

By the Committee on Environment and Natural Resources; and  
Senator Brodeur

592-01305-22

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1 A bill to be entitled  
2 An act relating to private provider inspections of  
3 onsite sewage treatment and disposal systems; amending  
4 s. 381.0065, F.S.; authorizing private provider  
5 inspections of onsite sewage treatment and disposal  
6 systems under certain conditions; prohibiting the  
7 Department of Environmental Protection from charging  
8 certain inspection and permit fees; specifying  
9 requirements for private providers and onsite sewage  
10 treatment and disposal system owners and authorized  
11 contractors; authorizing the department to audit the  
12 performance of such inspections; providing audit  
13 conditions; amending s. 381.00651, F.S.; revising the  
14 list of providers authorized to perform onsite sewage  
15 treatment and disposal system evaluations; providing  
16 for applicability; providing an effective date.

17  
18 Be It Enacted by the Legislature of the State of Florida:

19  
20 Section 1. Subsection (8) is added to section 381.0065,  
21 Florida Statutes, to read:

22 381.0065 Onsite sewage treatment and disposal systems;  
23 regulation.—

24 (8) PRIVATE PROVIDER INSPECTIONS.—

25 (a) Notwithstanding any other law, ordinance, or policy,  
26 the owner of an onsite sewage treatment and disposal system or a  
27 contractor upon the owner's written authorization may hire a  
28 private provider to perform an inspection of the onsite sewage  
29 treatment and disposal system and pay the private provider

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30 directly if the inspection is the subject of a written contract  
31 between the private provider or the private provider's firm and  
32 the owner or the authorized contractor.

33 (b) The department may not charge an inspection fee for an  
34 onsite sewage treatment and disposal system inspection performed  
35 by a private provider under written contract with an owner or  
36 authorized contractor in accordance with this section and  
37 department rules.

38 (c) Onsite sewage treatment and disposal system inspections  
39 may only be performed by a private provider or an authorized  
40 representative of a private provider who is:

41 1. An environmental health professional certified under s.  
42 381.0101;

43 2. A master septic tank contractor registered under part  
44 III of chapter 489;

45 3. A professional engineer licensed under chapter 471 and  
46 has passed all parts of the Onsite Sewage Treatment Disposal  
47 System Accelerated Certification Training; or

48 4. Working under the supervision of a licensed professional  
49 engineer and has passed all parts of the Onsite Sewage Treatment  
50 Disposal System Accelerated Certification Training.

51 (d) An owner or authorized contractor using a private  
52 provider for an onsite sewage treatment and disposal system  
53 inspection must provide notice to the department at the time of  
54 permit application or by 2 p.m. local time, 2 business days  
55 before the first scheduled inspection by the department. The  
56 notice must include all of the following information:

57 1. For each private provider or authorized representative  
58 performing the inspection:

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59 a. Name and firm name, address, telephone number, and e-  
 60 mail address.

61 b. Professional license or certification number.

62 c. Qualification statement or resume.

63 2. An acknowledgment from the owner in substantially the  
 64 following form:

65  
 66 I HAVE ELECTED TO USE ONE OR MORE PRIVATE PROVIDERS TO PERFORM  
 67 AN ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEM INSPECTION THAT  
 68 IS THE SUBJECT OF THE ENCLOSED PERMIT APPLICATION. I UNDERSTAND  
 69 THAT THE DEPARTMENT MAY NOT PERFORM THE REQUIRED ONSITE SEWAGE  
 70 TREATMENT AND DISPOSAL SYSTEM INSPECTION TO DETERMINE COMPLIANCE  
 71 WITH THE APPLICABLE CODES, EXCEPT TO THE EXTENT AUTHORIZED BY  
 72 LAW. INSTEAD, THE INSPECTION WILL BE PERFORMED BY THE LICENSED  
 73 OR CERTIFIED PRIVATE PROVIDER IDENTIFIED IN THE APPLICATION. BY  
 74 EXECUTING THIS FORM, I ACKNOWLEDGE THAT I HAVE MADE INQUIRY  
 75 REGARDING THE COMPETENCE OF THE LICENSED OR CERTIFIED PRIVATE  
 76 PROVIDER AND AM SATISFIED THAT MY INTERESTS ARE ADEQUATELY  
 77 PROTECTED. I AGREE TO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE  
 78 DEPARTMENT FROM ANY CLAIMS ARISING FROM MY USE OF THE LICENSED  
 79 OR CERTIFIED PRIVATE PROVIDER IDENTIFIED IN THE APPLICATION TO  
 80 PERFORM THE ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEM  
 81 INSPECTION THAT IS THE SUBJECT OF THE ENCLOSED PERMIT  
 82 APPLICATION.

