

By the Committees on Health Regulation; and Environmental Preservation and Conservation; and Senator Dean

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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, under certain conditions;
15 providing that a system modification, replacement, or
16 upgrade is not required unless a bedroom is added to a
17 single-family home; deleting provisions requiring the
18 department to administer an evaluation and assessment
19 program of onsite sewage treatment and disposal
20 systems and requiring property owners to have such
21 systems evaluated at least once every 5 years;
22 deleting obsolete provisions; creating s. 381.00651,
23 F.S.; requiring a county or municipality containing a
24 first magnitude spring to adopt by ordinance, under
25 certain circumstances, the program for the periodic
26 evaluation and assessment of onsite sewage treatment
27 and disposal systems; requiring the county or
28 municipality to notify the Secretary of State of the
29 ordinance; authorizing a county or municipality, in

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30 specified circumstances, to opt out by a majority plus
31 one vote 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 contractor
43 immunity from liability under certain conditions;
44 providing for assessment procedures; providing
45 requirements for county health departments; requiring
46 the Department of Health to allow county health
47 departments and qualified contractors to access the
48 state database to track data and evaluation reports;
49 requiring counties and municipalities to notify the
50 Secretary of Environmental Protection and the
51 Department of Health when an evaluation program
52 ordinance is adopted; requiring the Department of
53 Environmental Protection to notify those counties or
54 municipalities of the use of, and access to, certain
55 state and federal program funds and to provide certain
56 guidance and technical assistance upon request;
57 prohibiting the adoption of certain rules by the
58 Department of Health; providing for applicability;

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59 repealing s. 381.00656, F.S., relating to a grant
60 program for the repair of onsite sewage treatment and
61 disposal systems; amending s. 381.0066, F.S.; lowering
62 the fees imposed by the department for certain
63 permits; conforming cross-references; providing an
64 effective date.

65

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

67

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

76 381.0065 Onsite sewage treatment and disposal systems;
77 regulation.—

78 (1) LEGISLATIVE INTENT.—

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

86 **(b)** It is the intent of the Legislature that where a
87 publicly owned or investor-owned sewerage system is not

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88 available, the department shall issue permits for the
89 construction, installation, modification, abandonment, or repair
90 of onsite sewage treatment and disposal systems under conditions
91 as described in this section and rules adopted under this
92 section. It is further the intent of the Legislature that the
93 installation and use of onsite sewage treatment and disposal
94 systems not adversely affect the public health or significantly
95 degrade the groundwater or surface water.

96 (2) DEFINITIONS.—As used in ss. 381.0065-381.0067, the
97 term:

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

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

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

105 c. Is located along an exterior wall;

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

108 e. Has an emergency means of escape and rescue opening to
109 the outside.

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

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

116 (3) DUTIES AND POWERS OF THE DEPARTMENT OF HEALTH.—The

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117 department shall:

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

141 (4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not
142 construct, repair, modify, abandon, or operate an onsite sewage
143 treatment and disposal system without first obtaining a permit
144 approved by the department. The department may issue permits to
145 carry out this section, but shall not make the issuance of such

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146 permits contingent upon prior approval by the Department of
147 Environmental Protection, except that the issuance of a permit
148 for work seaward of the coastal construction control line
149 established under s. 161.053 shall be contingent upon receipt of
150 any required coastal construction control line permit from the
151 Department of Environmental Protection. A construction permit is
152 valid for 18 months from the issuance date and may be extended
153 by the department for one 90-day period under rules adopted by
154 the department. A repair permit is valid for 90 days from the
155 date of issuance. An operating permit must be obtained prior to
156 the use of any aerobic treatment unit or if the establishment
157 generates commercial waste. Buildings or establishments that use
158 an aerobic treatment unit or generate commercial waste shall be
159 inspected by the department at least annually to assure
160 compliance with the terms of the operating permit. The operating
161 permit for a commercial wastewater system is valid for 1 year
162 from the date of issuance and must be renewed annually. The
163 operating permit for an aerobic treatment unit is valid for 2
164 years from the date of issuance and must be renewed every 2
165 years. If all information pertaining to the siting, location,
166 and installation conditions or repair of an onsite sewage
167 treatment and disposal system remains the same, a construction
168 or repair permit for the onsite sewage treatment and disposal
169 system may be transferred to another person, if the transferee
170 files, within 60 days after the transfer of ownership, an
171 amended application providing all corrected information and
172 proof of ownership of the property. There is no fee associated
173 with the processing of this supplemental information. A person
174 may not contract to construct, modify, alter, repair, service,

