

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.; removing provisions
18 relating to the variance review and advisory committee
19 for onsite sewage treatment and disposal system
20 permits; providing an effective date.

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

23
24 Section 1. Subsections (3) and (10) of section 373.323,
25 Florida Statutes, are amended to read:

26 | 373.323 Licensure of water well contractors; application,
27 | qualifications, and examinations; equipment identification.—

28 | (3) An applicant who meets all of the following
29 | requirements is eligible ~~shall be entitled~~ to take the water
30 | well contractor licensure examination:

31 | (a) Is at least 18 years of age.

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

34 | The applicant must demonstrate satisfactory proof of such
35 | experience ~~shall be demonstrated~~ by providing:

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

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

47 | a. The name and address of the owner or owners of each
48 | well.

49 | b. The location, primary use, and approximate depth and
50 | diameter of each well that the applicant has constructed,

51 repaired, or abandoned.

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

54 (c) Has completed the application form and remitted a
55 nonrefundable application fee.

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

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

65 373.333 Disciplinary guidelines; adoption and enforcement;
66 license suspension or revocation.—

67 (1) The department shall adopt by rule disciplinary
68 guidelines applicable to each specific ground for disciplinary
69 action which may be imposed by the water management districts,
70 providing each water management district and representatives of
71 the water well contracting industry with meaningful opportunity
72 to participate in the development of the disciplinary guideline
73 rules as they are drafted. The disciplinary guidelines must
74 ~~shall~~ be adopted by each water management district. The
75 guideline rules must ~~shall~~ be consistently applied by the water

76 | management districts, or by an authority to whom a water
 77 | management district has delegated enforcement powers, and must
 78 | do all of the following shall:

79 | (a) Specify a meaningful range of designated penalties
 80 | based upon the severity and repetition of specific offenses.

81 | (b) Distinguish minor violations from those which endanger
 82 | public health, safety, and welfare or contaminate the water
 83 | resources.

84 | (c) Inform the public of likely penalties which may be
 85 | imposed for proscribed conduct.

86 |
 87 | A specific finding of mitigating or aggravating circumstances
 88 | shall allow a water management district to impose a penalty
 89 | other than that provided in the guidelines. Disciplinary action
 90 | may be taken by any water management district, regardless of
 91 | where the contractor's license was issued.

92 | (3) Such notice must ~~shall~~ be served in the manner
 93 | required by law for the service of process upon a person in a
 94 | civil action or by certified ~~registered~~ United States mail to
 95 | the last known address of the person. The water management
 96 | district shall send copies of such notice only to persons who
 97 | have specifically requested such notice or to entities with
 98 | which the water management district has formally agreed to
 99 | provide such notice. Notice alleging a violation of a rule
 100 | setting minimum standards for the location, construction,

101 repair, or abandonment of wells must ~~shall~~ be accompanied by an
 102 order of the water management district requiring remedial action
 103 which, if taken within the time specified in such order, will
 104 effect compliance with ~~the requirements of~~ this part and
 105 regulations issued hereunder. Such order is ~~shall become~~ final
 106 unless a request for hearing as provided in chapter 120 is made
 107 within 30 days after ~~from~~ the date of service of such order.
 108 Upon compliance, notice must ~~shall~~ be served by the water
 109 management district in a timely manner upon each person and
 110 entity who received notice of a violation, stating that
 111 compliance with the order has been achieved.

112 Section 3. Subsections (1) and (3) of section 373.336,
 113 Florida Statutes, are amended to read:

114 373.336 Unlawful acts; penalties.—

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

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

119 (b) Construct, repair, or abandon a water well, or operate
 120 drilling equipment for such purpose, unless employed by or under
 121 the supervision of a licensed water well contractor or exempt
 122 under s. 373.326.

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

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

125 (e) Use or attempt to use a license to practice water well

126 contracting which license has been suspended, revoked, or placed
 127 on inactive status.

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

132 (g) Advertise water well drilling or construction services
 133 if the business entity is not owned by a licensed water well
 134 contractor or does not employ a full-time licensed water well
 135 contractor.

