

1                                   A bill to be entitled  
2           An act relating to hazard mitigation for  
3           coastal development; amending s. 161.085, F.S.;  
4           authorizing an agency, political subdivision,  
5           or municipality having jurisdiction over an  
6           impacted area to install rigid coastal armoring  
7           structures; authorizing the Department of  
8           Environmental Protection to revoke the  
9           authority of an agency, political subdivision,  
10          or municipality to install rigid coastal  
11          armoring structures; specifying conditions  
12          under which sand filled tubes or similar  
13          structures may be authorized as the core of a  
14          restored dune feature; amending s. 163.3178,  
15          F.S.; requiring the Division of Emergency  
16          Management to manage the update of regional  
17          hurricane evacuation studies; defining the term  
18          "coastal high-hazard area"; requiring the  
19          Department of Community Affairs to find that an  
20          application to amend a local government  
21          comprehensive plan which meets specified  
22          conditions concerning hurricane evacuation,  
23          evacuation time, and related mitigation  
24          complies with state coastal high-hazard  
25          standards; requiring each local government to  
26          amend its future land use map and comprehensive  
27          plan by a certain date to reflect such  
28          requirement and conditions; requiring local  
29          governments and developers to enter into  
30          certain agreements; amending s. 163.336, F.S.;  
31          revising the requirements for the placement of

1 beach-compatible material that is excavated  
2 during the coastal resort area redevelopment  
3 pilot project; extending the expiration date of  
4 the pilot project; requiring a report; amending  
5 s. 381.0065, F.S.; requiring the issuance of  
6 certain permits by the Department of Health for  
7 work seaward of the coastal construction  
8 control line to be contingent upon receipt of a  
9 coastal construction control line permit from  
10 the Department of Environmental Protection;  
11 providing an effective date.  
12

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

15 Section 1. Subsection (3) of section 161.085, Florida  
16 Statutes, is amended, and subsections (8) and (9) are added  
17 to that section, to read:

18 161.085 Rigid coastal armoring structures.--

19 (3) If erosion occurs as a result of a storm event  
20 which threatens private structures or public infrastructure  
21 and a permit has not been issued pursuant to subsection (2),  
22 unless the authority has been revoked by order of the  
23 department pursuant to subsection (8), an the agency,  
24 political subdivision, or municipality having jurisdiction  
25 over the impacted area may install or authorize installation  
26 of rigid coastal armoring structures for the protection of  
27 private structures or public infrastructure, or take other  
28 measures to relieve the threat to private structures or public  
29 infrastructure as long as the following items are considered  
30 and incorporated into such emergency measures:

31 (a) Protection of the beach-dune system.

1 (b) Siting and design criteria for the protective  
2 structure.

3 (c) Impacts on adjacent properties.

4 (d) Preservation of public beach access.

5 (e) Protection of native coastal vegetation and  
6 nesting marine turtles and their hatchlings.

7 (8) If a political subdivision or municipality  
8 installs or authorizes installation of a rigid coastal  
9 armoring structure that does not comply with subsection (3),  
10 and if the department determines that the action harms or  
11 interferes with the protection of the beach-dune system,  
12 adversely impacts adjacent properties, interferes with public  
13 beach access, or harms native coastal vegetation or nesting  
14 marine turtles or their hatchlings, the department may revoke  
15 by order the authority of the political subdivision or  
16 municipality under subsection (3) to install or authorize the  
17 installation of rigid coastal armoring structures.

18 (9) The department, or an agency, political  
19 subdivision, or municipality described in subsection (3), may  
20 authorize sand-filled tubes or similar structures proposed as  
21 the core of a restored dune feature if the applicant meets the  
22 requirements of this part and:

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

26 (b) Provides reasonable assurance that adequate sand  
27 cover will be maintained over the structure such that the  
28 structure will not interact with the beach dune system as  
29 rigid coastal armoring or adversely affect marine turtle  
30 nesting and provides for a responsible entity to conduct such  
31 maintenance; and