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175 abandon, or maintain any portion of an onsite sewage treatment
176 and disposal system without being registered under part III of
177 chapter 489. A property owner who personally performs
178 construction, maintenance, or repairs to a system serving his or
179 her own owner-occupied single-family residence is exempt from
180 registration requirements for performing such construction,
181 maintenance, or repairs on that residence, but is subject to all
182 permitting requirements. A municipality or political subdivision
183 of the state may not issue a building or plumbing permit for any
184 building that requires the use of an onsite sewage treatment and
185 disposal system unless the owner or builder has received a
186 construction permit for such system from the department. A
187 building or structure may not be occupied and a municipality,
188 political subdivision, or any state or federal agency may not
189 authorize occupancy until the department approves the final
190 installation of the onsite sewage treatment and disposal system.
191 A municipality or political subdivision of the state may not
192 approve any change in occupancy or tenancy of a building that
193 uses an onsite sewage treatment and disposal system until the
194 department has reviewed the use of the system with the proposed
195 change, approved the change, and amended the operating permit.

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

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204 shall accept evaluations submitted by professional engineers and
205 such other persons as meet the expertise established by this
206 section or by rule unless the department has a reasonable
207 scientific basis for questioning the accuracy or completeness of
208 the evaluation.

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

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

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

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

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233 c. The system has not been altered without prior
234 authorization.

235 2. An onsite sewage treatment and disposal system that
236 serves a property that is foreclosed upon is not considered
237 abandoned.

238 (y) If an onsite sewage treatment and disposal system
239 permittee receives, relies upon, and undertakes construction of
240 a system based upon a validly issued construction permit under
241 rules applicable at the time of construction but a change to a
242 rule occurs within 5 years after the approval of the system for
243 construction but before the final approval of the system, the
244 rules applicable and in effect at the time of construction
245 approval apply at the time of final approval if fundamental site
246 conditions have not changed between the time of construction
247 approval and final approval.

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

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

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

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262 ~~obtain an evaluation of the system, and failure of a contractor~~
263 ~~to timely submit evaluation results to the department and the~~
264 ~~system owner. The department shall ensure statewide~~
265 ~~implementation of the evaluation and assessment program by~~
266 ~~January 1, 2016.~~

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

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

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

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

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291 ~~replacements or modification to systems developed on or after~~
292 ~~January 1, 1983, shall meet a minimum 24-inch separation from~~
293 ~~the bottom of the drainfield to the wettest season water table~~
294 ~~elevation.~~

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

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

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

313 ~~(h) The evaluation report fee collected pursuant to s.~~
314 ~~381.0066(2)(b) shall be remitted to the department by the~~
315 ~~evaluator at the time the report is submitted.~~

316 ~~(i) Prior to any evaluation deadline, the department must~~
317 ~~provide a minimum of 60 days' notice to owners that their~~
318 ~~systems must be evaluated by that deadline. The department may~~
319 ~~include a copy of any homeowner educational materials developed~~

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320 ~~pursuant to this section which provides information on the~~
321 ~~proper maintenance of onsite sewage treatment and disposal~~
322 ~~systems.~~

323 (5)~~(6)~~ ENFORCEMENT; RIGHT OF ENTRY; CITATIONS.—

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

339 (b)1. The department may issue citations that may contain
340 an order of correction or an order to pay a fine, or both, for
341 violations of ss. 381.0065-381.0067, part I of chapter 386, or
342 part III of chapter 489 or the rules adopted by the department,
343 when a violation of these sections or rules is enforceable by an
344 administrative or civil remedy, or when a violation of these
345 sections or rules is a misdemeanor of the second degree. A
346 citation issued under ss. 381.0065-381.0067, part I of chapter
347 386, or part III of chapter 489 constitutes a notice of proposed
348 agency action.

