

1 A bill to be entitled
2 An act relating to hazard mitigation for coastal
3 redevelopment; amending s. 161.085, F.S.; specifying
4 entities that are authorized to install or authorize
5 installation of rigid coastal armoring structures;
6 authorizing the Department of Environmental Protection to
7 revoke certain authority; authorizing the installation of
8 certain structures as the core of a restored dune feature
9 under specified conditions; amending s. 163.3178, F.S.;
10 requiring the Division of Emergency Management to manage
11 certain hurricane evacuation studies; requiring that such
12 studies be performed in a specified manner; defining the
13 term "coastal high-hazard area"; providing that the
14 application of development policies shall be at the
15 discretion of local government; authorizing local
16 governments to amend comprehensive plans to increase
17 residential densities for certain properties; providing
18 criteria for certain comprehensive plan compliance;
19 requiring local governments to adopt a certain level of
20 service for out-of-county hurricane evacuation under
21 certain circumstances; requiring local governments and
22 developers to enter into certain agreements; providing a
23 deadline for local governments to amend coastal management
24 elements and future land use maps; amending 163.336, F.S.,
25 relating to the coastal resort area redevelopment pilot
26 project; revising the requirements for placement of
27 certain coastal redevelopment materials; authorizing the

28 Department of Environmental Protection to consider certain
 29 information during certain permit review; deferring the
 30 expiration date of the pilot project; requiring the
 31 department and local governments to provide a specified
 32 analysis of certain projects and to provide a report to
 33 the Legislature by a certain date; amending s. 381.0065,
 34 F.S.; requiring the issuance of certain permits by the
 35 Department of Health to be contingent upon the receipt of
 36 certain permits issued by the Department of Environmental
 37 Protection; providing an effective date.

38
 39 Be It Enacted by the Legislature of the State of Florida:

40
 41 Section 1. Subsection (3) of section 161.085, Florida
 42 Statutes, is amended, and subsections (8) and (9) are added to
 43 that section, to read:

44 161.085 Rigid coastal armoring structures.--

45 (3) If erosion occurs as a result of a storm event which
 46 threatens private structures or public infrastructure and a
 47 permit has not been issued pursuant to subsection (2), unless
 48 the authority has been revoked by order of the department
 49 pursuant to subsection (8), an the agency, political
 50 subdivision, or municipality having jurisdiction over the
 51 impacted area may install or authorize installation of rigid
 52 coastal armoring structures for the protection of private
 53 structures or public infrastructure, or take other measures to
 54 relieve the threat to private structures or public

55 | infrastructure as long as the following items are considered and
56 | incorporated into such emergency measures:

57 | (a) Protection of the beach-dune system.

58 | (b) Siting and design criteria for the protective
59 | structure.

60 | (c) Impacts on adjacent properties.

61 | (d) Preservation of public beach access.

62 | (e) Protection of native coastal vegetation and nesting
63 | marine turtles and their hatchlings.

64 | (8) If a political subdivision or municipality installs or
65 | authorizes installation of a rigid coastal armoring structure
66 | that does not comply with subsection (3), and if the department
67 | determines that the action harms or interferes with the
68 | protection of the beach-dune system, adversely impacts adjacent
69 | properties, interferes with public beach access, or harms native
70 | coastal vegetation or nesting marine turtles or their
71 | hatchlings, the department may revoke by order the authority of
72 | the political subdivision or municipality under subsection (3)
73 | to install or authorize the installation of rigid coastal
74 | armoring structures.

75 | (9) The department, or an agency, political subdivision,
76 | or municipality described in subsection (3), may authorize sand-
77 | filled tubes or similar structures proposed as the core of a
78 | restored dune feature if the applicant meets the requirements of
79 | this section and:

80 (a) Demonstrates that the United States Fish and Wildlife
81 Service has approved a habitat conservation plan that includes
82 the shoreline where each structure will be placed;

83 (b) Provides reasonable assurance that adequate sand cover
84 will be maintained over the structure such that the structure
85 will not interact with the beach dune system as rigid coastal
86 armoring or adversely affect marine turtle nesting and provides
87 for a responsible entity to conduct such maintenance; and

88 (c) Provides reasonable assurance that each structure will
89 be removed if the maintenance required by paragraph (b) proves
90 to be not feasible.

