

By the Committees on Rules; and Community Affairs; and Senator Trumbull

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1 A bill to be entitled
2 An act relating to the regulation of water resources;
3 amending s. 373.323, F.S.; revising the qualification
4 requirements a person must meet in order to take the
5 water well contractor license examination; updating
6 the reference to the Florida Building Code standards
7 that a licensed water well contractor's work must
8 meet; amending s. 373.333, F.S.; authorizing certain
9 authorities who have been delegated enforcement powers
10 by water management districts to apply disciplinary
11 guidelines adopted by the districts; requiring that
12 certain notices be delivered by certified, rather than
13 registered, mail; making technical changes; amending
14 s. 373.336, F.S.; prohibiting a person or business
15 entity from advertising water well drilling or
16 construction services in specified circumstances;
17 amending s. 381.0065, F.S.; providing that the
18 Department of Environmental Protection's variance
19 review and advisory committee is not responsible for
20 reviewing water well permitting; requiring the
21 committee to consider certain requirements when making
22 recommendations on variance requests for onsite sewage
23 treatment and disposal system permits; making
24 technical changes; providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Subsections (3) and (10) of section 373.323,
29 Florida Statutes, are amended to read:

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30 373.323 Licensure of water well contractors; application,
31 qualifications, and examinations; equipment identification.—

32 (3) An applicant who meets all of the following
33 requirements is eligible ~~shall be entitled~~ to take the water
34 well contractor licensure examination:

35 (a) Is at least 18 years of age.

36 (b) Has at least 2 years of experience in constructing,
37 repairing, or abandoning water wells permitted in this state.

38 The applicant must demonstrate satisfactory proof of such
39 experience ~~shall be demonstrated~~ by providing:

40 1. Evidence of the length of time he or she ~~the applicant~~
41 has been engaged in the business of the construction, repair, or
42 abandonment of water wells as a major activity, as attested to
43 by a letter from a water well contractor or a letter from a
44 water well inspector employed by a governmental agency.

45 2. A list of at least 10 water wells permitted in this
46 state which he or she ~~that the applicant~~ has constructed,
47 repaired, or abandoned within the preceding 5 years. Of these
48 wells, at least seven must have been constructed, as defined in
49 s. 373.303(2), by the applicant. The list must ~~shall~~ also
50 include:

51 a. The name and address of the owner or owners of each
52 well.

53 b. The location, primary use, and approximate depth and
54 diameter of each well that the applicant has constructed,
55 repaired, or abandoned.

56 c. The approximate date the construction, repair, or
57 abandonment of each well was completed.

58 (c) Has completed the application form and remitted a

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59 nonrefundable application fee.

60 (10) Water well contractors licensed under this section may
61 install, repair, and modify pumps and tanks in accordance with
62 the Florida Building Code, Plumbing; Section 614-Wells ~~Section~~
63 ~~612-Wells~~ Pumps And Tanks Used For Private Potable Water
64 Systems. In addition, licensed water well contractors may
65 install pumps, tanks, and water conditioning equipment for all
66 water systems.

67 Section 2. Subsections (1) and (3) of section 373.333,
68 Florida Statutes, are amended to read:

69 373.333 Disciplinary guidelines; adoption and enforcement;
70 license suspension or revocation.—

71 (1) The department shall adopt by rule disciplinary
72 guidelines applicable to each specific ground for disciplinary
73 action which may be imposed by the water management districts,
74 providing each water management district and representatives of
75 the water well contracting industry with meaningful opportunity
76 to participate in the development of the disciplinary guideline
77 rules as they are drafted. The disciplinary guidelines must
78 ~~shall~~ be adopted by each water management district. The
79 guideline rules must ~~shall~~ be consistently applied by the water
80 management districts, or by an authority to whom a water
81 management district has delegated enforcement powers, and must
82 do all of the following shall:

83 (a) Specify a meaningful range of designated penalties
84 based upon the severity and repetition of specific offenses.

85 (b) Distinguish minor violations from those which endanger
86 public health, safety, and welfare or contaminate the water
87 resources.

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88 (c) Inform the public of likely penalties which may be
89 imposed for proscribed conduct.

90
91 A specific finding of mitigating or aggravating circumstances
92 shall allow a water management district to impose a penalty
93 other than that provided in the guidelines. Disciplinary action
94 may be taken by any water management district, regardless of
95 where the contractor's license was issued.

