

By Senator Geller

31-820-07

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           requiring periodic inspections of onsite sewage  
5           treatment and disposal systems if the owner is  
6           not required to obtain an operating permit;  
7           requiring the Department of Health to adopt  
8           certain rules related to inspections; requiring  
9           the department to notify owners whose systems  
10          do not comply with department rules or state  
11          law; requiring sellers of real property on  
12          which an onsite sewage treatment and disposal  
13          system is located to notify the buyer of  
14          certain requirements in writing; providing that  
15          failure to comply with the inspection  
16          requirement does not constitute a lien,  
17          encumbrance, defect, or restriction on title;  
18          providing that failure to comply does not  
19          create a cause of action against a seller or  
20          title insurer; authorizing the department to  
21          seek an administrative remedy for  
22          noncompliance; providing conditions that must  
23          be met before the department may impose a fine;  
24          amending s. 381.0066, F.S.; specifying filing  
25          fees for inspection reports; requiring the  
26          department to spend specified portions of each  
27          filing fee on certain expenditures; creating s.  
28          381.00656, F.S.; establishing a grant program  
29          for the repair of onsite sewage disposal and  
30          treatment systems; providing criteria for  
31          qualifying for grants; allowing the department

1 to prioritize grant applications based upon  
2 certain criteria; requiring the department to  
3 adopt rules establishing application and award  
4 processes; providing for the use of excess  
5 funds; providing an effective date.  
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7 Be It Enacted by the Legislature of the State of Florida:  
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9 Section 1. Present subsection (5) of section 381.0065,  
10 Florida Statutes, is redesignated as subsection (6), and a new  
11 subsection (5) is added to that section, to read:

12 381.0065 Onsite sewage treatment and disposal systems;  
13 regulation.--

14 (5) PERIODIC INSPECTIONS.--If the owner of an onsite  
15 sewage treatment and disposal system is not required to obtain  
16 an operating permit, the owner must have the system inspected  
17 every 5 years to ensure the system's continued compliance with  
18 this section and the rules adopted under this section. The  
19 inspection shall be conducted by a septic tank contractor  
20 licensed under part III of chapter 489.

21 (a) Within 30 days after completing an inspection, the  
22 contractor shall furnish the owner with an inspection report  
23 and shall file a copy of the report with the department, along  
24 with the appropriate filing fee. The required elements of the  
25 inspection, the form for the inspection report, and the filing  
26 fee shall be established by the department by rule. If the  
27 inspection reveals that the system is not in compliance with  
28 this section and the rules adopted under this section, the  
29 inspection report must identify the measures necessary for  
30 remediation of the system and notify the owner of its  
31 permitting obligations.

1       (b) Before the transfer or sale of real property on  
2 which an onsite sewage treatment and disposal system is  
3 located, the seller of the property shall provide written  
4 notice to the buyer of the requirements of this subsection, in  
5 a format adopted by the department by rule, and provide the  
6 seller with a copy of the latest inspection report.

7       (c) Failure to comply with the requirements of this  
8 subsection does not constitute a lien, encumbrance, defect, or  
9 restriction on title to real property, and does not create any  
10 cause of action or liability against a real property seller or  
11 title insurer.

12       (d) The department may seek an administrative remedy  
13 under subsection (6) against an owner who fails to comply with  
14 the inspection requirements of paragraph (a); however, the  
15 department may not impose a fine against any owner unless the  
16 owner has received an initial citation notifying him or her of  
17 the violation and the owner has failed to remedy the violation  
18 within 60 days after receipt.

19       Section 2. Paragraph (m) is added to subsection (2) of  
20 section 381.0066, Florida Statutes, to read:

21       381.0066 Onsite sewage treatment and disposal systems;  
22 fees.--

23       (2) The minimum fees in the following fee schedule  
24 apply until changed by rule by the department within the  
25 following limits:

26       (m) Filing fee for inspection reports pursuant to s.  
27 381.0065(5): a fee of not less than \$40 or more than \$100.  
28 From this fee, \$10 shall be used to fund and administer the  
29 grant program established in s. 381.00656; up to \$5 shall be  
30 used to fund onsite sewage treatment and disposal system  
31 research, demonstration, and training projects; and up to \$3

1 may be used for educating the public, local governments,  
2 building officials, and construction professionals about  
3 available onsite sewage disposal and treatment systems and  
4 their proper maintenance.

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6 The funds collected pursuant to this subsection must be  
7 deposited in a trust fund administered by the department, to  
8 be used for the purposes stated in this section and ss.  
9 381.0065 and 381.00655.

10 Section 3. Section 381.00656, Florida Statutes, is  
11 created to read:

12 381.00656 Grant program for repair of onsite sewage  
13 disposal and treatment systems.--The department shall  
14 administer a grant program to assist owners of onsite sewage  
15 treatment and disposal systems that are found to be in  
16 violation of s. 381.0065 or the rules adopted thereunder. Such  
17 grants may be awarded to an owner for the purpose of repairing  
18 and bringing into compliance a system serving a single-family  
19 residence occupied by the owner, but only where the family  
20 occupying the residence has an income of less than or equal to  
21 200 percent of the federal poverty level at the time of  
22 application. The department may prioritize applications for an  
23 award of grant funds based upon the severity of a system's  
24 noncompliance, its relative environmental impact, the income  
25 of the family, or any combination thereof. The department  
26 shall adopt rules establishing the grant application and award  
27 process, including an application form. The department shall  
28 seek to make grants in each fiscal year equal to the total  
29 amount of grant funds available, and any excess funds shall be  
30 used for grant awards in subsequent years.

31 Section 4. This act shall take effect July 1, 2008.

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SENATE SUMMARY

Requires periodic inspections of onsite sewage treatment and disposal systems under certain circumstances. Requires the Department of Health to adopt certain rules related to inspections. Requires the department to notify owners whose systems do not comply with department rules or state law. Requires sellers of real property on which an onsite sewage treatment and disposal system is located to notify the buyer of certain requirements in writing. Provides that failure to comply with inspection requirements does not constitute a lien, encumbrance, defect, or restriction on title, and does not create a cause of action against a seller or title insurer. Allows the department to seek an administrative remedy for noncompliance. Restricts the department's ability to impose a fine. Specifies filing fees for inspection reports. Requires the department to spend specified portions of each filing fee on certain expenditures. Establishes a grant program for repair of onsite sewage disposal and treatment systems. Provides criteria for qualification for grants. Allows the department to prioritize grant applications based upon certain criteria. Requires the department to adopt rules establishing application and award processes. Provides for use of excess funds.