91 Section 2. Paragraphs (d) and (h) of subsection (2) of
92 section 163.3178, Florida Statutes, are amended, and subsection
93 (9) is added to that section, to read:

94 163.3178 Coastal management.--

95 (2) Each coastal management element required by s.
96 163.3177(6)(g) shall be based on studies, surveys, and data; be
97 consistent with coastal resource plans prepared and adopted
98 pursuant to general or special law; and contain:

99 (d) A component which outlines principles for hazard
100 mitigation and protection of human life against the effects of
101 natural disaster, including population evacuation, which take
102 into consideration the capability to safely evacuate the density
103 of coastal population proposed in the future land use plan
104 element in the event of an impending natural disaster. The
105 Division of Emergency Management shall manage the update of the
106 regional hurricane evacuation studies, ensure such studies are

107 done in a consistent manner, and ensure that the methodology
108 used for modeling storm surge is that used by the National
109 Hurricane Center.

110 (h) Designation of coastal high-hazard ~~coastal~~ areas and
111 the criteria for mitigation for a comprehensive plan amendment
112 in a coastal high-hazard area as defined in subsection (9),
113 which for uniformity and planning purposes herein, are defined
114 as ~~category 1 evacuation zones~~. The coastal high-hazard area is
115 the area below the elevation of the category 1 storm surge line
116 as established by a Sea, Lake and Overland Surges from
117 Hurricanes (SLOSH) computerized storm surge model. However,
118 Application of mitigation and the application of development and
119 redevelopment policies, pursuant to s. 380.27(2), and any rules
120 adopted thereunder, shall be at the discretion of local
121 government.

122 (9) (a) Local governments may elect to comply with rules
123 9J-5.012(3)(b)(6) and 9J-5.012(3)(b)(7), Florida Administrative
124 Code, through the process provided in this section. A proposed
125 comprehensive plan amendment shall be found in compliance with
126 state coastal high-hazard provisions pursuant to rules 9J-
127 5.012(3)(b)(6) and 9J-5.012(3)(b)(7), Florida Administrative
128 Code, if:

129 1. The adopted level of service for out-of-county
130 hurricane evacuation is maintained for a category 5 storm event
131 as measured on the Saffir-Simpson scale;

132 2. A 12-hour evacuation time to shelter is maintained for
133 a category 5 storm event as measured on the Saffir-Simpson scale

134 and shelter space reasonably expected to accommodate the
135 residents of the development contemplated by a proposed
136 comprehensive plan amendment is available; or

137 3. Appropriate mitigation is provided that will satisfy
138 the provisions of subparagraph 1. or subparagraph 2. Appropriate
139 mitigation shall include, without limitation, payment of money,
140 contribution of land, and construction of hurricane shelters and
141 transportation facilities. Required mitigation shall not exceed
142 the amount required for a developer to accommodate impacts
143 reasonably attributable to development. A local government and a
144 developer shall enter into a binding agreement to memorialize
145 the mitigation plan.

146 (b) For those local governments that have not established
147 a level of service for out-of-county hurricane evacuation by
148 July 1, 2008, but elect to comply with rules 9J-5.012(3)(b)(6)
149 and 9J-5.012(3)(b)(7), Florida Administrative Code, by following
150 the process in paragraph (a), the level of service shall be no
151 greater than 16 hours for a category 5 storm event as measured
152 on the Saffir-Simpson scale.

153 (c) This subsection shall become effective immediately and
154 shall apply to all local governments. No later than July 1,
155 2008, local governments shall amend their future land use map
156 and coastal management element to include the new definition of
157 coastal high-hazard area and to depict the coastal high-hazard
158 area on the future land use map.

159 Section 3. Subsections (2) and (3) of section 163.336,
160 Florida Statutes, are amended to read:

161 163.336 Coastal resort area redevelopment pilot project.--

162 (2) PILOT PROJECT ADMINISTRATION.--

163 (a) To be eligible to participate in this pilot project,
164 all or a portion of the area must be within:

165 1. The coastal building zone as defined in s. 161.54; and

166 2. A community redevelopment area, enterprise zone,
167 brownfield area, empowerment zone, or other such economically
168 deprived areas as designated by the county or municipality with
169 jurisdiction over the area.

170 (b) Local governments are encouraged to use the full range
171 of economic and tax incentives available to facilitate and
172 promote redevelopment and revitalization within the pilot
173 project areas.

174 (c) The Office of the Governor, Department of
175 Environmental Protection, and the Department of Community
176 Affairs are directed to provide technical assistance to expedite
177 permitting for redevelopment projects and construction
178 activities within the pilot project areas consistent with the
179 principles, processes, and timeframes provided in s. 403.973.

