

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

BILL: SB 150

INTRODUCER: Senator Brandes

SUBJECT: Sanitary Sewer Laterals

DATE: November 1, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dyson	Rogers	EN	Favorable
2.	_____	_____	JU	_____
3.	_____	_____	RC	_____

I. Summary:

SB 150 encourages counties and municipalities to establish, by July 1, 2022, an evaluation and rehabilitation program for sanitary sewer laterals on residential and commercial properties within their jurisdictions to identify and reduce extraneous flow from leaking sanitary sewer laterals.

The bill defines the term “sanitary sewer lateral” as a privately owned pipeline connecting a property to the main sewer line and which is maintained and repaired by the property owner.

The encouraged program’s goals are to:

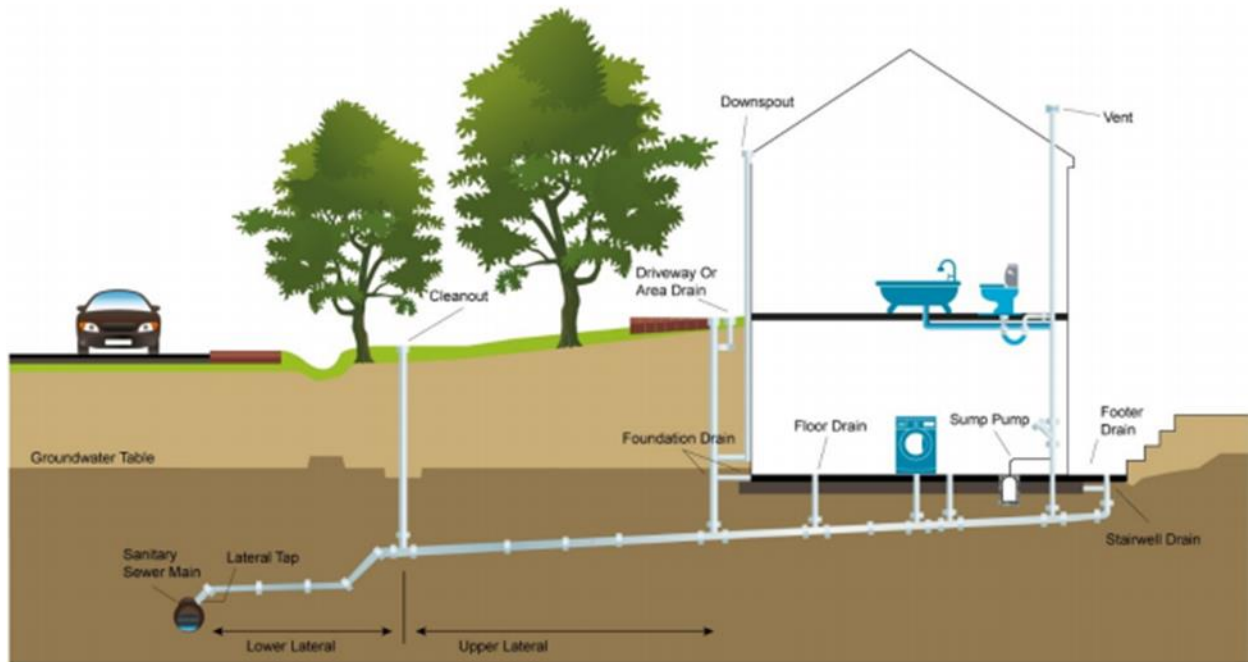
- Establish a system that identifies defective, damaged, or deteriorated sanitary sewer laterals on residential and commercial properties;
- Consider economical methods for a property owner to repair or replace damaged sanitary sewer laterals; and
- Establish a public database to store information on properties where damaged sewer laterals have been found.

The bill also requires a seller of real property to disclose any known defects in the property’s sanitary sewer lateral to a prospective buyer prior to executing a contract for sale.