96 (3) Such notice must ~~shall~~ be served in the manner required
97 by law for the service of process upon a person in a civil
98 action or by certified ~~registered~~ United States mail to the last
99 known address of the person. The water management district shall
100 send copies of such notice only to persons who have specifically
101 requested such notice or to entities with which the water
102 management district has formally agreed to provide such notice.
103 Notice alleging a violation of a rule setting minimum standards
104 for the location, construction, repair, or abandonment of wells
105 must ~~shall~~ be accompanied by an order of the water management
106 district requiring remedial action which, if taken within the
107 time specified in such order, will effect compliance with ~~the~~
108 ~~requirements of~~ this part and regulations issued hereunder. Such
109 order is ~~shall become~~ final unless a request for hearing as
110 provided in chapter 120 is made within 30 days after ~~from~~ the
111 date of service of such order. Upon compliance, notice must
112 ~~shall~~ be served by the water management district in a timely
113 manner upon each person and entity who received notice of a
114 violation, stating that compliance with the order has been
115 achieved.

116 Section 3. Subsections (1) and (3) of section 373.336,

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117 Florida Statutes, are amended to read:

118 373.336 Unlawful acts; penalties.—

119 (1) It is unlawful for any person or business entity, as
120 applicable, to do any of the following:

121 (a) Practice water well contracting without an active
122 license issued pursuant to this part.

123 (b) Construct, repair, or abandon a water well, or operate
124 drilling equipment for such purpose, unless employed by or under
125 the supervision of a licensed water well contractor or exempt
126 under s. 373.326.

127 (c) Give false or forged evidence to obtain a license.

128 (d) Present as his or her own the license of another.

129 (e) Use or attempt to use a license to practice water well
130 contracting which license has been suspended, revoked, or placed
131 on inactive status.

132 (f) Engage in willful or repeated violation of this part or
133 of any department rule or regulation or water management
134 district or state agency rule or regulation relating to water
135 wells which endangers the public health, safety, and welfare.

136 (g) Advertise water well drilling or construction services
137 if the business entity is not owned by a licensed water well
138 contractor or does not employ a full-time water well contractor.

139 (3) A ~~Any~~ person who violates ~~any provision of~~ this part or
140 a regulation or an order issued hereunder commits ~~shall, upon~~
141 ~~conviction, be guilty of~~ a misdemeanor of the second degree,
142 punishable as provided in s. 775.082 or s. 775.083. Continuing
143 violation after an order or a conviction constitutes ~~shall~~
144 ~~constitute~~ a separate violation for each day so continued.

145 Section 4. Paragraph (h) of subsection (4) of section

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146 381.0065, Florida Statutes, is amended to read:

147 381.0065 Onsite sewage treatment and disposal systems;
148 regulation.—

149 (4) PERMITS; INSTALLATION; CONDITIONS.—A person may not
150 construct, repair, modify, abandon, or operate an onsite sewage
151 treatment and disposal system without first obtaining a permit
152 approved by the department. The department may issue permits to
153 carry out this section, except that the issuance of a permit for
154 work seaward of the coastal construction control line
155 established under s. 161.053 shall be contingent upon receipt of
156 any required coastal construction control line permit from the
157 department. A construction permit is valid for 18 months after
158 the date of issuance and may be extended by the department for
159 one 90-day period under rules adopted by the department. A
160 repair permit is valid for 90 days after the date of issuance.
161 An operating permit must be obtained before the use of any
162 aerobic treatment unit or if the establishment generates
163 commercial waste. Buildings or establishments that use an
164 aerobic treatment unit or generate commercial waste shall be
165 inspected by the department at least annually to assure
166 compliance with the terms of the operating permit. The operating
167 permit for a commercial wastewater system is valid for 1 year
168 after the date of issuance and must be renewed annually. The
169 operating permit for an aerobic treatment unit is valid for 2
170 years after the date of issuance and must be renewed every 2
171 years. If all information pertaining to the siting, location,
172 and installation conditions or repair of an onsite sewage
173 treatment and disposal system remains the same, a construction
174 or repair permit for the onsite sewage treatment and disposal

