

By Senator Stewart

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1 A bill to be entitled
2 An act relating to onsite sewage treatment and
3 disposal system inspections; amending s. 381.0065,
4 F.S.; requiring that onsite sewage treatment and
5 disposal systems be inspected by specified
6 professionals at the point of sale in real estate
7 transactions; specifying system inspection
8 requirements for sold properties that are within a
9 specified distance of Florida waters; specifying
10 repair requirements for such properties if the
11 inspection indicates that repairs are needed;
12 specifying penalties for certain violations of such
13 requirements; requiring the Department of Health to
14 adopt rules; amending s. 381.00651, F.S.; deleting
15 provisions prohibiting specified ordinances from
16 mandating onsite sewage treatment and disposal system
17 evaluations and soil examinations at the point of sale
18 in real estate transactions; providing an effective
19 date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Paragraph (w) of subsection (4) of section
24 381.0065, Florida Statutes, is amended to read:

25 381.0065 Onsite sewage treatment and disposal systems;
26 regulation.—

27 (4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not
28 construct, repair, modify, abandon, or operate an onsite sewage
29 treatment and disposal system without first obtaining a permit

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30 approved by the department. The department may issue permits to
31 carry out this section, but shall not make the issuance of such
32 permits contingent upon prior approval by the Department of
33 Environmental Protection, except that the issuance of a permit
34 for work seaward of the coastal construction control line
35 established under s. 161.053 shall be contingent upon receipt of
36 any required coastal construction control line permit from the
37 Department of Environmental Protection. A construction permit is
38 valid for 18 months from the issuance date and may be extended
39 by the department for one 90-day period under rules adopted by
40 the department. A repair permit is valid for 90 days from the
41 date of issuance. An operating permit must be obtained prior to
42 the use of any aerobic treatment unit or if the establishment
43 generates commercial waste. Buildings or establishments that use
44 an aerobic treatment unit or generate commercial waste shall be
45 inspected by the department at least annually to assure
46 compliance with the terms of the operating permit. The operating
47 permit for a commercial wastewater system is valid for 1 year
48 from the date of issuance and must be renewed annually. The
49 operating permit for an aerobic treatment unit is valid for 2
50 years from the date of issuance and must be renewed every 2
51 years. If all information pertaining to the siting, location,
52 and installation conditions or repair of an onsite sewage
53 treatment and disposal system remains the same, a construction
54 or repair permit for the onsite sewage treatment and disposal
55 system may be transferred to another person, if the transferee
56 files, within 60 days after the transfer of ownership, an
57 amended application providing all corrected information and
58 proof of ownership of the property. There is no fee associated

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59 with the processing of this supplemental information. A person
60 may not contract to construct, modify, alter, repair, service,
61 abandon, or maintain any portion of an onsite sewage treatment
62 and disposal system without being registered under part III of
63 chapter 489. A property owner who personally performs
64 construction, maintenance, or repairs to a system serving his or
65 her own owner-occupied single-family residence is exempt from
66 registration requirements for performing such construction,
67 maintenance, or repairs on that residence, but is subject to all
68 permitting requirements. A municipality or political subdivision
69 of the state may not issue a building or plumbing permit for any
70 building that requires the use of an onsite sewage treatment and
71 disposal system unless the owner or builder has received a
72 construction permit for such system from the department. A
73 building or structure may not be occupied and a municipality,
74 political subdivision, or any state or federal agency may not
75 authorize occupancy until the department approves the final
76 installation of the onsite sewage treatment and disposal system.
77 A municipality or political subdivision of the state may not
78 approve any change in occupancy or tenancy of a building that
79 uses an onsite sewage treatment and disposal system until the
80 department has reviewed the use of the system with the proposed
81 change, approved the change, and amended the operating permit.