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

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

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

365 5. The department may reduce or waive the fine imposed by
366 the citation. In determining whether to reduce or waive the
367 fine, the department must consider the gravity of the violation,
368 the person's attempts at correcting the violation, and the
369 person's history of previous violations including violations for
370 which enforcement actions were taken under ss. 381.0065-
371 381.0067, part I of chapter 386, part III of chapter 489, or
372 other provisions of law or rule.

373 6. Any person who willfully refuses to sign and accept a
374 citation issued by the department commits a misdemeanor of the
375 second degree, punishable as provided in s. 775.082 or s.
376 775.083.

377 7. The department, pursuant to ss. 381.0065-381.0067, part

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378 I of chapter 386, or part III of chapter 489, shall deposit any
379 fines it collects in the county health department trust fund for
380 use in providing services specified in those sections.

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

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

406 Section 2. Section 381.00651, Florida Statutes, is created

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407 to read:

408 381.00651 Periodic evaluation and assessment of onsite
409 sewage treatment and disposal systems.-

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

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

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436 municipality may elect to opt out of the requirements of this
437 section, by a majority plus one vote of the members of the
438 governing board, notwithstanding a contrary decision of the
439 governing body of a county. Any local government that has
440 properly opted out of this section but subsequently chooses to
441 adopt an evaluation and assessment program may do so only
442 pursuant to the requirements of this section and may not deviate
443 from such requirements.

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

449 (4) Notwithstanding any other provision in this section, a
450 county or municipality that has adopted a program before July 1,
451 2011, may continue to enforce its current program without having
452 to meet the requirements of this section, provided such program
453 does not require an evaluation at the point of sale in a real
454 estate transaction.

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

461 (6) The requirements for an onsite sewage treatment and
462 disposal system evaluation and assessment program are as
463 follows:

464 (a) Evaluations.—An evaluation of each onsite sewage

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465 treatment and disposal system within all or part of the county's
466 or municipality's jurisdiction must take place once every 5
467 years to assess the fundamental operational condition of the
468 system and to identify system failures. The ordinance may not
469 mandate an evaluation at the point of sale in a real estate
470 transaction and may not require a soil examination. The location
471 of the system shall be identified. A tank and drainfield
472 evaluation and a written assessment of the overall condition of
473 the system pursuant to the assessment procedure prescribed in
474 subsection (7) are required.

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

487 (c) *Repair of systems.*—The local ordinance may not require
488 a repair, modification, or replacement of a system as a result
489 of an evaluation unless the evaluation identifies a system
490 failure. For purposes of this subsection, the term "system
491 failure" means a condition existing within an onsite sewage
492 treatment and disposal system which results in the discharge of
493 untreated or partially treated wastewater onto the ground

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

513 (d) Exemptions.—

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

519 2. The local ordinance may provide for an exemption or an
520 extension of time to obtain an evaluation and assessment if
521 connection to a sewer system is available, connection to the
522 sewer system is imminent, and written arrangements for payment

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523 of any utility assessments or connection fees have been made by
524 the system owner.

525 3. An onsite sewage treatment and disposal system serving a
526 residential dwelling unit on a lot with a ratio of one bedroom
527 per acre or greater is exempt from the requirements of this
528 section and may not be included in any onsite sewage treatment
529 and disposal system inspection program.