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

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

7           163.3178 Coastal management.--

8           (2) Each coastal management element required by s.  
 9 163.3177(6)(g) shall be based on studies, surveys, and data;  
 10 be consistent with coastal resource plans prepared and adopted  
 11 pursuant to general or special law; and contain:

12           (d) A component which outlines principles for hazard  
 13 mitigation and protection of human life against the effects of  
 14 natural disaster, including population evacuation, which take  
 15 into consideration the capability to safely evacuate the  
 16 density of coastal population proposed in the future land use  
 17 plan element in the event of an impending natural disaster.  
 18 The Division of Emergency Management shall manage the update  
 19 of the regional hurricane evacuation studies, ensure such  
 20 studies are done in a consistent manner, and ensure that the  
 21 methodology used for modeling storm surge is that used by the  
 22 National Hurricane Center.

23           (h) Designation of coastal high-hazard ~~coastal~~ areas  
 24 and the criteria for mitigation for a comprehensive plan  
 25 amendment in the coastal high-hazard area as defined in  
 26 subsection (9), which for uniformity and planning purposes  
 27 herein, are defined as category 1 evacuation zones. The  
 28 coastal high-hazard area is the area below the elevation of  
 29 the category 1 storm surge line as established by the Sea,  
 30 Lake and Overland Surges from Hurricanes (SLOSH) computerized  
 31 storm surge model. However, Application of mitigation and

1 development and redevelopment policies, pursuant to s.  
2 380.27(2), and any rules adopted thereunder, shall be at the  
3 discretion of local government.

4 (9)(a) A local government may elect to comply with  
5 rules 9J-5.012(3)(b)(6) and 9J-5.012(3)(b)(7), Florida  
6 Administrative Code, through the process provided in this  
7 section. A proposed amendment to a comprehensive plan is in  
8 compliance with state coastal high-hazard provisions as  
9 provided in rule 9J-5.012(3)(b)(6) and 9J-5.012(3)(b)(7) if:

10 1. The adopted level of service for out-of-county  
11 hurricane evacuation is maintained for a category 5 storm  
12 event, as measured by the Saffir-Simpson Scale;

13 2. A 12-hour evacuation time-to-shelter is maintained  
14 for the category 5 storm event, as measured by the  
15 Saffir-Simpson Scale, and shelter space reasonably expected to  
16 accommodate the residents of the development contemplated by a  
17 proposed amendment to the comprehensive plan is available; or

18 3. Appropriate mitigation is provided that will  
19 satisfy the provisions of subparagraph 1. or subparagraph 2.  
20 Appropriate mitigation shall include, without limitation,  
21 payment of money, contribution of land, and construction of  
22 hurricane shelters and transportation facilities. Required  
23 mitigation shall not exceed the amount required for a  
24 developer to accommodate impacts reasonably attributable to  
25 development. A local government and a developer shall enter  
26 into a binding agreement to memorialize the mitigation plan.

27 (b) For those local governments that have not  
28 established a level of service for out-of-county hurricane  
29 evacuation by July 1, 2008, but elect to comply with rules  
30 9J-5.012(3)(b)(6) and 9J-5.012(3)(b)(7), Florida  
31 Administrative Code, by following the process in paragraph

1 (a), the level of service shall be no greater than 16 hours  
2 for a category 5 storm event as measured on the Saffir-Simpson  
3 scale.

4 (c) By July 1, 2008, each local government must amend  
5 its future land use map and coastal management element to  
6 include the new definition of coastal high-hazard area and to  
7 depict the coastal high-hazard area on the future land use  
8 maps.

9 (d) This subsection shall take effect upon this act  
10 becoming a law and applies to all local governments.

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

13 163.336 Coastal resort area redevelopment pilot  
14 project.--

15 (2) PILOT PROJECT ADMINISTRATION.--

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

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

20 2. A community redevelopment area, enterprise zone,  
21 brownfield area, empowerment zone, or other such economically  
22 deprived areas as designated by the county or municipality  
23 with jurisdiction over the area.

24 (b) Local governments are encouraged to use the full  
25 range of economic and tax incentives available to facilitate  
26 and promote redevelopment and revitalization within the pilot  
27 project areas.