180 (d) The Department of Environmental Protection shall
181 exempt construction activities within the pilot project area in
182 locations seaward of a coastal construction control line and
183 landward of existing armoring from certain siting and design
184 criteria pursuant to s. 161.053. However, such exemption shall
185 not be deemed to exempt property within the pilot project area
186 from applicable local land development regulations, including
187 but not limited to, setback, side lot line, and lot coverage

188 requirements. Such exemption shall apply to construction and
189 redevelopment of structures involving the coverage, excavation,
190 and impervious surface criteria of s. 161.053, and related
191 adopted rules, as follows:

192 1. This review by the department of applications for
193 permits for coastal construction within the pilot project area
194 must apply to construction and redevelopment of structures
195 subject to the coverage, excavation, and impervious surface
196 criteria of s. 161.053, and related adopted rules. It is the
197 intent of these provisions that the pilot project area be
198 enabled to redevelop in a manner which meets the economic needs
199 of the area while preserving public safety and existing
200 resources, including natural resources.

201 2. The criteria for review under s. 161.053 are applicable
202 within the pilot project area, except that the structures within
203 the pilot project area shall not be subject to specific shore
204 parallel coverage requirements and are allowed to exceed the 50
205 percent impervious surface requirement. In no case shall
206 stormwater discharge be allowed onto, or seaward of, the frontal
207 dune. Structures are also not bound by the restrictions on
208 excavation unless the construction will adversely affect the
209 integrity of the existing seawall or rigid coastal armoring
210 structure or stability of the existing beach and dune system. It
211 is specifically contemplated that underground structures,
212 including garages, will be permitted. All beach-compatible
213 material excavated under this subparagraph must be maintained on
214 site seaward of the coastal construction control line. However,

215 during the permit review process under s. 161.053, the
216 department may favorably consider authorized sand placement on
217 adjacent properties if the permittee has demonstrated every
218 reasonable effort to effectively use all beach-quality material
219 on site to enhance the beach and dune system and has prepared a
220 comprehensive plan for beach and dune nourishment for the
221 adjoining area.

222 3. The review criteria in subparagraph 2. will apply to
223 all construction within the pilot project area lying seaward of
224 the coastal construction control line and landward of an
225 existing viable seawall or rigid coastal armoring structure, if
226 such construction is fronted by a seawall or rigid coastal
227 armoring structure extending at least 1,000 feet without any
228 interruptions other than beach access points. For purposes of
229 this section, a viable seawall or rigid coastal armoring
230 structure is a structure that has not deteriorated, dilapidated,
231 or been damaged to such a degree that it no longer provides
232 adequate protection to the upland property when considering the
233 following criteria, including, but not limited to:

234 a. The top must be at or above the still water level,
235 including setup, for the design storm of 30-year return storm
236 plus the breaking wave calculated at its highest achievable
237 level based on the maximum eroded beach profile and highest
238 surge level combination, and must be high enough to preclude
239 runup overtopping;

240 b. The armorings must be stable under the design storm of
241 30-year return storm including maximum localized scour, with
242 adequate penetration; and

243 c. The armorings must have sufficient continuity or return
244 walls to prevent flooding under the design storm of 30-year
245 return storm from impacting the proposed construction.

246 4. Where there exists a continuous line of rigid coastal
247 armorings structure on either side of unarmored property and the
248 adjacent line of rigid coastal armorings structures are having an
249 adverse effect on or threaten the unarmored property, and the
250 gap does not exceed 100 feet, the department may grant the
251 necessary permits under s. 161.085 to close the gap.

252 5. Structures approved pursuant to this section shall not
253 cause flooding of or result in adverse impacts to existing
254 upland structures or properties and shall comply with all other
255 requirements of s. 161.053 and its implementing rules.

256 6. Where there exists a continuous line of viable rigid
257 coastal armorings structure on either side of a nonviable rigid
258 coastal armorings structure, the department shall grant the
259 necessary permits under s. 161.085 to replace such nonviable
260 rigid coastal armorings structure with a viable rigid coastal
261 armorings structure as defined in this section. This shall not
262 apply to rigid coastal armorings structures constructed after May
263 1, 1998, unless such structures have been permitted pursuant to
264 s. 161.085(2).

