

By the Committee on Environmental Preservation and Conservation;  
and Senator Dean

592-01736-12

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1                                   A bill to be entitled  
2           An act relating to onsite sewage treatment and  
3           disposal systems; amending s. 381.0065, F.S.; deleting  
4           legislative intent; defining the term "bedroom";  
5           conforming cross-references; providing for any permit  
6           issued and approved by the Department of Health for  
7           the installation, modification, or repair of an onsite  
8           sewage treatment and disposal system to transfer with  
9           the title of the property; providing circumstances in  
10          which an onsite sewage treatment and disposal system  
11          is not considered abandoned; providing for the  
12          validity of an onsite sewage treatment and disposal  
13          system permit if rules change before final approval of  
14          the constructed system; providing that a system  
15          modification, replacement, or upgrade is not required  
16          unless a bedroom is added to a single-family home;  
17          deleting provisions requiring the department to  
18          administer an evaluation and assessment program of  
19          onsite sewage treatment and disposal systems and  
20          requiring property owners to have such systems  
21          evaluated at least once every 5 years; deleting  
22          obsolete provisions; creating s. 381.00651, F.S.;  
23          requiring a county or municipality containing a first  
24          magnitude spring to adopt by ordinance, under certain  
25          circumstances, the program for the periodic evaluation  
26          and assessment of onsite sewage treatment and disposal  
27          systems; requiring the county or municipality to  
28          notify the Secretary of State of the ordinance;  
29          authorizing a county or municipality, in specified

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30 circumstances, to opt out by a majority plus one vote  
31 of certain requirements by a specified date;  
32 authorizing a county or municipality to adopt or  
33 repeal, after a specified date, an ordinance creating  
34 an evaluation and assessment program, subject to  
35 notification of the Secretary of State; providing  
36 criteria for evaluations, qualified contractors, and  
37 repair of systems; providing for certain procedures  
38 and exemptions in special circumstances; defining the  
39 term "system failure"; requiring that certain  
40 procedures be used for conducting tank and drainfield  
41 evaluations; providing for certain procedures in  
42 special circumstances; providing for assessment  
43 procedures; providing requirements for county health  
44 departments; requiring the county or municipality to  
45 develop a system for tracking the evaluations;  
46 providing criteria; requiring counties and  
47 municipalities to notify the Secretary of  
48 Environmental Protection and the Department of Health  
49 that an evaluation program ordinance is adopted;  
50 requiring the Department of Environmental Protection  
51 to notify those counties or municipalities of the use  
52 of, and access to, certain state and federal program  
53 funds and to provide certain guidance and technical  
54 assistance upon request; prohibiting the adoption of  
55 certain rules by the Department of Health; providing  
56 for applicability; repealing s. 381.00656, F.S.,  
57 relating to a grant program for the repair of onsite  
58 sewage treatment and disposal systems; amending s.

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59 381.0066, F.S.; lowering the fees imposed by the  
60 department for certain permits; conforming cross-  
61 references; providing an effective date.  
62

63 Be It Enacted by the Legislature of the State of Florida:  
64

65 Section 1. Subsections (1), (5), (6), and (7) of section  
66 381.0065, Florida Statutes, are amended, paragraphs (b) through  
67 (p) of subsection (2) of that section are redesignated as  
68 paragraphs (c) through (q), respectively, a new paragraph (b) is  
69 added to that subsection, paragraph (j) of subsection (3) and  
70 paragraph (n) of subsection (4) of that section are amended, and  
71 paragraphs (w) through (z) are added to subsection (4) of that  
72 section, to read:

73 381.0065 Onsite sewage treatment and disposal systems;  
74 regulation.—

75 (1) LEGISLATIVE INTENT.—

76 (a) It is the intent of the Legislature that proper  
77 management of onsite sewage treatment and disposal systems is  
78 paramount to the health, safety, and welfare of the public. ~~It~~  
79 ~~is further the intent of the Legislature that the department~~  
80 ~~shall administer an evaluation program to ensure the operational~~  
81 ~~condition of the system and identify any failure with the~~  
82 ~~system.~~

83 ~~(b)~~ It is the intent of the Legislature that where a  
84 publicly owned or investor-owned sewerage system is not  
85 available, the department shall issue permits for the  
86 construction, installation, modification, abandonment, or repair  
87 of onsite sewage treatment and disposal systems under conditions

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88 as described in this section and rules adopted under this  
89 section. It is further the intent of the Legislature that the  
90 installation and use of onsite sewage treatment and disposal  
91 systems not adversely affect the public health or significantly  
92 degrade the groundwater or surface water.

93 (2) DEFINITIONS.—As used in ss. 381.0065–381.0067, the  
94 term:

95 (b)1. "Bedroom" means a room that can be used for sleeping  
96 and that:

97 a. For site-built dwellings, has a minimum of 70 square  
98 feet of conditioned space;

99 b. For manufactured homes, is constructed according to  
100 standards of the United States Department of Housing and Urban  
101 Development and has a minimum of 50 square feet of floor area;

102 c. Is located along an exterior wall;

103 d. Has a closet and a door or an entrance where a door  
104 could be reasonably installed; and

105 e. Has an emergency means of escape and rescue opening to  
106 the outside.

