

By the Committees on Rules; and Environment and Natural Resources; and Senator Martin

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1 A bill to be entitled
2 An act relating to onsite sewage treatment and
3 disposal system permits; amending s. 381.0065, F.S.;
4 prohibiting a municipality or political subdivision of
5 the state from requiring owners and builders of
6 certain residences to receive construction permits
7 from the Department of Environmental Protection as a
8 condition of issuing building or plumbing permits;
9 requiring such owners and builders to provide certain
10 proof to the municipality or political subdivision;
11 requiring an applicant for a permit for the
12 construction of an onsite sewage treatment and
13 disposal system or a property owner to assume
14 specified liabilities under certain circumstances;
15 providing applicability for new rules adopted by the
16 department beginning on a specified date; amending ss.
17 380.0552 and 381.00651, F.S.; conforming cross-
18 references; providing effective dates.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Subsection (4) of section 381.0065, Florida
23 Statutes, is amended to read:

24 381.0065 Onsite sewage treatment and disposal systems;
25 regulation.—

26 (4) PERMITS; INSTALLATION; CONDITIONS.—A person may not
27 construct, repair, modify, abandon, or operate an onsite sewage
28 treatment and disposal system without first obtaining a permit
29 approved by the department. The department may issue permits to

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30 carry out this section, except that the issuance of a permit for
31 work seaward of the coastal construction control line
32 established under s. 161.053 shall be contingent upon receipt of
33 any required coastal construction control line permit from the
34 department. A construction permit is valid for 18 months after
35 the date of issuance and may be extended by the department for
36 one 90-day period under rules adopted by the department. A
37 repair permit is valid for 90 days after the date of issuance.
38 An operating permit must be obtained before the use of any
39 aerobic treatment unit or if the establishment generates
40 commercial waste. Buildings or establishments that use an
41 aerobic treatment unit or generate commercial waste shall be
42 inspected by the department at least annually to assure
43 compliance with the terms of the operating permit. The operating
44 permit for a commercial wastewater system is valid for 1 year
45 after the date of issuance and must be renewed annually. The
46 operating permit for an aerobic treatment unit is valid for 2
47 years after the date of issuance and must be renewed every 2
48 years. If all information pertaining to the siting, location,
49 and installation conditions or repair of an onsite sewage
50 treatment and disposal system remains the same, a construction
51 or repair permit for the onsite sewage treatment and disposal
52 system may be transferred to another person, if the transferee
53 files, within 60 days after the transfer of ownership, an
54 amended application providing all corrected information and
55 proof of ownership of the property. A fee is not associated with
56 the processing of this supplemental information. A person may
57 not contract to construct, modify, alter, repair, service,
58 abandon, or maintain any portion of an onsite sewage treatment

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59 and disposal system without being registered under part III of
60 chapter 489. A property owner who personally performs
61 construction, maintenance, or repairs to a system serving his or
62 her own owner-occupied single-family residence is exempt from
63 registration requirements for performing such construction,
64 maintenance, or repairs on that residence, but is subject to all
65 permitting requirements. Except as provided in paragraph (a), a
66 municipality or political subdivision of the state may not issue
67 a building or plumbing permit for any building that requires the
68 use of an onsite sewage treatment and disposal system unless the
69 owner or builder has received a construction permit for such
70 system from the department. A building or structure may not be
71 occupied and a municipality, political subdivision, or any state
72 or federal agency may not authorize occupancy until the
73 department approves the final installation of the onsite sewage
74 treatment and disposal system. A municipality or political
75 subdivision of the state may not approve any change in occupancy
76 or tenancy of a building that uses an onsite sewage treatment
77 and disposal system until the department has reviewed the use of
78 the system with the proposed change, approved the change, and
79 amended the operating permit.

80 (a) If the building or plumbing permit is for a single-
81 family residence that requires the use of an onsite sewage
82 treatment and disposal system, a municipality or political
83 subdivision of the state may not require the owner or builder to
84 receive a construction permit from the department for such
85 system as a condition of issuing the building or plumbing
86 permit. The owner or builder of the single-family residence must
87 provide to a municipality or political subdivision proof that

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88 the owner or builder submitted an application for the onsite
89 sewage treatment and disposal system when applying for a
90 building and plumbing permit.

91 (b) If construction of the onsite sewage treatment and
92 disposal system commences before the issuance of the permit for
93 the onsite sewage treatment and disposal system, the property
94 owner or the applicant must assume all legal, financial, and
95 safety liabilities arising therefrom.

96 (c)~~(a)~~ Subdivisions and lots in which each lot has a
97 minimum area of at least one-half acre and either a minimum
98 dimension of 100 feet or a mean of at least 100 feet of the side
99 bordering the street and the distance formed by a line parallel
100 to the side bordering the street drawn between the two most
101 distant points of the remainder of the lot may be developed with
102 a water system regulated under s. 381.0062 and onsite sewage
103 treatment and disposal systems, provided the projected daily
104 sewage flow does not exceed an average of 1,500 gallons per acre
105 per day, and provided satisfactory drinking water can be
106 obtained and all distance and setback, soil condition, water
107 table elevation, and other related requirements of this section
108 and rules adopted under this section can be met.