265 (3) PILOT PROJECT EXPIRATION.--The authorization for the
266 pilot project and the provisions of this section expire December

267 31, 2014 ~~2006~~. The department and affected local governments
268 shall provide for an independent analysis of the economic value
269 and environmental impact of the pilot project and provide a
270 report to the Speaker of the House of Representatives and the
271 President of the Senate on or before February 1, 2008 ~~The~~
272 ~~Legislature shall review these requirements before their~~
273 ~~scheduled expiration.~~

274 Section 4. Subsection (4) of section 381.0065, Florida
275 Statutes, is amended to read:

276 381.0065 Onsite sewage treatment and disposal systems;
277 regulation.--

278 (4) PERMITS; INSTALLATION; AND CONDITIONS.--A person may
279 not construct, repair, modify, abandon, or operate an onsite
280 sewage treatment and disposal system without first obtaining a
281 permit approved by the department. The department may issue
282 permits to carry out this section, but shall not make the
283 issuance of such permits contingent upon prior approval by the
284 Department of Environmental Protection, except that the issuance
285 of a permit for work seaward of the coastal construction control
286 line established under s. 161.053 shall be contingent upon
287 receipt of any required coastal construction control line permit
288 from the Department of Environmental Protection. A construction
289 permit is valid for 18 months from the issuance date and may be
290 extended by the department for one 90-day period under rules
291 adopted by the department. A repair permit is valid for 90 days
292 from the date of issuance. An operating permit must be obtained
293 prior to the use of any aerobic treatment unit or if the

294 establishment generates commercial waste. Buildings or
295 establishments that use an aerobic treatment unit or generate
296 commercial waste shall be inspected by the department at least
297 annually to assure compliance with the terms of the operating
298 permit. The operating permit for a commercial wastewater system
299 is valid for 1 year from the date of issuance and must be
300 renewed annually. The operating permit for an aerobic treatment
301 unit is valid for 2 years from the date of issuance and must be
302 renewed every 2 years. If all information pertaining to the
303 siting, location, and installation conditions or repair of an
304 onsite sewage treatment and disposal system remains the same, a
305 construction or repair permit for the onsite sewage treatment
306 and disposal system may be transferred to another person, if the
307 transferee files, within 60 days after the transfer of
308 ownership, an amended application providing all corrected
309 information and proof of ownership of the property. There is no
310 fee associated with the processing of this supplemental
311 information. A person may not contract to construct, modify,
312 alter, repair, service, abandon, or maintain any portion of an
313 onsite sewage treatment and disposal system without being
314 registered under part III of chapter 489. A property owner who
315 personally performs construction, maintenance, or repairs to a
316 system serving his or her own owner-occupied single-family
317 residence is exempt from registration requirements for
318 performing such construction, maintenance, or repairs on that
319 residence, but is subject to all permitting requirements. A
320 municipality or political subdivision of the state may not issue

321 a building or plumbing permit for any building that requires the
322 use of an onsite sewage treatment and disposal system unless the
323 owner or builder has received a construction permit for such
324 system from the department. A building or structure may not be
325 occupied and a municipality, political subdivision, or any state
326 or federal agency may not authorize occupancy until the
327 department approves the final installation of the onsite sewage
328 treatment and disposal system. A municipality or political
329 subdivision of the state may not approve any change in occupancy
330 or tenancy of a building that uses an onsite sewage treatment
331 and disposal system until the department has reviewed the use of
332 the system with the proposed change, approved the change, and
333 amended the operating permit.

334 (a) Subdivisions and lots in which each lot has a minimum
335 area of at least one-half acre and either a minimum dimension of
336 100 feet or a mean of at least 100 feet of the side bordering
337 the street and the distance formed by a line parallel to the
338 side bordering the street drawn between the two most distant
339 points of the remainder of the lot may be developed with a water
340 system regulated under s. 381.0062 and onsite sewage treatment
341 and disposal systems, provided the projected daily sewage flow
342 does not exceed an average of 1,500 gallons per acre per day,
343 and provided satisfactory drinking water can be obtained and all
344 distance and setback, soil condition, water table elevation, and
345 other related requirements of this section and rules adopted
346 under this section can be met.

347 (b) Subdivisions and lots using a public water system as
348 defined in s. 403.852 may use onsite sewage treatment and
349 disposal systems, provided there are no more than four lots per
350 acre, provided the projected daily sewage flow does not exceed
351 an average of 2,500 gallons per acre per day, and provided that
352 all distance and setback, soil condition, water table elevation,
353 and other related requirements that are generally applicable to
354 the use of onsite sewage treatment and disposal systems are met.

355 (c) Notwithstanding the provisions of paragraphs (a) and
356 (b), for subdivisions platted of record on or before October 1,
357 1991, when a developer or other appropriate entity has
358 previously made or makes provisions, including financial
359 assurances or other commitments, acceptable to the Department of
360 Health, that a central water system will be installed by a
361 regulated public utility based on a density formula, private
362 potable wells may be used with onsite sewage treatment and
363 disposal systems until the agreed-upon densities are reached.
364 The department may consider assurances filed with the Department
365 of Business and Professional Regulation under chapter 498 in
366 determining the adequacy of the financial assurance required by
367 this paragraph. In a subdivision regulated by this paragraph,
368 the average daily sewage flow may not exceed 2,500 gallons per
369 acre per day. This section does not affect the validity of
370 existing prior agreements. After October 1, 1991, the exception
371 provided under this paragraph is not available to a developer or
372 other appropriate entity.