107 2. A room may not be considered a bedroom if it is used to  
108 access another room except a bathroom or closet.

109 3. "Bedroom" does not include a hallway, bathroom, kitchen,  
110 living room, family room, dining room, den, breakfast nook,  
111 pantry, laundry room, sunroom, recreation room, media/video  
112 room, or exercise room.

113 (3) DUTIES AND POWERS OF THE DEPARTMENT OF HEALTH.—The  
114 department shall:

115 (j) Supervise research on, demonstration of, and training  
116 on the performance, environmental impact, and public health

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117 impact of onsite sewage treatment and disposal systems within  
118 this state. Research fees collected under s. 381.0066(2)(k)  
119 ~~381.0066(2)(1)~~ must be used to develop and fund hands-on  
120 training centers designed to provide practical information about  
121 onsite sewage treatment and disposal systems to septic tank  
122 contractors, master septic tank contractors, contractors,  
123 inspectors, engineers, and the public and must also be used to  
124 fund research projects which focus on improvements of onsite  
125 sewage treatment and disposal systems, including use of  
126 performance-based standards and reduction of environmental  
127 impact. Research projects shall be initially approved by the  
128 technical review and advisory panel and shall be applicable to  
129 and reflect the soil conditions specific to Florida. Such  
130 projects shall be awarded through competitive negotiation, using  
131 the procedures provided in s. 287.055, to public or private  
132 entities that have experience in onsite sewage treatment and  
133 disposal systems in Florida and that are principally located in  
134 Florida. Research projects shall not be awarded to firms or  
135 entities that employ or are associated with persons who serve on  
136 either the technical review and advisory panel or the research  
137 review and advisory committee.

138 (4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not  
139 construct, repair, modify, abandon, or operate an onsite sewage  
140 treatment and disposal system without first obtaining a permit  
141 approved by the department. The department may issue permits to  
142 carry out this section, but shall not make the issuance of such  
143 permits contingent upon prior approval by the Department of  
144 Environmental Protection, except that the issuance of a permit  
145 for work seaward of the coastal construction control line

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146 established under s. 161.053 shall be contingent upon receipt of  
147 any required coastal construction control line permit from the  
148 Department of Environmental Protection. A construction permit is  
149 valid for 18 months from the issuance date and may be extended  
150 by the department for one 90-day period under rules adopted by  
151 the department. A repair permit is valid for 90 days from the  
152 date of issuance. An operating permit must be obtained prior to  
153 the use of any aerobic treatment unit or if the establishment  
154 generates commercial waste. Buildings or establishments that use  
155 an aerobic treatment unit or generate commercial waste shall be  
156 inspected by the department at least annually to assure  
157 compliance with the terms of the operating permit. The operating  
158 permit for a commercial wastewater system is valid for 1 year  
159 from the date of issuance and must be renewed annually. The  
160 operating permit for an aerobic treatment unit is valid for 2  
161 years from the date of issuance and must be renewed every 2  
162 years. If all information pertaining to the siting, location,  
163 and installation conditions or repair of an onsite sewage  
164 treatment and disposal system remains the same, a construction  
165 or repair permit for the onsite sewage treatment and disposal  
166 system may be transferred to another person, if the transferee  
167 files, within 60 days after the transfer of ownership, an  
168 amended application providing all corrected information and  
169 proof of ownership of the property. There is no fee associated  
170 with the processing of this supplemental information. A person  
171 may not contract to construct, modify, alter, repair, service,  
172 abandon, or maintain any portion of an onsite sewage treatment  
173 and disposal system without being registered under part III of  
174 chapter 489. A property owner who personally performs

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175 construction, maintenance, or repairs to a system serving his or  
176 her own owner-occupied single-family residence is exempt from  
177 registration requirements for performing such construction,  
178 maintenance, or repairs on that residence, but is subject to all  
179 permitting requirements. A municipality or political subdivision  
180 of the state may not issue a building or plumbing permit for any  
181 building that requires the use of an onsite sewage treatment and  
182 disposal system unless the owner or builder has received a  
183 construction permit for such system from the department. A  
184 building or structure may not be occupied and a municipality,  
185 political subdivision, or any state or federal agency may not  
186 authorize occupancy until the department approves the final  
187 installation of the onsite sewage treatment and disposal system.  
188 A municipality or political subdivision of the state may not  
189 approve any change in occupancy or tenancy of a building that  
190 uses an onsite sewage treatment and disposal system until the  
191 department has reviewed the use of the system with the proposed  
192 change, approved the change, and amended the operating permit.