28 (c) The Office of the Governor, Department of  
29 Environmental Protection, and the Department of Community  
30 Affairs are directed to provide technical assistance to  
31 expedite permitting for redevelopment projects and

1 construction activities within the pilot project areas  
2 consistent with the principles, processes, and timeframes  
3 provided in s. 403.973.

4 (d) The Department of Environmental Protection shall  
5 exempt construction activities within the pilot project area  
6 in locations seaward of a coastal construction control line  
7 and landward of existing armoring from certain siting and  
8 design criteria pursuant to s. 161.053. However, such  
9 exemption shall not be deemed to exempt property within the  
10 pilot project area from applicable local land development  
11 regulations, including but not limited to, setback, side lot  
12 line, and lot coverage requirements. Such exemption shall  
13 apply to construction and redevelopment of structures  
14 involving the coverage, excavation, and impervious surface  
15 criteria of s. 161.053, and related adopted rules, as follows:

16 1. This review by the department of applications for  
17 permits for coastal construction within the pilot project area  
18 must apply to construction and redevelopment of structures  
19 subject to the coverage, excavation, and impervious surface  
20 criteria of s. 161.053, and related adopted rules. It is the  
21 intent of these provisions that the pilot project area be  
22 enabled to redevelop in a manner which meets the economic  
23 needs of the area while preserving public safety and existing  
24 resources, including natural resources.

25 2. The criteria for review under s. 161.053 are  
26 applicable within the pilot project area, except that the  
27 structures within the pilot project area shall not be subject  
28 to specific shore parallel coverage requirements and are  
29 allowed to exceed the 50 percent impervious surface  
30 requirement. In no case shall stormwater discharge be allowed  
31 onto, or seaward of, the frontal dune. Structures are also not

1 bound by the restrictions on excavation unless the  
2 construction will adversely affect the integrity of the  
3 existing seawall or rigid coastal armoring structure or  
4 stability of the existing beach and dune system. It is  
5 specifically contemplated that underground structures,  
6 including garages, will be permitted. All beach-compatible  
7 material excavated under this subparagraph must be maintained  
8 on site seaward of the coastal construction control line.  
9 However, during the permit-review process, pursuant to s.  
10 161.053, the department may favorably consider authorized sand  
11 placement on adjacent properties if the permittee has  
12 demonstrated every reasonable effort to effectively use all  
13 beach-quality material on site to enhance the beach and dune  
14 system, and has prepared a comprehensive plan for beach and  
15 dune nourishment for the adjoining area.

16 3. The review criteria in subparagraph 2. will apply  
17 to all construction within the pilot project area lying  
18 seaward of the coastal construction control line and landward  
19 of an existing viable seawall or rigid coastal armoring  
20 structure, if such construction is fronted by a seawall or  
21 rigid coastal armoring structure extending at least 1,000 feet  
22 without any interruptions other than beach access points. For  
23 purposes of this section, a viable seawall or rigid coastal  
24 armoring structure is a structure that has not deteriorated,  
25 dilapidated, or been damaged to such a degree that it no  
26 longer provides adequate protection to the upland property  
27 when considering the following criteria, including, but not  
28 limited to:

29 a. The top must be at or above the still water level,  
30 including setup, for the design storm of 30-year return storm  
31 plus the breaking wave calculated at its highest achievable

1 level based on the maximum eroded beach profile and highest  
2 surge level combination, and must be high enough to preclude  
3 runup overtopping;

4 b. The armoring must be stable under the design storm  
5 of 30-year return storm, including maximum localized scour,  
6 with adequate penetration; and

7 c. The armoring must have sufficient continuity or  
8 return walls to prevent flooding under the design storm of  
9 30-year return storm from impacting the proposed construction.

10 4. Where there exists a continuous line of rigid  
11 coastal armoring structure on either side of unarmored  
12 property and the adjacent line of rigid coastal armoring  
13 structures are having an adverse effect on or threaten the  
14 unarmored property, and the gap does not exceed 100 feet, the  
15 department may grant the necessary permits under s. 161.085 to  
16 close the gap.