373 (d) Paragraphs (a) and (b) do not apply to any proposed
374 residential subdivision with more than 50 lots or to any
375 proposed commercial subdivision with more than 5 lots where a
376 publicly owned or investor-owned sewerage system is available.
377 It is the intent of this paragraph not to allow development of
378 additional proposed subdivisions in order to evade the
379 requirements of this paragraph.

380 (e) Onsite sewage treatment and disposal systems must not
381 be placed closer than:

- 382 1. Seventy-five feet from a private potable well.
- 383 2. Two hundred feet from a public potable well serving a
384 residential or nonresidential establishment having a total
385 sewage flow of greater than 2,000 gallons per day.
- 386 3. One hundred feet from a public potable well serving a
387 residential or nonresidential establishment having a total
388 sewage flow of less than or equal to 2,000 gallons per day.
- 389 4. Fifty feet from any nonpotable well.
- 390 5. Ten feet from any storm sewer pipe, to the maximum
391 extent possible, but in no instance shall the setback be less
392 than 5 feet.
- 393 6. Seventy-five feet from the mean high-water line of a
394 tidally influenced surface water body.
- 395 7. Seventy-five feet from the mean annual flood line of a
396 permanent nontidal surface water body.
- 397 8. Fifteen feet from the design high-water line of
398 retention areas, detention areas, or swales designed to contain
399 standing or flowing water for less than 72 hours after a

400 rainfall or the design high-water level of normally dry drainage
401 ditches or normally dry individual lot stormwater retention
402 areas.

403 (f) Except as provided under paragraphs (e) and (t), no
404 limitations shall be imposed by rule, relating to the distance
405 between an onsite disposal system and any area that either
406 permanently or temporarily has visible surface water.

407 (g) All provisions of this section and rules adopted under
408 this section relating to soil condition, water table elevation,
409 distance, and other setback requirements must be equally applied
410 to all lots, with the following exceptions:

411 1. Any residential lot that was platted and recorded on or
412 after January 1, 1972, or that is part of a residential
413 subdivision that was approved by the appropriate permitting
414 agency on or after January 1, 1972, and that was eligible for an
415 onsite sewage treatment and disposal system construction permit
416 on the date of such platting and recording or approval shall be
417 eligible for an onsite sewage treatment and disposal system
418 construction permit, regardless of when the application for a
419 permit is made. If rules in effect at the time the permit
420 application is filed cannot be met, residential lots platted and
421 recorded or approved on or after January 1, 1972, shall, to the
422 maximum extent possible, comply with the rules in effect at the
423 time the permit application is filed. At a minimum, however,
424 those residential lots platted and recorded or approved on or
425 after January 1, 1972, but before January 1, 1983, shall comply
426 with those rules in effect on January 1, 1983, and those

427 residential lots platted and recorded or approved on or after
428 January 1, 1983, shall comply with those rules in effect at the
429 time of such platting and recording or approval. In determining
430 the maximum extent of compliance with current rules that is
431 possible, the department shall allow structures and
432 appurtenances thereto which were authorized at the time such
433 lots were platted and recorded or approved.

434 2. Lots platted before 1972 are subject to a 50-foot
435 minimum surface water setback and are not subject to lot size
436 requirements. The projected daily flow for onsite sewage
437 treatment and disposal systems for lots platted before 1972 may
438 not exceed:

439 a. Two thousand five hundred gallons per acre per day for
440 lots served by public water systems as defined in s. 403.852.

441 b. One thousand five hundred gallons per acre per day for
442 lots served by water systems regulated under s. 381.0062.

443 (h)1. The department may grant variances in hardship cases
444 which may be less restrictive than the provisions specified in
445 this section. If a variance is granted and the onsite sewage
446 treatment and disposal system construction permit has been
447 issued, the variance may be transferred with the system
448 construction permit, if the transferee files, within 60 days
449 after the transfer of ownership, an amended construction permit
450 application providing all corrected information and proof of
451 ownership of the property and if the same variance would have
452 been required for the new owner of the property as was
453 originally granted to the original applicant for the variance.