193 (n) Evaluations for determining the seasonal high-water  
194 table elevations or the suitability of soils for the use of a  
195 new onsite sewage treatment and disposal system shall be  
196 performed by department personnel, professional engineers  
197 registered in the state, or such other persons with expertise,  
198 as defined by rule, in making such evaluations. Evaluations for  
199 determining mean annual flood lines shall be performed by those  
200 persons identified in paragraph (2)(j) ~~(2)(i)~~. The department  
201 shall accept evaluations submitted by professional engineers and  
202 such other persons as meet the expertise established by this  
203 section or by rule unless the department has a reasonable

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204 scientific basis for questioning the accuracy or completeness of  
205 the evaluation.

206 (w) Any permit issued and approved by the department for  
207 the installation, modification, or repair of an onsite sewage  
208 treatment and disposal system shall transfer with the title to  
209 the property in a real estate transaction. A title may not be  
210 encumbered at the time of transfer by new permit requirements by  
211 a governmental entity for an onsite sewage treatment and  
212 disposal system which differ from the permitting requirements in  
213 effect at the time the system was permitted, modified, or  
214 repaired. No inspection of a system shall be mandated by any  
215 governmental entity at the point of sale in a real estate  
216 transaction.

217 (x)1. An onsite sewage treatment and disposal system is not  
218 considered abandoned if the system is disconnected from a  
219 structure that was made unusable or destroyed following a  
220 disaster and was properly functioning at the time of  
221 disconnection and not adversely affected by the disaster. The  
222 onsite sewage treatment and disposal system may be reconnected  
223 to a rebuilt structure if:

224 a. The reconnection of the system is to the same type of  
225 structure which contains the same number of bedrooms or less,  
226 provided the square footage of the structure is less than or  
227 equal to 110 percent of the original square footage of the  
228 structure that existed prior to the disaster;

229 b. The system is not a sanitary nuisance; and

230 c. The system has not been altered without prior  
231 authorization.

232 2. An onsite sewage treatment and disposal system that



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233 serves a property that is foreclosed upon is not considered  
234 abandoned.

235 (y) If an onsite sewage treatment and disposal system  
236 permittee receives, relies upon, and undertakes construction of  
237 a system based upon a validly issued construction permit under  
238 rules applicable at the time of construction but a change to a  
239 rule occurs after the approval of the system for construction  
240 but before the final approval of the system, the rules  
241 applicable and in effect at the time of construction approval  
242 apply at the time of final approval if fundamental site  
243 conditions have not changed between the time of construction  
244 approval and final approval.

245 (z) A modification, replacement, or upgrade of an onsite  
246 sewage treatment and disposal system is not required for a  
247 remodeling addition to a single-family home if a bedroom is not  
248 added.

249 ~~(5) EVALUATION AND ASSESSMENT.—~~

250 ~~(a) Beginning July 1, 2011, the department shall administer~~  
251 ~~an onsite sewage treatment and disposal system evaluation~~  
252 ~~program for the purpose of assessing the fundamental operational~~  
253 ~~condition of systems and identifying any failures within the~~  
254 ~~systems. The department shall adopt rules implementing the~~  
255 ~~program standards, procedures, and requirements, including, but~~  
256 ~~not limited to, a schedule for a 5-year evaluation cycle,~~  
257 ~~requirements for the pump-out of a system or repair of a failing~~  
258 ~~system, enforcement procedures for failure of a system owner to~~  
259 ~~obtain an evaluation of the system, and failure of a contractor~~  
260 ~~to timely submit evaluation results to the department and the~~  
261 ~~system owner. The department shall ensure statewide~~

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262 ~~implementation of the evaluation and assessment program by~~  
263 ~~January 1, 2016.~~

264 ~~(b) Owners of an onsite sewage treatment and disposal~~  
265 ~~system, excluding a system that is required to obtain an~~  
266 ~~operating permit, shall have the system evaluated at least once~~  
267 ~~every 5 years to assess the fundamental operational condition of~~  
268 ~~the system, and identify any failure within the system.~~

269 ~~(c) All evaluation procedures must be documented and~~  
270 ~~nothing in this subsection limits the amount of detail an~~  
271 ~~evaluator may provide at his or her professional discretion. The~~  
272 ~~evaluation must include a tank and drainfield evaluation, a~~  
273 ~~written assessment of the condition of the system, and, if~~  
274 ~~necessary, a disclosure statement pursuant to the department's~~  
275 ~~procedure.~~

276 ~~(d)1. Systems being evaluated that were installed prior to~~  
277 ~~January 1, 1983, shall meet a minimum 6-inch separation from the~~  
278 ~~bottom of the drainfield to the wettest season water table~~  
279 ~~elevation as defined by department rule. All drainfield repairs,~~  
280 ~~replacements or modifications to systems installed prior to~~  
281 ~~January 1, 1983, shall meet a minimum 12-inch separation from~~  
282 ~~the bottom of the drainfield to the wettest season water table~~  
283 ~~elevation as defined by department rule.~~

284 ~~2. Systems being evaluated that were installed on or after~~  
285 ~~January 1, 1983, shall meet a minimum 12-inch separation from~~  
286 ~~the bottom of the drainfield to the wettest season water table~~  
287 ~~elevation as defined by department rule. All drainfield repairs,~~  
288 ~~replacements or modification to systems developed on or after~~  
289 ~~January 1, 1983, shall meet a minimum 24-inch separation from~~  
290 ~~the bottom of the drainfield to the wettest season water table~~

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291 elevation.