109 (d)~~(b)~~ Subdivisions and lots using a public water system as
110 defined in s. 403.852 may use onsite sewage treatment and
111 disposal systems, provided there are no more than four lots per
112 acre, provided the projected daily sewage flow does not exceed
113 an average of 2,500 gallons per acre per day, and provided that
114 all distance and setback, soil condition, water table elevation,
115 and other related requirements that are generally applicable to
116 the use of onsite sewage treatment and disposal systems are met.

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117 (e)~~(e)~~ Notwithstanding paragraphs (c) and (d) ~~(a)~~ and ~~(b)~~,
118 for subdivisions platted of record on or before October 1, 1991,
119 when a developer or other appropriate entity has previously made
120 or makes provisions, including financial assurances or other
121 commitments, acceptable to the department, that a central water
122 system will be installed by a regulated public utility based on
123 a density formula, private potable wells may be used with onsite
124 sewage treatment and disposal systems until the agreed-upon
125 densities are reached. In a subdivision regulated by this
126 paragraph, the average daily sewage flow may not exceed 2,500
127 gallons per acre per day. This section does not affect the
128 validity of existing prior agreements. After October 1, 1991,
129 the exception provided under this paragraph is not available to
130 a developer or other appropriate entity.

131 (f)~~(d)~~ Paragraphs (c) and (d) ~~(a)~~ and ~~(b)~~ do not apply to
132 any proposed residential subdivision with more than 50 lots or
133 to any proposed commercial subdivision with more than 5 lots
134 where a publicly owned or investor-owned sewage treatment system
135 is available. This paragraph does not allow development of
136 additional proposed subdivisions in order to evade the
137 requirements of this paragraph.

138 (g)~~(e)~~ The department shall adopt rules relating to the
139 location of onsite sewage treatment and disposal systems,
140 including establishing setback distances, to prevent groundwater
141 contamination and surface water contamination and to preserve
142 the public health. The rules must consider conventional and
143 enhanced nutrient-reducing onsite sewage treatment and disposal
144 system designs, impaired or degraded water bodies, domestic
145 wastewater and drinking water infrastructure, potable water

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146 sources, nonpotable wells, stormwater infrastructure, the onsite
147 sewage treatment and disposal system remediation plans developed
148 pursuant to s. 403.067(7)(a)9.b., nutrient pollution, and the
149 recommendations of the onsite sewage treatment and disposal
150 systems technical advisory committee established pursuant to
151 former s. 381.00652. The rules must also allow a person to apply
152 for and receive a variance from a rule requirement upon
153 demonstration that the requirement would cause an undue hardship
154 and granting the variance would not cause or contribute to the
155 exceedance of a total maximum daily load.

156 (h)~~(f)~~ Onsite sewage treatment and disposal systems that
157 are permitted before June 21, 2022, may not be placed closer
158 than:

- 159 1. Seventy-five feet from a private potable well.
- 160 2. Two hundred feet from a public potable well serving a
161 residential or nonresidential establishment having a total
162 sewage flow of greater than 2,000 gallons per day.
- 163 3. One hundred feet from a public potable well serving a
164 residential or nonresidential establishment having a total
165 sewage flow of less than or equal to 2,000 gallons per day.
- 166 4. Fifty feet from any nonpotable well.
- 167 5. Ten feet from any storm sewer pipe, to the maximum
168 extent possible, but in no instance shall the setback be less
169 than 5 feet.
- 170 6. Seventy-five feet from the mean high-water line of a
171 tidally influenced surface water body.
- 172 7. Seventy-five feet from the mean annual flood line of a
173 permanent nontidal surface water body.
- 174 8. Fifteen feet from the design high-water line of

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175 retention areas, detention areas, or swales designed to contain
176 standing or flowing water for less than 72 hours after a
177 rainfall or the design high-water level of normally dry drainage
178 ditches or normally dry individual lot stormwater retention
179 areas.

180 (i)~~(g)~~ This section and rules adopted under this section
181 relating to soil condition, water table elevation, distance, and
182 other setback requirements must be equally applied to all lots,
183 with the following exceptions:

184 1. Any residential lot that was platted and recorded on or
185 after January 1, 1972, or that is part of a residential
186 subdivision that was approved by the appropriate permitting
187 agency on or after January 1, 1972, and that was eligible for an
188 onsite sewage treatment and disposal system construction permit
189 on the date of such platting and recording or approval shall be
190 eligible for an onsite sewage treatment and disposal system
191 construction permit, regardless of when the application for a
192 permit is made. If rules in effect at the time the permit
193 application is filed cannot be met, residential lots platted and
194 recorded or approved on or after January 1, 1972, shall, to the
195 maximum extent possible, comply with the rules in effect at the
196 time the permit application is filed. At a minimum, however,
197 those residential lots platted and recorded or approved on or
198 after January 1, 1972, but before January 1, 1983, shall comply
199 with those rules in effect on January 1, 1983, and those
200 residential lots platted and recorded or approved on or after
201 January 1, 1983, shall comply with those rules in effect at the
202 time of such platting and recording or approval. In determining
203 the maximum extent of compliance with current rules that is

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204 possible, the department shall allow structures and
205 appurtenances thereto which were authorized at the time such
206 lots were platted and recorded or approved.