83  
 84 If an owner or authorized contractor makes any changes to the  
 85 listed private provider or the service to be performed by the  
 86 private provider, the owner or the authorized contractor must  
 87 update the notice to reflect the change within 1 business day

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88 after the change. The change of an authorized representative  
89 identified in the permit application does not require a revision  
90 of the permit and the department may not charge a fee for making  
91 such change.

92 (e) The department may audit the performance of an onsite  
93 sewage treatment and disposal system inspection by a private  
94 provider. However, the same private provider may not be audited  
95 more than four times in a month unless the department determines  
96 that an onsite sewage treatment and disposal system inspected by  
97 the private provider should not have passed inspection. Work on  
98 a building, a structure, or an onsite sewage treatment and  
99 disposal system may proceed after inspection and approval by a  
100 private provider if the owner or authorized contractor has given  
101 notice of the inspection pursuant to paragraph (d) and,  
102 subsequent to such inspection and approval, such work may not be  
103 delayed for completion of an inspection audit by the department.

104 Section 2. Paragraph (b) of subsection (6) and subsection  
105 (8) of section 381.00651, Florida Statutes, are amended to read:

106 381.00651 Periodic evaluation and assessment of onsite  
107 sewage treatment and disposal systems.—

108 (6) The requirements for an onsite sewage treatment and  
109 disposal system evaluation and assessment program are as  
110 follows:

111 (b) *Qualified contractors.*—Each evaluation required under  
112 this subsection must be performed by a qualified contractor, who  
113 may be a private provider or an authorized representative of a  
114 private provider as described in s. 381.0065(8)(c) a septic tank  
115 contractor or master septic tank contractor registered under  
116 part III of chapter 489, a professional engineer having

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117 ~~wastewater treatment system experience and licensed under~~  
118 ~~chapter 471, or an environmental health professional certified~~  
119 ~~under this chapter in the area of onsite sewage treatment and~~  
120 ~~disposal system evaluation.~~ Evaluations and pump-outs may also  
121 be performed by an authorized employee working under the  
122 supervision of an individual listed in this paragraph; however,  
123 all evaluation forms must be signed by a qualified contractor in  
124 writing or by electronic signature.

125 (8) The county health department, in coordination with the  
126 department, shall administer any evaluation program on behalf of  
127 a county, or a municipality within the county, that has adopted  
128 an evaluation program pursuant to this section. In order to  
129 administer the evaluation program, the county or municipality,  
130 in consultation with the county health department, may develop a  
131 reasonable fee schedule to be used solely to pay for the costs  
132 of administering the evaluation program. Such a fee schedule  
133 shall be identified in the ordinance that adopts the evaluation  
134 program. When arriving at a reasonable fee schedule, the  
135 estimated annual revenues to be derived from fees may not exceed  
136 reasonable estimated annual costs of the program. Fees shall be  
137 assessed to the system owner during an inspection and separately  
138 identified on the invoice of the qualified contractor. Fees  
139 shall be remitted by the qualified contractor to the county  
140 health department.

141 (a) The county health department's administrative  
142 responsibilities include the following:

143 1.~~(a)~~ Providing a notice to the system owner at least 60  
144 days before the system is due for an evaluation. The notice may  
145 include information on the proper maintenance of onsite sewage

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146 treatment and disposal systems.

147 2.~~(b)~~ In consultation with the department, providing  
148 uniform disciplinary procedures and penalties for qualified  
149 contractors who do not comply with the requirements of the  
150 adopted ordinance, including, but not limited to, failure to  
151 provide the evaluation report as required in this subsection to  
152 the system owner and the county health department. Only the  
153 county health department may assess penalties against system  
154 owners for failure to comply with the adopted ordinance,  
155 consistent with existing requirements of law.

156 (b) Nothing in this subsection shall be construed as  
157 authorizing the department to charge an inspection fee for an  
158 onsite sewage treatment and disposal system inspection performed  
159 by a private provider in accordance with s. 381.0065(8).

160 Section 3. This act shall take effect upon becoming a law.