454 There is no fee associated with the processing of this
455 supplemental information. A variance may not be granted under
456 this section until the department is satisfied that:

457 a. The hardship was not caused intentionally by the action
458 of the applicant;

459 b. No reasonable alternative, taking into consideration
460 factors such as cost, exists for the treatment of the sewage;
461 and

462 c. The discharge from the onsite sewage treatment and
463 disposal system will not adversely affect the health of the
464 applicant or the public or significantly degrade the groundwater
465 or surface waters.

466
467 Where soil conditions, water table elevation, and setback
468 provisions are determined by the department to be satisfactory,
469 special consideration must be given to those lots platted before
470 1972.

471 2. The department shall appoint and staff a variance
472 review and advisory committee, which shall meet monthly to
473 recommend agency action on variance requests. The committee
474 shall make its recommendations on variance requests at the
475 meeting in which the application is scheduled for consideration,
476 except for an extraordinary change in circumstances, the receipt
477 of new information that raises new issues, or when the applicant
478 requests an extension. The committee shall consider the criteria
479 in subparagraph 1. in its recommended agency action on variance
480 requests and shall also strive to allow property owners the full

481 use of their land where possible. The committee consists of the
482 following:

483 a. The Division Director for Environmental Health of the
484 department or his or her designee.

485 b. A representative from the county health departments.

486 c. A representative from the home building industry
487 recommended by the Florida Home Builders Association.

488 d. A representative from the septic tank industry
489 recommended by the Florida Onsite Wastewater Association.

490 e. A representative from the Department of Environmental
491 Protection.

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

496 g. A representative from the engineering profession
497 recommended by the Florida Engineering Society.

498

499 Members shall be appointed for a term of 3 years, with such
500 appointments being staggered so that the terms of no more than
501 two members expire in any one year. Members shall serve without
502 remuneration, but if requested, shall be reimbursed for per diem
503 and travel expenses as provided in s. 112.061.

504 (i) A construction permit may not be issued for an onsite
505 sewage treatment and disposal system in any area zoned or used
506 for industrial or manufacturing purposes, or its equivalent,
507 where a publicly owned or investor-owned sewage treatment system

508 is available, or where a likelihood exists that the system will
509 receive toxic, hazardous, or industrial waste. An existing
510 onsite sewage treatment and disposal system may be repaired if a
511 publicly owned or investor-owned sewerage system is not
512 available within 500 feet of the building sewer stub-out and if
513 system construction and operation standards can be met. This
514 paragraph does not require publicly owned or investor-owned
515 sewerage treatment systems to accept anything other than
516 domestic wastewater.

517 1. A building located in an area zoned or used for
518 industrial or manufacturing purposes, or its equivalent, when
519 such building is served by an onsite sewage treatment and
520 disposal system, must not be occupied until the owner or tenant
521 has obtained written approval from the department. The
522 department shall not grant approval when the proposed use of the
523 system is to dispose of toxic, hazardous, or industrial
524 wastewater or toxic or hazardous chemicals.

525 2. Each person who owns or operates a business or facility
526 in an area zoned or used for industrial or manufacturing
527 purposes, or its equivalent, or who owns or operates a business
528 that has the potential to generate toxic, hazardous, or
529 industrial wastewater or toxic or hazardous chemicals, and uses
530 an onsite sewage treatment and disposal system that is installed
531 on or after July 5, 1989, must obtain an annual system operating
532 permit from the department. A person who owns or operates a
533 business that uses an onsite sewage treatment and disposal
534 system that was installed and approved before July 5, 1989, need

535 not obtain a system operating permit. However, upon change of
536 ownership or tenancy, the new owner or operator must notify the
537 department of the change, and the new owner or operator must
538 obtain an annual system operating permit, regardless of the date
539 that the system was installed or approved.

540 3. The department shall periodically review and evaluate
541 the continued use of onsite sewage treatment and disposal
542 systems in areas zoned or used for industrial or manufacturing
543 purposes, or its equivalent, and may require the collection and
544 analyses of samples from within and around such systems. If the
545 department finds that toxic or hazardous chemicals or toxic,
546 hazardous, or industrial wastewater have been or are being
547 disposed of through an onsite sewage treatment and disposal
548 system, the department shall initiate enforcement actions
549 against the owner or tenant to ensure adequate cleanup,
550 treatment, and disposal.