530 (7) The following procedures shall be used for conducting
531 evaluations:

532 (a) Tank evaluation.—The tank evaluation shall assess the
533 apparent structural condition and watertightness of the tank and
534 shall estimate the size of the tank. The evaluation must include
535 a pump-out. However, an ordinance may not require a pump-out if
536 there is documentation indicating that a tank pump-out or a
537 permitted new installation, repair, or modification of the
538 system has occurred within the previous 5 years, identifying the
539 capacity of the tank, and indicating that the condition of the
540 tank is structurally sound and watertight. Visual inspection of
541 the tank must be made when the tank is empty to detect cracks,
542 leaks, or other defects. Baffles or tees must be checked to
543 ensure that they are intact and secure. The evaluation shall
544 note the presence and condition of outlet devices, effluent
545 filters, and compartment walls; any structural defect in the
546 tank; the condition and fit of the tank lid, including manholes;
547 whether surface water can infiltrate the tank; and whether the
548 tank was pumped out. If the tank, in the opinion of the
549 qualified contractor, is in danger of being damaged by leaving
550 the tank empty after inspection, the tank shall be refilled
551 before concluding the inspection. Broken or damaged lids or

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552 manholes shall be replaced without obtaining a repair permit.

553 (b) Drainfield evaluation.—The drainfield evaluation must
554 include a determination of the approximate size and location of
555 the drainfield. The evaluation shall state whether there is any
556 sewage or effluent visible on the ground or discharging to a
557 ditch or other water body and the location of any downspout or
558 other source of water near or in the vicinity of the drainfield.

559 (c) Special circumstances.—If the system contains pumps,
560 siphons, or alarms, the following information may be provided at
561 the request of the homeowner:

562 1. An assessment of dosing tank integrity, including the
563 approximate volume and the type of material used in the tank's
564 construction;

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

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

568 4. Whether the system has a high-water alarm, and if so
569 whether the alarm is audio or visual or both, the location and
570 operational condition of the alarm, and whether the electrical
571 connections to the alarm appear satisfactory.

572
573 If the homeowner does not request this information, the
574 qualified contractor and its employee are not liable for any
575 damages directly relating from a failure of the system's pumps,
576 siphons, or alarms. This exclusion of liability must be stated
577 on the front cover of the report required under paragraph (d).

578 (d) Assessment procedure.—All evaluation procedures used by
579 a qualified contractor shall be documented in the environmental
580 health database of the Department of Health. The qualified

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581 contractor shall provide a copy of a written, signed evaluation
582 report to the property owner upon completion of the evaluation
583 and to the county health department within 30 days after the
584 evaluation. The report shall contain the name and license number
585 of the company providing the report. A copy of the evaluation
586 report shall be retained by the local county health department
587 for a minimum of 5 years and until a subsequent inspection
588 report is filed. The front cover of the report must identify any
589 system failure and include a clear and conspicuous notice to the
590 owner that the owner has a right to have any remediation of the
591 failure performed by a qualified contractor other than the
592 contractor performing the evaluation. The report must further
593 identify any crack, leak, improper fit, or other defect in the
594 tank, manhole, or lid, and any other damaged or missing
595 component; any sewage or effluent visible on the ground or
596 discharging to a ditch or other surface water body; any
597 downspout, stormwater, or other source of water directed onto or
598 toward the system; and any other maintenance need or condition
599 of the system at the time of the evaluation which, in the
600 opinion of the qualified contractor, would possibly interfere
601 with or restrict any future repair or modification to the
602 existing system. The report shall conclude with an overall
603 assessment of the fundamental operational condition of the
604 system.

605 (8) The county health department shall administer any
606 evaluation program on behalf of a county, or a municipality
607 within the county, that has adopted an evaluation program
608 pursuant to this section. In order to administer the evaluation
609 program, the county or municipality, in consultation with the

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610 county health department, may develop a reasonable fee schedule
611 to be used solely to pay for the costs of administering the
612 evaluation program. Such a fee schedule shall be identified in
613 the ordinance that adopts the evaluation program. When arriving
614 at a reasonable fee schedule, the estimated annual revenues to
615 be derived from fees may not exceed reasonable estimated annual
616 costs of the program. Fees shall be assessed to the system owner
617 during an inspection and separately identified on the invoice of
618 the qualified contractor. Fees shall be remitted by the
619 qualified contractor to the county health department. The county
620 health department's administrative responsibilities include the
621 following:

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

626 (b) In consultation with the Department of Health,
627 providing uniform disciplinary procedures and penalties for
628 qualified contractors who do not comply with the requirements of
629 the adopted ordinance, including, but not limited to, failure to
630 provide the evaluation report as required in this subsection to
631 the system owner and the county health department. Only the
632 county health department may assess penalties against system
633 owners for failure to comply with the adopted ordinance,
634 consistent with existing requirements of law.

