

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 Judiciary

BILL: SB 150
 INTRODUCER: Senator Brandes
 SUBJECT: Sanitary Sewer Laterals
 DATE: December 9, 2019 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Dyson</u>	<u>Rogers</u>	<u>EN</u>	Favorable
2.	<u>Elsesser</u>	<u>Cibula</u>	<u>JU</u>	Pre-meeting
3.	_____	_____	<u>RC</u>	_____

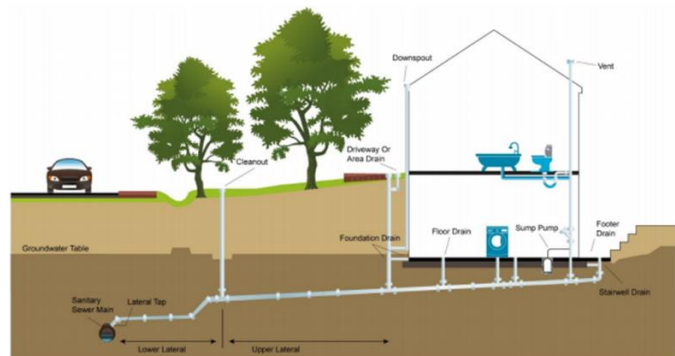
I. Summary:

SB 150 requires sellers of real property to disclose to purchasers any known defects in the property’s “sanitary sewer lateral,” which is the privately owned pipeline connecting a property to the public sewer system.

The bill also encourages counties and municipalities to establish programs to evaluate and rehabilitate private sewer laterals and to establish publicly accessible databases of known lateral defects.

II. Present Situation:

A private sanitary sewer lateral is an underground pipe that connects private plumbing systems to a public sewer network.¹



¹ See State of Florida Department of Environmental Protection, *Design and Specifications Guidelines for Low Pressure Sewer Systems* at xi, available at https://floridadep.gov/sites/default/files/guide_lowpres.pdf (last visited December 8, 2019).

² Water Environment Federation, *Sanitary Sewer Rehabilitation* at 2, 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 December 8, 2019).

The Florida Building Code requires every building in which plumbing fixtures are installed to be connected to a publicly or investor-owned sewage system, or if none is available, then to an approved onsite sewage treatment and disposal system.³

Cracked or broken private laterals can negatively affect the performance of the public sewer system and treatment plant by allowing groundwater and infiltrating rainwater to enter the sewer system, potentially leading to overflows.⁴ Generally, municipalities are responsible for maintaining sewer mains and the portions of sewer laterals in public rights-of-way, but the portion of the lateral on private property and in the home is the responsibility of the homeowner.⁵

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

- A sinkhole claim;⁶
- The potential for coastal erosion;⁷
- Mandatory membership in a homeowner's association;⁸ and
- Radon gas having been found in buildings in Florida.⁹

The Florida Statutes do not expressly require sellers of real property to disclose sewer lateral defects, although Florida tort law requires sellers to disclose to buyers any known latent material defects that materially affect the property value.¹⁰ Notably, sellers must only disclose of defects actually known, but not of those constructively known, i.e. those that could have been discovered through reasonable inspection.¹¹

III. Effect of Proposed Changes:

The bill requires sellers of real property to disclose any known defects in the property's sanitary sewer lateral to a prospective purchaser. The bill defines "sanitary sewer lateral" as the privately owned pipeline connecting a property to the main sewer line. Consistent with the common law rule, the bill does not impose on sellers a duty to inspect the property for defects.

The bill also encourages counties and municipalities to establish an "evaluation and rehabilitation program" to identify and reduce extraneous flow from leaking sanitary sewer laterals, to consider economical methods for a property owner to repair or replace a defective lateral, and to establish and maintain a public database of defective laterals. These databases would contain the address of the property containing a defective lateral, the county or city officials notified of the defect, and the date and method of notification.

The bill takes effect on July 1, 2020.

³ Ch. 7, § 701.2 Florida Building Code – Plumbing 6th Edition (July 2017).

⁴ U.S. Environmental Protection Agency, *Private Sewer Laterals* at 1, available at <https://www3.epa.gov/region1/sso/pdfs/PrivateSewerLaterals.pdf>, (last visited December 8, 2019).

⁵ See, e.g., *Sewer Laterals*, available at http://www.beachapedia.org/Sewer_Laterals (last visited December 8, 2019).

⁶ Section 627.7073(2)(c), F.S.

⁷ Section 161.57(2), F.S.

⁸ Section 720.401(1), F.S.

⁹ Section 404.056(5), F.S.

¹⁰ *Johnson v. Davis*, 480 So. 2d 625, 629 (Fla. 1985).

¹¹ See *Id.*; see also *Jensen v. Bailey*, 76 So. 3d 980, 983 (Fla. 2d DCA 2011).

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

The bill encourages counties and municipalities to establish an evaluation and rehabilitation program for sanitary sewer laterals. As this is not a requirement, the bill is not a mandate because it does not require the expenditure of funds to establish a program.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