551 (j) An onsite sewage treatment and disposal system for a
552 single-family residence that is designed by a professional
553 engineer registered in the state and certified by such engineer
554 as complying with performance criteria adopted by the department
555 must be approved by the department subject to the following:

556 1. The performance criteria applicable to engineer-
557 designed systems must be limited to those necessary to ensure
558 that such systems do not adversely affect the public health or
559 significantly degrade the groundwater or surface water. Such
560 performance criteria shall include consideration of the quality
561 of system effluent, the proposed total sewage flow per acre,

562 wastewater treatment capabilities of the natural or replaced
563 soil, water quality classification of the potential surface-
564 water-receiving body, and the structural and maintenance
565 viability of the system for the treatment of domestic
566 wastewater. However, performance criteria shall address only the
567 performance of a system and not a system's design.

568 2. The technical review and advisory panel shall assist
569 the department in the development of performance criteria
570 applicable to engineer-designed systems.

571 3. A person electing to utilize an engineer-designed
572 system shall, upon completion of the system design, submit such
573 design, certified by a registered professional engineer, to the
574 county health department. The county health department may
575 utilize an outside consultant to review the engineer-designed
576 system, with the actual cost of such review to be borne by the
577 applicant. Within 5 working days after receiving an engineer-
578 designed system permit application, the county health department
579 shall request additional information if the application is not
580 complete. Within 15 working days after receiving a complete
581 application for an engineer-designed system, the county health
582 department either shall issue the permit or, if it determines
583 that the system does not comply with the performance criteria,
584 shall notify the applicant of that determination and refer the
585 application to the department for a determination as to whether
586 the system should be approved, disapproved, or approved with
587 modification. The department engineer's determination shall
588 prevail over the action of the county health department. The

589 applicant shall be notified in writing of the department's
590 determination and of the applicant's rights to pursue a variance
591 or seek review under the provisions of chapter 120.

592 4. The owner of an engineer-designed performance-based
593 system must maintain a current maintenance service agreement
594 with a maintenance entity permitted by the department. The
595 maintenance entity shall obtain a biennial system operating
596 permit from the department for each system under service
597 contract. The department shall inspect the system at least
598 annually, or on such periodic basis as the fee collected
599 permits, and may collect system-effluent samples if appropriate
600 to determine compliance with the performance criteria. The fee
601 for the biennial operating permit shall be collected beginning
602 with the second year of system operation. The maintenance entity
603 shall inspect each system at least twice each year and shall
604 report quarterly to the department on the number of systems
605 inspected and serviced.

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

610 (k) An innovative system may be approved in conjunction
611 with an engineer-designed site-specific system which is
612 certified by the engineer to meet the performance-based criteria
613 adopted by the department.

614 (l) For the Florida Keys, the department shall adopt a
615 special rule for the construction, installation, modification,

616 operation, repair, maintenance, and performance of onsite sewage
617 treatment and disposal systems which considers the unique soil
618 conditions and which considers water table elevations,
619 densities, and setback requirements. On lots where a setback
620 distance of 75 feet from surface waters, saltmarsh, and
621 buttonwood association habitat areas cannot be met, an injection
622 well, approved and permitted by the department, may be used for
623 disposal of effluent from onsite sewage treatment and disposal
624 systems.

625 (m) No product sold in the state for use in onsite sewage
626 treatment and disposal systems may contain any substance in
627 concentrations or amounts that would interfere with or prevent
628 the successful operation of such system, or that would cause
629 discharges from such systems to violate applicable water quality
630 standards. The department shall publish criteria for products
631 known or expected to meet the conditions of this paragraph. In
632 the event a product does not meet such criteria, such product
633 may be sold if the manufacturer satisfactorily demonstrates to
634 the department that the conditions of this paragraph are met.

635 (n) Evaluations for determining the seasonal high-water
636 table elevations or the suitability of soils for the use of a
637 new onsite sewage treatment and disposal system shall be
638 performed by department personnel, professional engineers
639 registered in the state, or such other persons with expertise,
640 as defined by rule, in making such evaluations. Evaluations for
641 determining mean annual flood lines shall be performed by those
642 persons identified in paragraph (2)(i). The department shall

643 accept evaluations submitted by professional engineers and such
644 other persons as meet the expertise established by this section
645 or by rule unless the department has a reasonable scientific
646 basis for questioning the accuracy or completeness of the
647 evaluation.

648 (o) The department shall appoint a research review and
649 advisory committee, which shall meet at least semiannually. The
650 committee shall advise the department on directions for new
651 research, review and rank proposals for research contracts, and
652 review draft research reports and make comments. The committee
653 is comprised of:

- 654 1. A representative of the Division of Environmental
655 Health of the Department of Health.
- 656 2. A representative from the septic tank industry.
- 657 3. A representative from the home building industry.
- 658 4. A representative from an environmental interest group.
- 659 5. A representative from the State University System, from
660 a department knowledgeable about onsite sewage treatment and
661 disposal systems.
- 662 6. A professional engineer registered in this state who
663 has work experience in onsite sewage treatment and disposal
664 systems.
- 665 7. A representative from the real estate profession.
- 666 8. A representative from the restaurant industry.
- 667 9. A consumer.