635 (9) (a) A county or municipality that adopts an onsite
636 sewage treatment and disposal system evaluation and assessment
637 program pursuant to this section shall notify the Secretary of
638 Environmental Protection, the Department of Health, and the

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639 applicable county health department upon the adoption of its
640 ordinance establishing the program.

641 (b) Upon receipt of the notice under paragraph (a), the
642 Department of Environmental Protection shall, within existing
643 resources, notify the county or municipality of the potential
644 use of, and access to, program funds under the Clean Water State
645 Revolving Fund or s. 319 of the Clean Water Act, provide
646 guidance in the application process to receive such moneys, and
647 provide advice and technical assistance to the county or
648 municipality on how to establish a low-interest revolving loan
649 program or how to model a revolving loan program after the low-
650 interest loan program of the Clean Water State Revolving Fund.
651 This paragraph does not obligate the Department of Environmental
652 Protection to provide any county or municipality with money to
653 fund such programs.

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

656 (d) The Department of Health must allow county health
657 departments and qualified contractors access to the
658 environmental health database to track relevant information and
659 assimilate data from assessment and evaluation reports of the
660 overall condition of onsite sewage treatment and disposal
661 systems. The environmental health database must be used by
662 contractors to report each service and evaluation event and by a
663 county health department to notify owners of onsite sewage
664 treatment and disposal systems when evaluations are due. Data
665 and information must be recorded and updated as service and
666 evaluations are conducted and reported.

667 (10) This section does not:

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668 (a) Limit county and municipal home rule authority to act
669 outside the scope of the evaluation and assessment program set
670 forth in this section;

671 (b) Repeal or affect any other law relating to the subject
672 matter of onsite sewage treatment and disposal systems; or

673 (c) Prohibit a county or municipality from:

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

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

682 3. Exercising its independent and existing authority to
683 meet the requirements of s. 381.0065.

684 Section 3. Section 381.00656, Florida Statutes, is
685 repealed.

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

688 381.0066 Onsite sewage treatment and disposal systems;
689 fees.—

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

693 (a) Application review, permit issuance, or system
694 inspection, including repair of a subsurface, mound, filled, or
695 other alternative system or permitting of an abandoned system: a
696 fee of not less than \$25, or more than \$125.

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697 ~~(b) A 5-year evaluation report submitted pursuant to s.~~
698 ~~381.0065(5): a fee not less than \$15, or more than \$30. At least~~
699 ~~\$1 and no more than \$5 collected pursuant to this paragraph~~
700 ~~shall be used to fund a grant program established under s.~~
701 ~~381.00656.~~

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

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

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

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

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

718 (g)~~(h)~~ Application for variance: a fee of not less than
719 \$150, or more than \$300.

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

723 (i)~~(j)~~ Aerobic treatment unit or performance-based
724 treatment system maintenance entity permit: a fee of not less
725 than \$25, or more than \$150, per year.

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

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

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

741
742 ~~On or before January 1, 2011, the Surgeon General, after~~
743 ~~consultation with the Revenue Estimating Conference, shall~~
744 ~~determine a revenue neutral fee schedule for services provided~~
745 ~~pursuant to s. 381.0065(5) within the parameters set in~~
746 ~~paragraph (b). Such determination is not subject to the~~
747 ~~provisions of chapter 120.~~ The funds collected pursuant to this
748 subsection must be deposited in a trust fund administered by the
749 department, to be used for the purposes stated in this section
750 and ss. 381.0065 and 381.00655.

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