292 ~~(c) If documentation of a tank pump-out or a permitted new~~  
293 ~~installation, repair, or modification of the system within the~~  
294 ~~previous 5 years is provided, and states the capacity of the~~  
295 ~~tank and indicates that the condition of the tank is not a~~  
296 ~~sanitary or public health nuisance pursuant to department rule,~~  
297 ~~a pump-out of the system is not required.~~

298 ~~(f) Owners are responsible for paying the cost of any~~  
299 ~~required pump-out, repair, or replacement pursuant to department~~  
300 ~~rule, and may not request partial evaluation or the omission of~~  
301 ~~portions of the evaluation.~~

302 ~~(g) Each evaluation or pump-out required under this~~  
303 ~~subsection must be performed by a septic tank contractor or~~  
304 ~~master septic tank contractor registered under part III of~~  
305 ~~chapter 489, a professional engineer with wastewater treatment~~  
306 ~~system experience licensed pursuant to chapter 471, or an~~  
307 ~~environmental health professional certified under chapter 381 in~~  
308 ~~the area of onsite sewage treatment and disposal system~~  
309 ~~evaluation.~~

310 ~~(h) The evaluation report fee collected pursuant to s.~~  
311 ~~381.0066(2)(b) shall be remitted to the department by the~~  
312 ~~evaluator at the time the report is submitted.~~

313 ~~(i) Prior to any evaluation deadline, the department must~~  
314 ~~provide a minimum of 60 days' notice to owners that their~~  
315 ~~systems must be evaluated by that deadline. The department may~~  
316 ~~include a copy of any homeowner educational materials developed~~  
317 ~~pursuant to this section which provides information on the~~  
318 ~~proper maintenance of onsite sewage treatment and disposal~~  
319 ~~systems.~~

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320        (5)~~(6)~~ ENFORCEMENT; RIGHT OF ENTRY; CITATIONS.—

321        (a) Department personnel who have reason to believe  
322 noncompliance exists, may at any reasonable time, enter the  
323 premises permitted under ss. 381.0065-381.0066, or the business  
324 premises of any septic tank contractor or master septic tank  
325 contractor registered under part III of chapter 489, or any  
326 premises that the department has reason to believe is being  
327 operated or maintained not in compliance, to determine  
328 compliance with the provisions of this section, part I of  
329 chapter 386, or part III of chapter 489 or rules or standards  
330 adopted under ss. 381.0065-381.0067, part I of chapter 386, or  
331 part III of chapter 489. As used in this paragraph, the term  
332 "premises" does not include a residence or private building. To  
333 gain entry to a residence or private building, the department  
334 must obtain permission from the owner or occupant or secure an  
335 inspection warrant from a court of competent jurisdiction.

336        (b)1. The department may issue citations that may contain  
337 an order of correction or an order to pay a fine, or both, for  
338 violations of ss. 381.0065-381.0067, part I of chapter 386, or  
339 part III of chapter 489 or the rules adopted by the department,  
340 when a violation of these sections or rules is enforceable by an  
341 administrative or civil remedy, or when a violation of these  
342 sections or rules is a misdemeanor of the second degree. A  
343 citation issued under ss. 381.0065-381.0067, part I of chapter  
344 386, or part III of chapter 489 constitutes a notice of proposed  
345 agency action.

346        2. A citation must be in writing and must describe the  
347 particular nature of the violation, including specific reference  
348 to the provisions of law or rule allegedly violated.

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349           3. The fines imposed by a citation issued by the department  
350 may not exceed \$500 for each violation. Each day the violation  
351 exists constitutes a separate violation for which a citation may  
352 be issued.

353           4. The department shall inform the recipient, by written  
354 notice pursuant to ss. 120.569 and 120.57, of the right to an  
355 administrative hearing to contest the citation within 21 days  
356 after the date the citation is received. The citation must  
357 contain a conspicuous statement that if the recipient fails to  
358 pay the fine within the time allowed, or fails to appear to  
359 contest the citation after having requested a hearing, the  
360 recipient has waived the recipient's right to contest the  
361 citation and must pay an amount up to the maximum fine.

362           5. The department may reduce or waive the fine imposed by  
363 the citation. In determining whether to reduce or waive the  
364 fine, the department must consider the gravity of the violation,  
365 the person's attempts at correcting the violation, and the  
366 person's history of previous violations including violations for  
367 which enforcement actions were taken under ss. 381.0065-  
368 381.0067, part I of chapter 386, part III of chapter 489, or  
369 other provisions of law or rule.

370           6. Any person who willfully refuses to sign and accept a  
371 citation issued by the department commits a misdemeanor of the  
372 second degree, punishable as provided in s. 775.082 or s.  
373 775.083.