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

21 6. Where there exists a continuous line of viable  
22 rigid coastal armoring structure on either side of a nonviable  
23 rigid coastal armoring structure, the department shall grant  
24 the necessary permits under s. 161.085 to replace such  
25 nonviable rigid coastal armoring structure with a viable rigid  
26 coastal armoring structure as defined in this section. This  
27 shall not apply to rigid coastal armoring structures  
28 constructed after May 1, 1998, unless such structures have  
29 been permitted pursuant to s. 161.085(2).

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

1 December 31, ~~2014~~ 2006. The department and affected local  
2 governments shall provide for an independent analysis of the  
3 economic value and environmental impact of the pilot project  
4 and provide a report to the Legislature on or before February  
5 1, 2008.

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

8 381.0065 Onsite sewage treatment and disposal systems;  
9 regulation.--

10 (4) PERMITS; INSTALLATION; AND CONDITIONS.--A person  
11 may not construct, repair, modify, abandon, or operate an  
12 onsite sewage treatment and disposal system without first  
13 obtaining a permit approved by the department. The department  
14 may issue permits to carry out this section, but shall not  
15 make the issuance of such permits contingent upon prior  
16 approval by the Department of Environmental Protection, except  
17 that the issuance of a permit for work seaward of the coastal  
18 construction control line established under s. 161.053 shall  
19 be contingent upon receipt of any required coastal  
20 construction control line permit from the Department of  
21 Environmental Protection. A construction permit is valid for  
22 18 months from the issuance date and may be extended by the  
23 department for one 90-day period under rules adopted by the  
24 department. A repair permit is valid for 90 days from the date  
25 of issuance. An operating permit must be obtained prior to the  
26 use of any aerobic treatment unit or if the establishment  
27 generates commercial waste. Buildings or establishments that  
28 use an aerobic treatment unit or generate commercial waste  
29 shall be inspected by the department at least annually to  
30 assure compliance with the terms of the operating permit. The  
31 operating permit for a commercial wastewater system is valid

1 for 1 year from the date of issuance and must be renewed  
2 annually. The operating permit for an aerobic treatment unit  
3 is valid for 2 years from the date of issuance and must be  
4 renewed every 2 years. If all information pertaining to the  
5 siting, location, and installation conditions or repair of an  
6 onsite sewage treatment and disposal system remains the same,  
7 a construction or repair permit for the onsite sewage  
8 treatment and disposal system may be transferred to another  
9 person, if the transferee files, within 60 days after the  
10 transfer of ownership, an amended application providing all  
11 corrected information and proof of ownership of the property.  
12 There is no fee associated with the processing of this  
13 supplemental information. A person may not contract to  
14 construct, modify, alter, repair, service, abandon, or  
15 maintain any portion of an onsite sewage treatment and  
16 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 (a) Subdivisions and lots in which each lot has a  
7 minimum area of at least one-half acre and either a minimum  
8 dimension of 100 feet or a mean of at least 100 feet of the  
9 side bordering the street and the distance formed by a line  
10 parallel to the side bordering the street drawn between the  
11 two most distant points of the remainder of the lot may be  
12 developed with a water system regulated under s. 381.0062 and  
13 onsite sewage treatment and disposal systems, provided the  
14 projected daily sewage flow does not exceed an average of  
15 1,500 gallons per acre per day, and provided satisfactory  
16 drinking water can be obtained and all distance and setback,  
17 soil condition, water table elevation, and other related  
18 requirements of this section and rules adopted under this  
19 section can be met.

20 (b) Subdivisions and lots using a public water system  
21 as defined in s. 403.852 may use onsite sewage treatment and  
22 disposal systems, provided there are no more than four lots  
23 per acre, provided the projected daily sewage flow does not  
24 exceed an average of 2,500 gallons per acre per day, and  
25 provided that all distance and setback, soil condition, water  
26 table elevation, and other related requirements that are  
27 generally applicable to the use of onsite sewage treatment and  
28 disposal systems are met.