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175 system may be transferred to another person, if the transferee
176 files, within 60 days after the transfer of ownership, an
177 amended application providing all corrected information and
178 proof of ownership of the property. A fee is not associated with
179 the processing of this supplemental information. A person may
180 not contract to construct, modify, alter, repair, service,
181 abandon, or maintain any portion of an onsite sewage treatment
182 and disposal system without being registered under part III of
183 chapter 489. A property owner who personally performs
184 construction, maintenance, or repairs to a system serving his or
185 her own owner-occupied single-family residence is exempt from
186 registration requirements for performing such construction,
187 maintenance, or repairs on that residence, but is subject to all
188 permitting requirements. A municipality or political subdivision
189 of the state may not issue a building or plumbing permit for any
190 building that requires the use of an onsite sewage treatment and
191 disposal system unless the owner or builder has received a
192 construction permit for such system from the department. A
193 building or structure may not be occupied and a municipality,
194 political subdivision, or any state or federal agency may not
195 authorize occupancy until the department approves the final
196 installation of the onsite sewage treatment and disposal system.
197 A municipality or political subdivision of the state may not
198 approve any change in occupancy or tenancy of a building that
199 uses an onsite sewage treatment and disposal system until the
200 department has reviewed the use of the system with the proposed
201 change, approved the change, and amended the operating permit.

202 (h)1. The department may grant variances in hardship cases
203 which may be less restrictive than the provisions specified in

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204 this section. If a variance is granted and the onsite sewage
205 treatment and disposal system construction permit has been
206 issued, the variance may be transferred with the system
207 construction permit, if the transferee files, within 60 days
208 after the transfer of ownership, an amended construction permit
209 application providing all corrected information and proof of
210 ownership of the property and if the same variance would have
211 been required for the new owner of the property as was
212 originally granted to the original applicant for the variance. A
213 fee is not associated with the processing of this supplemental
214 information. A variance may not be granted under this section
215 until the department is satisfied that:

216 a. The hardship was not caused intentionally by the action
217 of the applicant;

218 b. A reasonable alternative, taking into consideration
219 factors such as cost, does not exist for the treatment of the
220 sewage; and

221 c. The discharge from the onsite sewage treatment and
222 disposal system will not adversely affect the health of the
223 applicant or the public or significantly degrade the groundwater
224 or surface waters.

225
226 Where soil conditions, water table elevation, and setback
227 provisions are determined by the department to be satisfactory,
228 special consideration must be given to those lots platted before
229 1972.

230 2. The department shall appoint and staff a variance review
231 and advisory committee, which shall meet monthly to recommend
232 agency action on variance requests. The committee shall make its

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233 recommendations on variance requests at the meeting in which the
234 application is scheduled for consideration, except for an
235 extraordinary change in circumstances, the receipt of new
236 information that raises new issues, or when the applicant
237 requests an extension. The committee shall consider the criteria
238 in subparagraph 1. in its recommended agency action on variance
239 requests and shall also strive to allow property owners the full
240 use of their land where possible.

241 a. The committee is composed ~~consists~~ of the following:

242 (I)~~a.~~ The Secretary of Environmental Protection or his or
243 her designee.

244 (II)~~b.~~ A representative from the county health departments.

245 (III)~~c.~~ A representative from the home building industry
246 recommended by the Florida Home Builders Association.

247 (IV)~~d.~~ A representative from the septic tank industry
248 recommended by the Florida Onsite Wastewater Association.

249 (V)~~e.~~ A representative from the Department of Health.

250 (VI)~~f.~~ A representative from the real estate industry who
251 is also a developer in this state who develops lots using onsite
252 sewage treatment and disposal systems, recommended by the
253 Florida Association of Realtors.

254 (VII)~~g.~~ A representative from the engineering profession
255 recommended by the Florida Engineering Society.

256 b. Members shall be appointed for a term of 3 years, with
257 such appointments being staggered so that the terms of no more
258 than two members expire in any one year. Members shall serve
259 without remuneration, but if requested, shall be reimbursed for
260 per diem and travel expenses as provided in s. 112.061.

261 3. The variance review and advisory committee is not

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262 responsible for reviewing water well permitting. However, the
263 committee shall consider all requirements of law related to
264 onsite sewage treatment and disposal systems when making
265 recommendations on variance requests for onsite sewage treatment
266 and disposal system permits.

267 Section 5. This act shall take effect July 1, 2024.