374           7. The department, pursuant to ss. 381.0065-381.0067, part  
375 I of chapter 386, or part III of chapter 489, shall deposit any  
376 fines it collects in the county health department trust fund for  
377 use in providing services specified in those sections.

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378           8. This section provides an alternative means of enforcing  
379 ss. 381.0065-381.0067, part I of chapter 386, and part III of  
380 chapter 489. This section does not prohibit the department from  
381 enforcing ss. 381.0065-381.0067, part I of chapter 386, or part  
382 III of chapter 489, or its rules, by any other means. However,  
383 the department must elect to use only a single method of  
384 enforcement for each violation.

385           ~~(6)-(7) LAND APPLICATION OF SEPTAGE PROHIBITED.-Effective~~  
386 January 1, 2016, the land application of septage from onsite  
387 sewage treatment and disposal systems is prohibited. ~~By February~~  
388 ~~1, 2011, the department, in consultation with the Department of~~  
389 ~~Environmental Protection, shall provide a report to the~~  
390 ~~Governor, the President of the Senate, and the Speaker of the~~  
391 ~~House of Representatives, recommending alternative methods to~~  
392 ~~establish enhanced treatment levels for the land application of~~  
393 ~~septage from onsite sewage and disposal systems. The report~~  
394 ~~shall include, but is not limited to, a schedule for the~~  
395 ~~reduction in land application, appropriate treatment levels,~~  
396 ~~alternative methods for treatment and disposal, enhanced~~  
397 ~~application site permitting requirements including any~~  
398 ~~requirements for nutrient management plans, and the range of~~  
399 ~~costs to local governments, affected businesses, and individuals~~  
400 ~~for alternative treatment and disposal methods. The report shall~~  
401 ~~also include any recommendations for legislation or rule~~  
402 ~~authority needed to reduce land application of septage.~~

403           Section 2. Section 381.00651, Florida Statutes, is created  
404 to read:

405           381.00651 Periodic evaluation and assessment of onsite  
406 sewage treatment and disposal systems.-

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407       (1) For the purposes of this section, the term "first  
408 magnitude spring" means a spring that has a median water  
409 discharge of greater than or equal to 100 cubic feet per second  
410 for the period of record, as determined by the Department of  
411 Environmental Protection.

412       (2) A county or municipality that contains a first  
413 magnitude spring shall, by no later than January 1, 2013,  
414 develop and adopt by local ordinance an onsite sewage treatment  
415 and disposal system evaluation and assessment program that meets  
416 the requirements of this section. The ordinance may apply within  
417 all or part of its geographic area. Those counties or  
418 municipalities containing a first magnitude spring which have  
419 already adopted an onsite sewage treatment and disposal system  
420 evaluation and assessment program and which meet the  
421 grandfathering requirements contained in this section, or have  
422 chosen to opt out of this section in the manner provided herein,  
423 are exempt from the requirement to adopt an ordinance  
424 implementing an evaluation and assessment program. The governing  
425 body of a local government that chooses to opt out of this  
426 section, by a majority plus one vote of the members of the  
427 governing board, shall do so by adopting a resolution that  
428 indicates an intent on the part of such local government not to  
429 adopt an onsite sewage treatment and disposal system evaluation  
430 and assessment program. Such resolution shall be addressed and  
431 transmitted to the Secretary of State. Absent an interlocal  
432 agreement or county charter provision to the contrary, a  
433 municipality may elect to opt out of the requirements of this  
434 section, by a majority plus one vote of the members of the  
435 governing board, notwithstanding a contrary decision of the

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436 governing body of a county. Any local government that has  
437 properly opted out of this section but subsequently chooses to  
438 adopt an evaluation and assessment program may do so only  
439 pursuant to the requirements of this section and may not deviate  
440 from such requirements.

441 (3) Any county or municipality that does not contain a  
442 first magnitude spring may at any time develop and adopt by  
443 local ordinance an onsite sewage treatment and disposal system  
444 evaluation and assessment program, provided such program meets  
445 and does not deviate from the requirements of this section.

446 (4) Any county or municipality that has adopted such a  
447 program before July 1, 2011, may continue to enforce its program  
448 without having to meet the requirements of this section,  
449 provided such program does not require an evaluation at the  
450 point of sale in a real estate transaction.

451 (5) Any county or municipality may repeal an ordinance  
452 adopted pursuant to this section only if the county or  
453 municipality notifies the Secretary of State by letter of the  
454 repeal. No county or municipality may adopt an onsite sewage  
455 treatment and disposal system evaluation and assessment program  
456 except pursuant to this section.

457 (6) The requirements for an onsite sewage treatment and  
458 disposal system evaluation and assessment program are as  
459 follows:

460 (a) *Evaluations.*—An evaluation of each onsite sewage  
461 treatment and disposal system within all or part of the county's  
462 or municipality's jurisdiction must take place once every 5  
463 years to assess the fundamental operational condition of the  
464 system and to identify system failures. The ordinance may not



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465 mandate an evaluation at the point of sale in a real estate  
466 transaction and may not require a soil examination. The location  
467 of the system shall be identified. A tank and drainfield  
468 evaluation and a written assessment of the overall condition of  
469 the system pursuant to the assessment procedure prescribed in  
470 subsection (7) are required.