668

669 Members shall be appointed for a term of 3 years, with the
670 appointments being staggered so that the terms of no more than
671 four members expire in any one year. Members shall serve without
672 remuneration, but are entitled to reimbursement for per diem and
673 travel expenses as provided in s. 112.061.

674 (p) An application for an onsite sewage treatment and
675 disposal system permit shall be completed in full, signed by the
676 owner or the owner's authorized representative, or by a
677 contractor licensed under chapter 489, and shall be accompanied
678 by all required exhibits and fees. No specific documentation of
679 property ownership shall be required as a prerequisite to the
680 review of an application or the issuance of a permit. The
681 issuance of a permit does not constitute determination by the
682 department of property ownership.

683 (q) The department may not require any form of subdivision
684 analysis of property by an owner, developer, or subdivider prior
685 to submission of an application for an onsite sewage treatment
686 and disposal system.

687 (r) Nothing in this section limits the power of a
688 municipality or county to enforce other laws for the protection
689 of the public health and safety.

690 (s) In the siting of onsite sewage treatment and disposal
691 systems, including drainfields, shoulders, and slopes, guttering
692 shall not be required on single-family residential dwelling
693 units for systems located greater than 5 feet from the roof drip
694 line of the house. If guttering is used on residential dwelling

695 units, the downspouts shall be directed away from the
696 drainfield.

697 (t) Notwithstanding the provisions of subparagraph (g)1.,
698 onsite sewage treatment and disposal systems located in
699 floodways of the Suwannee and Aucilla Rivers must adhere to the
700 following requirements:

701 1. The absorption surface of the drainfield shall not be
702 subject to flooding based on 10-year flood elevations. Provided,
703 however, for lots or parcels created by the subdivision of land
704 in accordance with applicable local government regulations prior
705 to January 17, 1990, if an applicant cannot construct a
706 drainfield system with the absorption surface of the drainfield
707 at an elevation equal to or above 10-year flood elevation, the
708 department shall issue a permit for an onsite sewage treatment
709 and disposal system within the 10-year floodplain of rivers,
710 streams, and other bodies of flowing water if all of the
711 following criteria are met:

712 a. The lot is at least one-half acre in size;

713 b. The bottom of the drainfield is at least 36 inches
714 above the 2-year flood elevation; and

715 c. The applicant installs either: a waterless,
716 incinerating, or organic waste composting toilet and a graywater
717 system and drainfield in accordance with department rules; an
718 aerobic treatment unit and drainfield in accordance with
719 department rules; a system approved by the State Health Office
720 that is capable of reducing effluent nitrate by at least 50
721 percent; or a system approved by the county health department

722 pursuant to department rule other than a system using
723 alternative drainfield materials. The United States Department
724 of Agriculture Soil Conservation Service soil maps, State of
725 Florida Water Management District data, and Federal Emergency
726 Management Agency Flood Insurance maps are resources that shall
727 be used to identify flood-prone areas.

728 2. The use of fill or mounding to elevate a drainfield
729 system out of the 10-year floodplain of rivers, streams, or
730 other bodies of flowing water shall not be permitted if such a
731 system lies within a regulatory floodway of the Suwannee and
732 Aucilla Rivers. In cases where the 10-year flood elevation does
733 not coincide with the boundaries of the regulatory floodway, the
734 regulatory floodway will be considered for the purposes of this
735 subsection to extend at a minimum to the 10-year flood
736 elevation.

737 (u) The owner of an aerobic treatment unit system shall
738 maintain a current maintenance service agreement with an aerobic
739 treatment unit maintenance entity permitted by the department.
740 The maintenance entity shall obtain a system operating permit
741 from the department for each aerobic treatment unit under
742 service contract. The maintenance entity shall inspect each
743 aerobic treatment unit system at least twice each year and shall
744 report quarterly to the department on the number of aerobic
745 treatment unit systems inspected and serviced. The owner shall
746 allow the department to inspect during reasonable hours each
747 aerobic treatment unit system at least annually, and such
748 inspection may include collection and analysis of system-

749 | effluent samples for performance criteria established by rule of
750 | the department.

751 | (v) The department may require the submission of detailed
752 | system construction plans that are prepared by a professional
753 | engineer registered in this state. The department shall
754 | establish by rule criteria for determining when such a
755 | submission is required.

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