II. Present Situation:

Sanitary Sewer Laterals

A sanitary sewer lateral is the portion of the sewer network connecting individual and private properties to the public sewer system.¹ The diagram below shows an example of a sanitary sewer lateral configuration.²



Sanitary sewer laterals are often in poor condition and defects can occur due to aging systems, structural failure, lack of maintenance, or poor construction and design practices.³ Problems in sanitary sewer laterals can have a significant impact on the performance of the sewer system and treatment plan. Private laterals are estimated to contribute to about 40 percent of a system's infiltration and inflow to sanitary sewers.⁴ Cracked or broken laterals can allow groundwater and infiltrating rainwater to enter into the sewer system which, at high levels, can cause problems at the treatment facility or overload the sewers and cause sanitary sewer overflows.⁵

¹ U.S. Environmental Protection Agency, *Private Sewer Laterals* (June 2014), available at <https://www3.epa.gov/region1/sso/pdfs/PrivateSewerLaterals.pdf> (last visited Sept. 17, 2019).

² Water Environment Federation, *Sanitary Sewer Rehabilitation* (2016), available at <https://www.wef.org/globalassets/assets-wef/direct-download-library/public/03---resources/wsec-2017-fs-009---csc---sewer-rehabilitation---final---9.27.17.pdf> (last visited Sept. 16, 2019).

³ *Id.*

⁴ *Id.*

⁵ U.S. Environmental Protection Agency, *Private Sewer Laterals*, 4, (June 2014), available at <https://www3.epa.gov/region1/sso/pdfs/PrivateSewerLaterals.pdf> (last visited Sept 17, 2019).

The Florida Building Code requires that every building in which plumbing fixtures are installed and premises having drainage piping be connected to a publicly owned or investor-owned sewage system, when available, or an approved onsite sewage treatment and disposal system in accordance with the standards for Onsite Sewage Treatment and Disposal systems found in Chapter 64E-6, Florida Administrative Code.⁶ A building that has plumbing fixtures installed and is intended for human habitation, occupancy, or use on premises abutting on a street, alley or easement in which there is a public sewer is required to have a separate connection with the sewer.⁷

Florida state laws and regulations are silent as to who is responsible for maintaining or replacing defective sanitary sewer laterals.⁸ However, cities such as Orlando and Tarpon Springs, require that property owners be responsible for the maintenance, operation, and repair of sanitary sewer laterals in their city ordinances.⁹

Most homeowners lack knowledge and awareness of potential structural issues with their sanitary sewer laterals.¹⁰ Private sanitary sewer lateral maintenance issues are the leading cause of backups and overflows into municipality owned collection systems.¹¹ In order to combat this, some cities have enacted policies to address the matter. For example, the City of Gulfport has implemented rebate or replacement incentives to their citizens. The City of Gulfport's rebate program offers citizens 50 percent of the costs of the replacement up to \$3500.¹² The City of St. Petersburg is also looking into a rebate program within a potential city ordinance addressing sanitary sewer laterals in response to the 2015-2016 sewer crisis that released up to one billion gallons of sewage, 200 million gallons of which ended up in the Tampa Bay.¹³

Required Disclosures for a Contract for Sale in Florida

Florida law requires sellers to disclose certain information as part of a sale to a prospective buyer before closing, including:

- A sinkhole claim;¹⁴
- The potential for coastal erosion;¹⁵

⁶ Ch. 7, s. 701.2 Florida Building Code – Plumbing, 6th edition (Jul. 2017).

⁷ Ch. 7, s. 701.3, Florida Building Code – Plumbing, 6th edition (Jul. 2017).

⁸ The City of St. Petersburg alerts citizens of this on their city's website, but does not have it codified in any local ordinance. City of St. Petersburg, *Wastewater Collection and Maintenance* (Aug. 2019), available at https://www.stpete.org/water/water_services/wastewater_collection_and_maintenance.php (last visited Sept. 16, 2019).

⁹ Ch. 30.02, s. 4.2(k), City of Orlando Code of Ordinances; Chapter 20, article IX, s. 20-110(d), City of Tarpon Springs Code of Ordinances.