471 (b) *Qualified contractors.*—Each evaluation required under  
472 this subsection must be performed by a qualified contractor, who  
473 may be a septic tank contractor or master septic tank contractor  
474 registered under part III of chapter 489, a professional  
475 engineer having wastewater treatment system experience and  
476 licensed under chapter 471, or an environmental health  
477 professional certified under this chapter in the area of onsite  
478 sewage treatment and disposal system evaluation. Evaluations and  
479 pump-outs may also be performed by an authorized employee  
480 working under the supervision of an individual listed in this  
481 paragraph; however, all evaluation forms must be signed by a  
482 qualified contractor in writing or by electronic signature.

483 (c) *Repair of systems.*—The local ordinance may not require  
484 a repair, modification, or replacement of a system as a result  
485 of an evaluation unless the evaluation identifies a system  
486 failure. For purposes of this subsection, the term “system  
487 failure” means a condition existing within an onsite sewage  
488 treatment and disposal system which results in the discharge of  
489 untreated or partially treated wastewater onto the ground  
490 surface or into surface water or results in the failure of  
491 building plumbing to discharge properly and presents a sanitary  
492 nuisance. A system is not in failure if the system does not have  
493 a minimum separation distance between the drainfield and the

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494 wettest season water table or if an obstruction in a sanitary  
495 line or an effluent screen or filter prevents effluent from  
496 flowing into a drainfield. If a system failure is identified and  
497 several allowable remedial measures are available to resolve the  
498 failure, the system owner may choose the least costly allowable  
499 remedial measure to fix the system. There may be instances in  
500 which a pump-out is sufficient to resolve a system failure.  
501 Allowable remedial measures to resolve a system failure are  
502 limited to what is necessary to resolve the failure and must  
503 meet, to the maximum extent practicable, the requirements of the  
504 repair code in effect when the repair is made, subject to the  
505 exceptions specified in s. 381.0065(4)(g). An engineer-designed  
506 performance-based treatment system to reduce nutrients may not  
507 be required as an alternative remediation measure to resolve the  
508 failure of a conventional system.

509 (d) Exemptions.—

510 1. The local ordinance shall exempt from the evaluation  
511 requirements any system that is required to obtain an operating  
512 permit pursuant to state law or that is inspected by the  
513 department pursuant to the annual permit inspection requirements  
514 of chapter 513.

515 2. The local ordinance may provide for an exemption or an  
516 extension of time to obtain an evaluation and assessment if  
517 connection to a sewer system is available, connection to the  
518 sewer system is imminent, and written arrangements for payment  
519 of any utility assessments or connection fees have been made by  
520 the system owner.

521 3. An onsite sewage treatment and disposal system serving a  
522 residential dwelling unit on a lot with a ratio of one bedroom

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523 per acre or greater is exempt from the requirements of this  
524 section and may not be included in any onsite sewage treatment  
525 and disposal system inspection program.

526 (7) The following procedures shall be used for conducting  
527 evaluations:

528 (a) Tank evaluation.—The tank evaluation shall assess the  
529 apparent structural condition and watertightness of the tank and  
530 shall estimate the size of the tank. The evaluation must include  
531 a pump-out. However, an ordinance may not require a pump-out if  
532 there is documentation indicating that a tank pump-out or a  
533 permitted new installation, repair, or modification of the  
534 system has occurred within the previous 5 years, identifying the  
535 capacity of the tank, and indicating that the condition of the  
536 tank is structurally sound and watertight. Visual inspection of  
537 the tank must be made when the tank is empty to detect cracks,  
538 leaks, or other defects. Baffles or tees must be checked to  
539 ensure that they are intact and secure. The evaluation shall  
540 note the presence and condition of outlet devices, effluent  
541 filters, and compartment walls; any structural defect in the  
542 tank; the condition and fit of the tank lid, including manholes;  
543 whether surface water can infiltrate the tank; and whether the  
544 tank was pumped out. If the tank, in the opinion of the  
545 qualified contractor, is in danger of being damaged by leaving  
546 the tank empty after inspection, the tank shall be refilled  
547 before concluding the inspection. Broken or damaged lids or  
548 manholes shall be replaced without obtaining a repair permit.

549 (b) Drainfield evaluation.—The drainfield evaluation must  
550 include a determination of the approximate size and location of  
551 the drainfield. The evaluation shall state whether there is any

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552 sewage or effluent visible on the ground or discharging to a  
553 ditch or other water body and the location of any downspout or  
554 other source of water near or in the vicinity of the drainfield.