29 (c) Notwithstanding the provisions of paragraphs (a)  
30 and (b), for subdivisions platted of record on or before  
31 October 1, 1991, when a developer or other appropriate entity

1 has previously made or makes provisions, including financial  
2 assurances or other commitments, acceptable to the Department  
3 of Health, that a central water system will be installed by a  
4 regulated public utility based on a density formula, private  
5 potable wells may be used with onsite sewage treatment and  
6 disposal systems until the agreed-upon densities are reached.  
7 The department may consider assurances filed with the  
8 Department of Business and Professional Regulation under  
9 chapter 498 in determining the adequacy of the financial  
10 assurance required by this paragraph. In a subdivision  
11 regulated by this paragraph, the average daily sewage flow may  
12 not exceed 2,500 gallons per acre per day. This section does  
13 not affect the validity of existing prior agreements. After  
14 October 1, 1991, the exception provided under this paragraph  
15 is not available to a developer or other appropriate entity.

16 (d) Paragraphs (a) and (b) do not apply to any  
17 proposed residential subdivision with more than 50 lots or to  
18 any proposed commercial subdivision with more than 5 lots  
19 where a publicly owned or investor-owned sewerage system is  
20 available. It is the intent of this paragraph not to allow  
21 development of additional proposed subdivisions in order to  
22 evade the requirements of this paragraph.

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

- 25 1. Seventy-five feet from a private potable well.
- 26 2. Two hundred feet from a public potable well serving  
27 a residential or nonresidential establishment having a total  
28 sewage flow of greater than 2,000 gallons per day.
- 29 3. One hundred feet from a public potable well serving  
30 a residential or nonresidential establishment having a total  
31 sewage flow of less than or equal to 2,000 gallons per day.

1           4. Fifty feet from any nonpotable well.

2           5. Ten feet from any storm sewer pipe, to the maximum  
3 extent possible, but in no instance shall the setback be less  
4 than 5 feet.

5           6. Seventy-five feet from the mean high-water line of  
6 a tidally influenced surface water body.

7           7. Seventy-five feet from the mean annual flood line  
8 of a permanent nontidal surface water body.

9           8. Fifteen feet from the design high-water line of  
10 retention areas, detention areas, or swales designed to  
11 contain standing or flowing water for less than 72 hours after  
12 a rainfall or the design high-water level of normally dry  
13 drainage ditches or normally dry individual lot stormwater  
14 retention areas.

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

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

23           1. Any residential lot that was platted and recorded  
24 on or after January 1, 1972, or that is part of a residential  
25 subdivision that was approved by the appropriate permitting  
26 agency on or after January 1, 1972, and that was eligible for  
27 an onsite sewage treatment and disposal system construction  
28 permit on the date of such platting and recording or approval  
29 shall be eligible for an onsite sewage treatment and disposal  
30 system construction permit, regardless of when the application  
31 for a permit is made. If rules in effect at the time the

1 permit application is filed cannot be met, residential lots  
2 platted and recorded or approved on or after January 1, 1972,  
3 shall, to the maximum extent possible, comply with the rules  
4 in effect at the time the permit application is filed. At a  
5 minimum, however, those residential lots platted and recorded  
6 or approved on or after January 1, 1972, but before January 1,  
7 1983, shall comply with those rules in effect on January 1,  
8 1983, and those residential lots platted and recorded or  
9 approved on or after January 1, 1983, shall comply with those  
10 rules in effect at the time of such platting and recording or  
11 approval. In determining the maximum extent of compliance with  
12 current rules that is possible, the department shall allow  
13 structures and appurtenances thereto which were authorized at  
14 the time such lots were platted and recorded or approved.

15         2. Lots platted before 1972 are subject to a 50-foot  
16 minimum surface water setback and are not subject to lot size  
17 requirements. The projected daily flow for onsite sewage  
18 treatment and disposal systems for lots platted before 1972  
19 may not exceed:

20             a. Two thousand five hundred gallons per acre per day  
21 for lots served by public water systems as defined in s.  
22 403.852.