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

142 Section 4. Paragraphs (h) and (w) of subsection (4) of
 143 section 381.0065, Florida Statutes, are amended to read:

144 381.0065 Onsite sewage treatment and disposal systems;
 145 regulation.—

146 (4) PERMITS; INSTALLATION; CONDITIONS.—A person may not
 147 construct, repair, modify, abandon, or operate an onsite sewage
 148 treatment and disposal system without first obtaining a permit
 149 approved by the department. The department may issue permits to
 150 carry out this section, except that the issuance of a permit for

151 work seaward of the coastal construction control line
152 established under s. 161.053 shall be contingent upon receipt of
153 any required coastal construction control line permit from the
154 department. A construction permit is valid for 18 months after
155 the date of issuance and may be extended by the department for
156 one 90-day period under rules adopted by the department. A
157 repair permit is valid for 90 days after the date of issuance.
158 An operating permit must be obtained before the use of any
159 aerobic treatment unit or if the establishment generates
160 commercial waste. Buildings or establishments that use an
161 aerobic treatment unit or generate commercial waste shall be
162 inspected by the department at least annually to assure
163 compliance with the terms of the operating permit. The operating
164 permit for a commercial wastewater system is valid for 1 year
165 after the date of issuance and must be renewed annually. The
166 operating permit for an aerobic treatment unit is valid for 2
167 years after the date of issuance and must be renewed every 2
168 years. If all information pertaining to the siting, location,
169 and installation conditions or repair of an onsite sewage
170 treatment and disposal system remains the same, a construction
171 or repair permit for the onsite sewage treatment and disposal
172 system may be transferred to another person, if the transferee
173 files, within 60 days after the transfer of ownership, an
174 amended application providing all corrected information and
175 proof of ownership of the property. A fee is not associated with

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

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

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

213 1.a. The hardship was not caused intentionally by the
 214 action of the applicant;

215 2.b. A reasonable alternative, taking into consideration
 216 factors such as cost, does not exist for the treatment of the
 217 sewage; and

218 3.e. The discharge from the onsite sewage treatment and
 219 disposal system will not adversely affect the health of the
 220 applicant or the public or significantly degrade the groundwater
 221 or surface waters.

222
 223 Where soil conditions, water table elevation, and setback
 224 provisions are determined by the department to be satisfactory,
 225 special consideration must be given to those lots platted before

226 | 1972.

227 | ~~2. The department shall appoint and staff a variance~~
 228 | ~~review and advisory committee, which shall meet monthly to~~
 229 | ~~recommend agency action on variance requests. The committee~~
 230 | ~~shall make its recommendations on variance requests at the~~
 231 | ~~meeting in which the application is scheduled for consideration,~~
 232 | ~~except for an extraordinary change in circumstances, the receipt~~
 233 | ~~of new information that raises new issues, or when the applicant~~
 234 | ~~requests an extension. The committee shall consider the criteria~~
 235 | ~~in subparagraph 1. in its recommended agency action on variance~~
 236 | ~~requests and shall also strive to allow property owners the full~~
 237 | ~~use of their land where possible. The committee consists of the~~
 238 | ~~following:~~

239 | ~~a. The Secretary of Environmental Protection or his or her~~
 240 | ~~designee.~~

241 | ~~b. A representative from the county health departments.~~

242 | ~~c. A representative from the home building industry~~
 243 | ~~recommended by the Florida Home Builders Association.~~

244 | ~~d. A representative from the septic tank industry~~
 245 | ~~recommended by the Florida Onsite Wastewater Association.~~

246 | ~~e. A representative from the Department of Health.~~

247 | ~~f. A representative from the real estate industry who is~~
 248 | ~~also a developer in this state who develops lots using onsite~~
 249 | ~~sewage treatment and disposal systems, recommended by the~~
 250 | ~~Florida Association of Realtors.~~

251 ~~g. A representative from the engineering profession~~
252 ~~recommended by the Florida Engineering Society.~~

253
254 ~~Members shall be appointed for a term of 3 years, with such~~
255 ~~appointments being staggered so that the terms of no more than~~
256 ~~two members expire in any one year. Members shall serve without~~
257 ~~remuneration, but if requested, shall be reimbursed for per diem~~
258 ~~and travel expenses as provided in s. 112.061.~~

259 (w) A governmental entity, including a municipality,
260 county, or statutorily created commission, may not require an
261 engineer-designed performance-based treatment system, excluding
262 a passive engineer-designed performance-based treatment system,
263 before the completion of the Florida Onsite Sewage Nitrogen
264 Reduction Strategies Project. This paragraph does not apply to a
265 governmental entity, including a municipality, county, or
266 statutorily created commission, which adopted a local law,
267 ordinance, or regulation on or before January 31, 2012.

268 ~~Notwithstanding this paragraph, an engineer-designed~~
269 ~~performance-based treatment system may be used to meet the~~
270 ~~requirements of the variance review and advisory committee~~
271 ~~recommendations.~~

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