555 (c) *Special circumstances.*—If the system contains pumps,  
556 siphons, or alarms, the following information may be provided at  
557 the request of the homeowner:

558 1. An assessment of dosing tank integrity, including the  
559 approximate volume and the type of material used in the tank's  
560 construction;

561 2. Whether the pump is elevated off the bottom of the  
562 chamber and its operational status;

563 3. Whether the system has a check valve and purge hole; and

564 4. Whether the system has a high-water alarm, and if so  
565 whether the alarm is audio or visual or both, the location and  
566 operational condition of the alarm, and whether the electrical  
567 connections to the alarm appear satisfactory.

568 (d) *Assessment procedure.*—All evaluation procedures used by  
569 a qualified contractor shall be documented. The qualified  
570 contractor shall provide a copy of a written, signed evaluation  
571 report to the property owner upon completion of the evaluation  
572 and to the county health department within 30 days after the  
573 evaluation. The report shall contain the name and license number  
574 of the company providing the report. A copy of the evaluation  
575 report shall be retained by the local county health department  
576 for a minimum of 5 years and until a subsequent inspection  
577 report is filed. The front cover of the report must identify any  
578 system failure and include a clear and conspicuous notice to the  
579 owner that the owner has a right to have any remediation of the  
580 failure performed by a qualified contractor other than the

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581 contractor performing the evaluation. The report must further  
582 identify any crack, leak, improper fit, or other defect in the  
583 tank, manhole, or lid, and any other damaged or missing  
584 component; any sewage or effluent visible on the ground or  
585 discharging to a ditch or other surface water body; any  
586 downspout, stormwater, or other source of water directed onto or  
587 toward the system; and any other maintenance need or condition  
588 of the system at the time of the evaluation which, in the  
589 opinion of the qualified contractor, would possibly interfere  
590 with or restrict any future repair or modification to the  
591 existing system. The report shall conclude with an overall  
592 assessment of the fundamental operational condition of the  
593 system.

594 (8) The county health department shall administer any  
595 evaluation program on behalf of a county, or a municipality  
596 within the county, that has adopted an evaluation program  
597 pursuant to this section. In order to administer the evaluation  
598 program, the county or municipality, in consultation with the  
599 county health department, may develop a reasonable fee schedule  
600 to be used solely to pay for the costs of administering the  
601 evaluation program. Such a fee schedule shall be identified in  
602 the ordinance that adopts the evaluation program. When arriving  
603 at a reasonable fee schedule, the estimated annual revenues to  
604 be derived from fees may not exceed reasonable estimated annual  
605 costs of the program. Fees shall be assessed to the system owner  
606 during an inspection and separately identified on the invoice of  
607 the qualified contractor. Fees shall be remitted by the  
608 qualified contractor to the county health department. The county  
609 health department's administrative responsibilities include the

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610 following:

611 (a) Providing a notice to the system owner at least 60 days  
612 before the system is due for an evaluation. The notice may  
613 include information on the proper maintenance of onsite sewage  
614 treatment and disposal systems.

615 (b) In consultation with the Department of Health,  
616 providing uniform disciplinary procedures and penalties for  
617 qualified contractors who do not comply with the requirements of  
618 the adopted ordinance, including, but not limited to, failure to  
619 provide the evaluation report as required in this subsection to  
620 the system owner and the county health department. Only the  
621 county health department may assess penalties against system  
622 owners for failure to comply with the adopted ordinance,  
623 consistent with existing requirements of law.

624 (c) Developing its own database and tracking systems to  
625 encompass evaluation programs adopted by the county or  
626 municipalities within its jurisdiction. The database shall also  
627 be used to collect, store, and index information obtained from  
628 the evaluation reports filed by each qualified contractor with  
629 the county health department. The tracking system:

630 1. Must include the ability to collect and store the  
631 description, addresses, and locations of the onsite sewage  
632 treatment and disposal systems within each jurisdiction; an  
633 inventory of the number of onsite sewage treatment and disposal  
634 systems within each jurisdiction; and the total number and types  
635 of system failures within each jurisdiction.

636 2. May include the ability to collect and store other data  
637 trends deemed relevant by the county health department resulting  
638 from an assessment and evaluation of the overall condition of

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639 onsite sewage treatment and disposal systems.

640 3. May be Internet-based.

641 4. May be designed to be used by contractors to report all  
642 service and evaluation events and by the county health  
643 department to notify owners of onsite sewage treatment and  
644 disposal systems when evaluations are due. Data and information  
645 shall be recorded and updated as service and evaluations are  
646 conducted and reported.

647 (9) (a) A county or municipality that adopts an onsite  
648 sewage treatment and disposal system evaluation and assessment  
649 program pursuant to this section shall notify the Secretary of  
650 Environmental Protection, the Department of Health, and the  
651 applicable county health department upon the adoption of its  
652 ordinance establishing the program.

653 (b) Upon receipt of the notice under paragraph (a), the  
654 Department of Environmental Protection shall, within existing  
655 resources, notify the county or municipality of the potential  
656 use of, and access to, program funds under the Clean Water State  
657 Revolving Fund or s. 319 of the Clean Water Act, provide  
658 guidance in the application process to receive such moneys, and  
659 provide advice and technical assistance to the county or  
660 municipality on how to establish a low-interest revolving loan  
661 program or how to model a revolving loan program after the low-  
662 interest loan program of the Clean Water State Revolving Fund.  
663 This paragraph does not obligate the Department of Environmental  
664 Protection to provide any county or municipality with money to  
665 fund such programs.