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

25             (h)1. The department may grant variances in hardship  
26 cases which may be less restrictive than the provisions  
27 specified in this section. If a variance is granted and the  
28 onsite sewage treatment and disposal system construction  
29 permit has been issued, the variance may be transferred with  
30 the system construction permit, if the transferee files,  
31 within 60 days after the transfer of ownership, an amended

1 construction permit application providing all corrected  
2 information and proof of ownership of the property and if the  
3 same variance would have been required for the new owner of  
4 the property as was originally granted to the original  
5 applicant for the variance. There is no fee associated with  
6 the processing of this supplemental information. A variance  
7 may not be granted under this section until the department is  
8 satisfied that:

9 a. The hardship was not caused intentionally by the  
10 action of the applicant;

11 b. No reasonable alternative, taking into  
12 consideration factors such as cost, exists for the treatment  
13 of the sewage; and

14 c. The discharge from the onsite sewage treatment and  
15 disposal system will not adversely affect the health of the  
16 applicant or the public or significantly degrade the  
17 groundwater or surface waters.

18  
19 Where soil conditions, water table elevation, and setback  
20 provisions are determined by the department to be  
21 satisfactory, special consideration must be given to those  
22 lots platted before 1972.

23 2. The department shall appoint and staff a variance  
24 review and advisory committee, which shall meet monthly to  
25 recommend agency action on variance requests. The committee  
26 shall make its recommendations on variance requests at the  
27 meeting in which the application is scheduled for  
28 consideration, except for an extraordinary change in  
29 circumstances, the receipt of new information that raises new  
30 issues, or when the applicant requests an extension. The  
31 committee shall consider the criteria in subparagraph 1. in

1 its recommended agency action on variance requests and shall  
2 also strive to allow property owners the full use of their  
3 land where possible. The committee consists of the following:

4 a. The Division Director for Environmental Health of  
5 the department or his or her designee.

6 b. A representative from the county health  
7 departments.

8 c. A representative from the home building industry  
9 recommended by the Florida Home Builders Association.

10 d. A representative from the septic tank industry  
11 recommended by the Florida Onsite Wastewater Association.

12 e. A representative from the Department of  
13 Environmental Protection.

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

18 g. A representative from the engineering profession  
19 recommended by the Florida Engineering Society.

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

26 (i) A construction permit may not be issued for an  
27 onsite sewage treatment and disposal system in any area zoned  
28 or used for industrial or manufacturing purposes, or its  
29 equivalent, where a publicly owned or investor-owned sewage  
30 treatment system is available, or where a likelihood exists  
31 that the system will receive toxic, hazardous, or industrial

1 waste. An existing onsite sewage treatment and disposal system  
2 may be repaired if a publicly owned or investor-owned sewerage  
3 system is not available within 500 feet of the building sewer  
4 stub-out and if system construction and operation standards  
5 can be met. This paragraph does not require publicly owned or  
6 investor-owned sewerage treatment systems to accept anything  
7 other than domestic wastewater.

8         1. A building located in an area zoned or used for  
9 industrial or manufacturing purposes, or its equivalent, when  
10 such building is served by an onsite sewage treatment and  
11 disposal system, must not be occupied until the owner or  
12 tenant has obtained written approval from the department. The  
13 department shall not grant approval when the proposed use of  
14 the system is to dispose of toxic, hazardous, or industrial  
15 wastewater or toxic or hazardous chemicals.

16         2. Each person who owns or operates a business or  
17 facility in an area zoned or used for industrial or  
18 manufacturing purposes, or its equivalent, or who owns or  
19 operates a business that has the potential to generate toxic,  
20 hazardous, or industrial wastewater or toxic or hazardous  
21 chemicals, and uses an onsite sewage treatment and disposal  
22 system that is installed on or after July 5, 1989, must obtain  
23 an annual system operating permit from the department. A  
24 person who owns or operates a business that uses an onsite  
25 sewage treatment and disposal system that was installed and  
26 approved before July 5, 1989, need not obtain a system  
27 operating permit. However, upon change of ownership or  
28 tenancy, the new owner or operator must notify the department  
29 of the change, and the new owner or operator must obtain an  
30 annual system operating permit, regardless of the date that  
31 the system was installed or approved.

