or approved with
18 modification. The department engineer's determination shall
19 prevail over the action of the county health department. The
20 applicant shall be notified in writing of the department's
21 determination and of the applicant's rights to pursue a
22 variance or seek review under the provisions of chapter 120.

23 4. The owner of an engineer-designed performance-based
24 system must maintain a current maintenance service agreement
25 with a maintenance entity permitted by the department. The
26 maintenance entity shall obtain an annual system operating
27 permit from the department for each system under service
28 contract. The department shall inspect the system at least
29 annually, or on such periodic basis as the fee collected
30 permits, and may collect system-effluent samples if
31 appropriate to determine compliance with the performance

1 criteria. The fee for the annual operating permit shall be
2 collected beginning with the second year of system operation.
3 The maintenance entity shall inspect each system at least
4 twice each year and shall report quarterly to the department
5 on the number of systems inspected and serviced.

6 5. If an engineer-designed system fails to properly
7 function or fails to meet performance standards, the system
8 shall be re-engineered, if necessary, to bring the system into
9 compliance with the provisions of this section.

10 (t) The owner of an aerobic treatment unit system
11 shall maintain a current maintenance service agreement with an
12 aerobic treatment unit maintenance entity permitted by the
13 department. The maintenance entity shall obtain an annual
14 system operating permit from the department for each aerobic
15 treatment unit under service contract. The maintenance entity
16 shall inspect each aerobic treatment unit system at least
17 twice each year and shall report quarterly to the department
18 on the number of aerobic treatment unit systems inspected and
19 serviced. The owner will allow the department to inspect
20 during reasonable hours each aerobic treatment unit system at
21 least twice each year and annually collect and analyze
22 system-effluent samples for performance criteria established
23 by rule of the department.

24 Section 2. Paragraph (c) and (i) of subsection (2) of
25 section 381.0066, Florida Statutes, are amended to read:

26 381.0066 Onsite sewage treatment and disposal systems;
27 fees.--

28 (2) The minimum fees in the following fee schedule
29 apply until changed by rule by the department within the
30 following limits:

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1 (c) Annual operating permit for aerobic treatment
2 units or performance-based treatment systems: a fee of not
3 more than \$50, including quarterly evaluation, annual
4 sampling, and laboratory analysis of effluent from aerobic
5 treatment units: a fee of not less than \$150, or more than
6 \$300.

7 (i) Aerobic treatment unit or performance-based
8 treatment system maintenance entity permit: a fee of not less
9 than \$25, or more than \$150, per year.

10 Section 3. This act shall take effect July 1, 1999.

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