¹⁰ U.S. Environmental Protection Agency, *Private Sewer Laterals* (June 2014), available at <https://www3.epa.gov/region1/sso/pdfs/PrivateSewerLaterals.pdf> (last visited Sept 17, 2019).

¹¹ U.S. Environmental Protection Agency, *Do You Know the Condition of Your Sewer System* (Oct. 2013) available at <https://www3.epa.gov/region1/sso/pdfs/EPAConditionFactSheetOct2013.pdf> (last visited Sept. 18, 2019).

¹² City of Gulfport, *Private Sewer Lateral Replacement Program* (April 2018), available at <https://mygulfport.us/lateralrebate/> (last visited Sept 16, 2019).

¹³ The Tampa Bay Times, *St. Petersburg to homeowners: Fix your broken sewer pipes* (Oct.. 2019), available at <https://www.tampabay.com/news/st-petersburg/2019/10/08/st-petersburg-to-homeowners-fix-your-broken-sewer-pipes/> (last visited Oct. 8, 2019).

¹⁴ Section 627.7073(2)(c), F.S.

¹⁵ Section 161.57(2), F.S.

- Mandatory membership in a homeowner’s association;¹⁶
- Radon gas having been found in buildings in Florida;¹⁷
- That the buyer should not rely on the seller’s current property taxes;¹⁸ and
- Whether subsurface rights have been or will be severed or retained.¹⁹

A seller is not required to disclose certain information to a buyer under Florida law. For example, a seller does not need to disclose that a property was or was suspected to be the site of a homicide, suicide, death, or that an occupant was infected or diagnosed with HIV.²⁰

Florida tort law requires a seller to disclose material defects to a buyer upon sale of a residence if:

- The seller has knowledge of facts about material defects;
- The facts are not readily observable by and are unknown to the buyer;
- The facts materially affect the value of the property; and
- The buyer has been damaged by the breach of the duty to disclose.²¹

In Florida, sellers can use the “Seller’s Property Disclosure Form”²² created by the Florida Association of Realtors, but there is no statutory obligation requiring that the form be completed. Also, a seller is not required to retain a home inspector to discover problems that the seller may not be aware of.

III. Effect of Proposed Changes:

The bill includes a series of whereas clauses that provide background information on sanitary sewer laterals and a description of potential implications that are caused by defects.

The bill defines “sanitary sewer lateral” as a privately owned pipeline connecting a property to the main sewer line and which is maintained and repaired by the property owner.

The bill encourages counties and municipalities to establish by July 1, 2022, an evaluation and rehabilitation program for sanitary sewer laterals on residential and commercial properties within their jurisdictions to identify and reduce extraneous flow from leaking sanitary sewer laterals.

Although the program is encouraged and not required, the bill states that the program may at minimum:

- Establish a system to identify defective, damaged, or deteriorated sanitary sewer laterals on residential and commercial properties within their jurisdiction;
- Consider economical methods for a property owner to repair or replace a defective, damaged, or deteriorated sanitary sewer lateral; and

¹⁶ Section 720.401(1), F.S.

¹⁷ Section 404.056(5), F.S.

¹⁸ Section 689.261, F.S.

¹⁹ Section 689.29, F.S.

²⁰ Section 689.25, F.S.

²¹ *Johnson v. Davis*, 480 So.2d 625 (Fla. 1985).

²² Florida Realtors, *Seller’s Property Disclosure- Residential* (2016), available at <http://www.unlimitedmls.com/forms/Property-Disclosure-Form.pdf> (last visited Sept. 13, 2019).

- Establish and maintain a publicly accessible database to store information concerning properties where a defective, damaged, or deteriorated sanitary sewer lateral has been identified. The database must include (but is not limited to) the address of the property, the names of any people the county or municipality notified concerning the damaged sewer lateral, and the date and method of the notification.

The bill also creates a new section of law requiring a seller of real property to disclose to a prospective purchaser any known defects in the property's sanitary sewer laterals prior to executing a contract for sale.

The bill provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 689.301 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.