666 (c) The Department of Health may not adopt any rule that  
667 alters the provisions of this section.

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668 (10) This section does not:

669 (a) Derogate or limit county and municipal home rule  
670 authority to act outside the scope of the evaluation and  
671 assessment program set forth in this section.

672 (b) Repeal or affect any other law relating to the subject  
673 matter of this section.

674 (c) Prohibit a county or municipality that has adopted an  
675 evaluation and assessment program pursuant to this section from:

676 1. Enforcing existing ordinances or adopting new ordinances  
677 relating to onsite sewage treatment facilities to address public  
678 health and safety if such ordinances do not repeal, suspend, or  
679 alter the requirements or limitations of this section.

680 2. Adopting local environmental and pollution abatement  
681 measures for water quality improvement as provided for by law if  
682 such measures do not repeal, suspend, or alter the requirements  
683 or limitations of this section.

684 3. Exercising its independent and existing authority to use  
685 and meet the requirements of s. 381.00655.

686 Section 3. Section 381.00656, Florida Statutes, is  
687 repealed.

688 Section 4. Subsection (2) of section 381.0066, Florida  
689 Statutes, is amended to read:

690 381.0066 Onsite sewage treatment and disposal systems;  
691 fees.—

692 (2) The minimum fees in the following fee schedule apply  
693 until changed by rule by the department within the following  
694 limits:

695 (a) Application review, permit issuance, or system  
696 inspection, including repair of a subsurface, mound, filled, or



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697 other alternative system or permitting of an abandoned system: a  
698 fee of not less than \$25, or more than \$125.

699 ~~(b) A 5-year evaluation report submitted pursuant to s.~~  
700 ~~381.0065(5): a fee not less than \$15, or more than \$30. At least~~  
701 ~~\$1 and no more than \$5 collected pursuant to this paragraph~~  
702 ~~shall be used to fund a grant program established under s.~~  
703 ~~381.00656.~~

704 (b)~~(e)~~ Site evaluation, site reevaluation, evaluation of a  
705 system previously in use, or a per annum septage disposal site  
706 evaluation: a fee of not less than \$40, or more than \$115.

707 (c)~~(d)~~ Biennial Operating permit for aerobic treatment  
708 units or performance-based treatment systems: a fee of not more  
709 than \$100.

710 (d)~~(e)~~ Annual operating permit for systems located in areas  
711 zoned for industrial manufacturing or equivalent uses or where  
712 the system is expected to receive wastewater which is not  
713 domestic in nature: a fee of not less than \$150, or more than  
714 \$300.

715 (e)~~(f)~~ Innovative technology: a fee not to exceed \$25,000.

716 (f)~~(g)~~ Septage disposal service, septage stabilization  
717 facility, portable or temporary toilet service, tank  
718 manufacturer inspection: a fee of not less than \$25, or more  
719 than \$200, per year.

720 (g)~~(h)~~ Application for variance: a fee of not less than  
721 \$150, or more than \$300.

722 (h)~~(i)~~ Annual operating permit for waterless, incinerating,  
723 or organic waste composting toilets: a fee of not less than \$15  
724 ~~\$50~~, or more than \$30 ~~\$150~~.

725 (i)~~(j)~~ Aerobic treatment unit or performance-based

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726 treatment system maintenance entity permit: a fee of not less  
727 than \$25, or more than \$150, per year.

728 (j)~~(k)~~ Reinspection fee per visit for site inspection after  
729 system construction approval or for noncompliant system  
730 installation per site visit: a fee of not less than \$25, or more  
731 than \$100.

732 (k)~~(l)~~ Research: An additional \$5 fee shall be added to  
733 each new system construction permit issued to be used to fund  
734 onsite sewage treatment and disposal system research,  
735 demonstration, and training projects. Five dollars from any  
736 repair permit fee collected under this section shall be used for  
737 funding the hands-on training centers described in s.  
738 381.0065(3)(j).

739 (l)~~(m)~~ Annual operating permit, including annual inspection  
740 and any required sampling and laboratory analysis of effluent,  
741 for an engineer-designed performance-based system: a fee of not  
742 less than \$150, or more than \$300.

743

744 ~~On or before January 1, 2011, the Surgeon General, after~~  
745 ~~consultation with the Revenue Estimating Conference, shall~~  
746 ~~determine a revenue neutral fee schedule for services provided~~  
747 ~~pursuant to s. 381.0065(5) within the parameters set in~~  
748 ~~paragraph (b). Such determination is not subject to the~~  
749 ~~provisions of chapter 120. The funds collected pursuant to this~~  
750 ~~subsection must be deposited in a trust fund administered by the~~  
751 ~~department, to be used for the purposes stated in this section~~  
752 ~~and ss. 381.0065 and 381.00655.~~

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