1           3. The department shall periodically review and  
2 evaluate the continued use of onsite sewage treatment and  
3 disposal systems in areas zoned or used for industrial or  
4 manufacturing purposes, or its equivalent, and may require the  
5 collection and analyses of samples from within and around such  
6 systems. If the department finds that toxic or hazardous  
7 chemicals or toxic, hazardous, or industrial wastewater have  
8 been or are being disposed of through an onsite sewage  
9 treatment and disposal system, the department shall initiate  
10 enforcement actions against the owner or tenant to ensure  
11 adequate cleanup, treatment, and disposal.

12           (j) An onsite sewage treatment and disposal system for  
13 a single-family residence that is designed by a professional  
14 engineer registered in the state and certified by such  
15 engineer as complying with performance criteria adopted by the  
16 department must be approved by the department subject to the  
17 following:

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

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

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

26           4. The owner of an engineer-designed performance-based  
27 system must maintain a current maintenance service agreement  
28 with a maintenance entity permitted by the department. The  
29 maintenance entity shall obtain a biennial system operating  
30 permit from the department for each system under service  
31 contract. The department shall inspect the system at least

1 annually, or on such periodic basis as the fee collected  
2 permits, and may collect system-effluent samples if  
3 appropriate to determine compliance with the performance  
4 criteria. The fee for the biennial operating permit shall be  
5 collected beginning with the second year of system operation.  
6 The maintenance entity shall inspect each system at least  
7 twice each year and shall report quarterly to the department  
8 on the number of systems inspected and serviced.

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

13           (k) An innovative system may be approved in  
14 conjunction with an engineer-designed site-specific system  
15 which is certified by the engineer to meet the  
16 performance-based criteria adopted by the department.

17           (l) For the Florida Keys, the department shall adopt a  
18 special rule for the construction, installation, modification,  
19 operation, repair, maintenance, and performance of onsite  
20 sewage treatment and disposal systems which considers the  
21 unique soil conditions and which considers water table  
22 elevations, densities, and setback requirements. On lots where  
23 a setback distance of 75 feet from surface waters, saltmarsh,  
24 and buttonwood association habitat areas cannot be met, an  
25 injection well, approved and permitted by the department, may  
26 be used for disposal of effluent from onsite sewage treatment  
27 and disposal systems.

28           (m) No product sold in the state for use in onsite  
29 sewage treatment and disposal systems may contain any  
30 substance in concentrations or amounts that would interfere  
31 with or prevent the successful operation of such system, or

1 that would cause discharges from such systems to violate  
2 applicable water quality standards. The department shall  
3 publish criteria for products known or expected to meet the  
4 conditions of this paragraph. In the event a product does not  
5 meet such criteria, such product may be sold if the  
6 manufacturer satisfactorily demonstrates to the department  
7 that the conditions of this paragraph are met.

8 (n) Evaluations for determining the seasonal  
9 high-water table elevations or the suitability of soils for  
10 the use of a new onsite sewage treatment and disposal system  
11 shall be performed by department personnel, professional  
12 engineers registered in the state, or such other persons with  
13 expertise, as defined by rule, in making such evaluations.  
14 Evaluations for determining mean annual flood lines shall be  
15 performed by those persons identified in paragraph (2)(i). The  
16 department shall accept evaluations submitted by professional  
17 engineers and such other persons as meet the expertise  
18 established by this section or by rule unless the department  
19 has a reasonable scientific basis for questioning the accuracy  
20 or completeness of the evaluation.

21 (o) The department shall appoint a research review and  
22 advisory committee, which shall meet at least semiannually.  
23 The committee shall advise the department on directions for  
24 new research, review and rank proposals for research  
25 contracts, and review draft research reports and make  
26 comments. The committee is comprised of:

- 27 1. A representative of the Division of Environmental  
28 Health of the Department of Health.
- 29 2. A representative from the septic tank industry.
- 30 3. A representative from the home building industry.

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1           4. A representative from an environmental interest  
2 group.

3           5. A representative from the State University System,  
4 from a department knowledgeable about onsite sewage treatment  
5 and disposal systems.

6           6. A professional engineer registered in this state  
7 who has work experience in onsite sewage treatment and  
8 disposal systems.