82 (w)1. Any permit issued and approved by the department for
83 the installation, modification, or repair of an onsite sewage
84 treatment and disposal system transfers ~~shall transfer~~ with the
85 title to the property in a real estate transaction. A title may
86 not be encumbered at the time of transfer by new permit
87 requirements by a governmental entity for an onsite sewage

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88 treatment and disposal system which differ from the permitting
89 requirements in effect at the time the system was permitted,
90 modified, or repaired. An inspection of a system must be
91 performed by a septic tank contractor or master septic tank
92 contractor registered under part III of chapter 489, a
93 professional engineer who has wastewater treatment system
94 experience and is licensed under chapter 471, or an
95 environmental health professional certified under this chapter
96 in the area of onsite sewage treatment and disposal system
97 evaluation; however, a governmental entity may not require an
98 inspection under this subparagraph ~~may not be mandated by a~~
99 ~~governmental entity~~ at the point of sale in a real estate
100 transaction, except as specified in subparagraph 2. This
101 paragraph does not affect a septic tank phase-out deferral
102 program implemented by a consolidated government as defined in
103 s. 9, Art. VIII of the State Constitution (1885).

104 2. In addition to the onsite sewage treatment and disposal
105 system inspection requirements relating to real estate
106 transactions specified in subparagraph 1. for properties within
107 1,000 feet of Florida waters, the following additional
108 requirements apply:

109 a. An inspection of any onsite sewage treatment and
110 disposal system must be completed before any real estate
111 transaction involving a sale of a property. Such inspections are
112 valid for 1 year after the date of completion of such
113 inspection.

114 b. All inspections must include fully emptying the onsite
115 sewage treatment and disposal system and cleaning the walls of
116 the system in order to conduct a full inspection of its

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117 surfaces.

118 c. If the inspection indicates that repairs are needed to
119 the onsite sewage treatment and disposal system, the inspector
120 shall notify the department of such need. Upon closing of a real
121 estate transaction involving a property needing such repairs,
122 the seller shall notify the department of the sale. The new
123 property owner has 6 months after the date of sale to make such
124 repairs. The department may, upon request of the new property
125 owner, grant a reasonable extension of time for such repairs for
126 ongoing construction or renovations occurring on the property.

127 d. If the selling property owner obtains more than one
128 inspection within 1 year before the closing of a real estate
129 transaction, the department shall determine, based on a review
130 of all inspections submitted during this period, the repairs to
131 the system required to be made by the new property owner and
132 provide notice of its determination to the new property owner.
133 The new property owner has 6 months from the date of receipt of
134 such notice to make the repairs.

135 e. After the expiration of time prescribed for repairs in
136 sub-subparagraph c., the department shall inspect the system to
137 ensure that the repairs were completed properly.

138 f. If the department finds that the system was not repaired
139 to sufficiently remedy the system deficiencies noted in the
140 initial inspection, the department shall notify the property
141 owner of such deficiency within 15 days. The property owner has
142 45 days after the receipt of the notice to remedy the
143 deficiency. If, upon reinspection, the department finds that a
144 property owner still has failed to remedy such deficiency, the
145 property owner is subject to an administrative penalty of up to

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146 \$500 and an ongoing penalty of \$10 per day until the property
147 owner reasonably demonstrates, to the satisfaction of the
148 department, that repair work to remedy the deficiency has been
149 initiated and will be properly and timely completed.

150 g. The department shall adopt rules to implement this
151 subparagraph, including adopting a standard for when repairs are
152 required pursuant to this subparagraph based on the overall
153 provisions of this section.

154 Section 2. Paragraph (a) of subsection (6) of section
155 381.00651, Florida Statutes, is reenacted to read:

156 381.00651 Periodic evaluation and assessment of onsite
157 sewage treatment and disposal systems.—

158 (6) The requirements for an onsite sewage treatment and
159 disposal system evaluation and assessment program are as
160 follows:

161 (a) *Evaluations.*—An evaluation of each onsite sewage
162 treatment and disposal system within all or part of the county's
163 or municipality's jurisdiction must take place once every 5
164 years to assess the fundamental operational condition of the
165 system and to identify system failures. The ordinance may not
166 mandate an evaluation at the point of sale in a real estate
167 transaction and may not require a soil examination. The location
168 of the system shall be identified. A tank and drainfield
169 evaluation and a written assessment of the overall condition of
170 the system pursuant to the assessment procedure prescribed in
171 subsection (7) are required.

172 Section 3. This act shall take effect July 1, 2017.