9           7. A representative from the real estate profession.

10          8. A representative from the restaurant industry.

11          9. A consumer.

12

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

18          (p) An application for an onsite sewage treatment and  
19 disposal system permit shall be completed in full, signed by  
20 the owner or the owner's authorized representative, or by a  
21 contractor licensed under chapter 489, and shall be  
22 accompanied by all required exhibits and fees. No specific  
23 documentation of property ownership shall be required as a  
24 prerequisite to the review of an application or the issuance  
25 of a permit. The issuance of a permit does not constitute  
26 determination by the department of property ownership.

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

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

4 (s) In the siting of onsite sewage treatment and  
5 disposal systems, including drainfields, shoulders, and  
6 slopes, guttering shall not be required on single-family  
7 residential dwelling units for systems located greater than 5  
8 feet from the roof drip line of the house. If guttering is  
9 used on residential dwelling units, the downspouts shall be  
10 directed away from the drainfield.

11 (t) Notwithstanding the provisions of subparagraph  
12 (g)1., onsite sewage treatment and disposal systems located in  
13 floodways of the Suwannee and Aucilla Rivers must adhere to  
14 the following requirements:

15 1. The absorption surface of the drainfield shall not  
16 be subject to flooding based on 10-year flood elevations.  
17 Provided, however, for lots or parcels created by the  
18 subdivision of land in accordance with applicable local  
19 government regulations prior to January 17, 1990, if an  
20 applicant cannot construct a drainfield system with the  
21 absorption surface of the drainfield at an elevation equal to  
22 or above 10-year flood elevation, the department shall issue a  
23 permit for an onsite sewage treatment and disposal system  
24 within the 10-year floodplain of rivers, streams, and other  
25 bodies of flowing water if all of the following criteria are  
26 met:

- 27 a. The lot is at least one-half acre in size;  
28 b. The bottom of the drainfield is at least 36 inches  
29 above the 2-year flood elevation; and  
30 c. The applicant installs either: a waterless,  
31 incinerating, or organic waste composting toilet and a

1 graywater system and drainfield in accordance with department  
2 rules; an aerobic treatment unit and drainfield in accordance  
3 with department rules; a system approved by the State Health  
4 Office that is capable of reducing effluent nitrate by at  
5 least 50 percent; or a system approved by the county health  
6 department pursuant to department rule other than a system  
7 using alternative drainfield materials. The United States  
8 Department of Agriculture Soil Conservation Service soil maps,  
9 State of Florida Water Management District data, and Federal  
10 Emergency Management Agency Flood Insurance maps are resources  
11 that shall be used to identify flood-prone areas.

12           2. The use of fill or mounding to elevate a drainfield  
13 system out of the 10-year floodplain of rivers, streams, or  
14 other bodies of flowing water shall not be permitted if such a  
15 system lies within a regulatory floodway of the Suwannee and  
16 Aucilla Rivers. In cases where the 10-year flood elevation  
17 does not coincide with the boundaries of the regulatory  
18 floodway, the regulatory floodway will be considered for the  
19 purposes of this subsection to extend at a minimum to the  
20 10-year flood elevation.

21           (u) The owner of an aerobic treatment unit system  
22 shall maintain a current maintenance service agreement with an  
23 aerobic treatment unit maintenance entity permitted by the  
24 department. The maintenance entity shall obtain a system  
25 operating permit from the department for each aerobic  
26 treatment unit under service contract. The maintenance entity  
27 shall inspect each aerobic treatment unit system at least  
28 twice each year and shall report quarterly to the department  
29 on the number of aerobic treatment unit systems inspected and  
30 serviced. The owner shall allow the department to inspect  
31 during reasonable hours each aerobic treatment unit system at

1 | least annually, and such inspection may include collection and  
2 | analysis of system-effluent samples for performance criteria  
3 | established by rule of the department.

4 |         (v) The department may require the submission of  
5 | detailed system construction plans that are prepared by a  
6 | professional engineer registered in this state. The department  
7 | shall establish by rule criteria for determining when such a  
8 | submission is required.

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

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