207 2. Lots platted before 1972 are subject to a 50-foot
208 minimum surface water setback and are not subject to lot size
209 requirements. The projected daily flow for onsite sewage
210 treatment and disposal systems for lots platted before 1972 may
211 not exceed:

212 a. Two thousand five hundred gallons per acre per day for
213 lots served by public water systems as defined in s. 403.852.

214 b. One thousand five hundred gallons per acre per day for
215 lots served by water systems regulated under s. 381.0062.

216 (j)1.~~(h)1.~~ The department may grant variances in hardship
217 cases which may be less restrictive than the provisions
218 specified in this section. If a variance is granted and the
219 onsite sewage treatment and disposal system construction permit
220 has been issued, the variance may be transferred with the system
221 construction permit, if the transferee files, within 60 days
222 after the transfer of ownership, an amended construction permit
223 application providing all corrected information and proof of
224 ownership of the property and if the same variance would have
225 been required for the new owner of the property as was
226 originally granted to the original applicant for the variance. A
227 fee is not associated with the processing of this supplemental
228 information. A variance may not be granted under this section
229 until the department is satisfied that:

230 a. The hardship was not caused intentionally by the action
231 of the applicant;

232 b. A reasonable alternative, taking into consideration

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233 factors such as cost, does not exist for the treatment of the
234 sewage; and

235 c. The discharge from the onsite sewage treatment and
236 disposal system will not adversely affect the health of the
237 applicant or the public or significantly degrade the groundwater
238 or surface waters.

239

240 Where soil conditions, water table elevation, and setback
241 provisions are determined by the department to be satisfactory,
242 special consideration must be given to those lots platted before
243 1972.

244 2. The department shall appoint and staff a variance review
245 and advisory committee, which shall meet monthly to recommend
246 agency action on variance requests. The committee shall make its
247 recommendations on variance requests at the meeting in which the
248 application is scheduled for consideration, except for an
249 extraordinary change in circumstances, the receipt of new
250 information that raises new issues, or when the applicant
251 requests an extension. The committee shall consider the criteria
252 in subparagraph 1. in its recommended agency action on variance
253 requests and shall also strive to allow property owners the full
254 use of their land where possible.

255 a. The committee is composed of the following:

256 (I) The Secretary of Environmental Protection or his or her
257 designee.

258 (II) A representative from the county health departments.

259 (III) A representative from the home building industry
260 recommended by the Florida Home Builders Association.

261 (IV) A representative from the septic tank industry

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262 recommended by the Florida Onsite Wastewater Association.

263 (V) A representative from the Department of Health.

264 (VI) A representative from the real estate industry who is
265 also a developer in this state who develops lots using onsite
266 sewage treatment and disposal systems, recommended by the
267 Florida Association of Realtors.

268 (VII) A representative from the engineering profession
269 recommended by the Florida Engineering Society.

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

275 3. The variance review and advisory committee is not
276 responsible for reviewing water well permitting. However, the
277 committee shall consider all requirements of law related to
278 onsite sewage treatment and disposal systems when making
279 recommendations on variance requests for onsite sewage treatment
280 and disposal system permits.

281 (k)~~(i)~~ A construction permit may not be issued for an
282 onsite sewage treatment and disposal system in any area zoned or
283 used for industrial or manufacturing purposes, or its
284 equivalent, where a publicly owned or investor-owned sewage
285 treatment system is available, or where a likelihood exists that
286 the system will receive toxic, hazardous, or industrial waste.
287 An existing onsite sewage treatment and disposal system may be
288 repaired if a publicly owned or investor-owned sewage treatment
289 system is not available within 500 feet of the building sewer
290 stub-out and if system construction and operation standards can

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291 be met. This paragraph does not require publicly owned or
292 investor-owned sewage treatment systems to accept anything other
293 than domestic wastewater.

294 1. A building located in an area zoned or used for
295 industrial or manufacturing purposes, or its equivalent, when
296 such building is served by an onsite sewage treatment and
297 disposal system, must not be occupied until the owner or tenant
298 has obtained written approval from the department. The
299 department may not grant approval when the proposed use of the
300 system is to dispose of toxic, hazardous, or industrial
301 wastewater or toxic or hazardous chemicals.

302 2. Each person who owns or operates a business or facility
303 in an area zoned or used for industrial or manufacturing
304 purposes, or its equivalent, or who owns or operates a business
305 that has the potential to generate toxic, hazardous, or
306 industrial wastewater or toxic or hazardous chemicals, and uses
307 an onsite sewage treatment and disposal system that is installed
308 on or after July 5, 1989, must obtain an annual system operating
309 permit from the department. A person who owns or operates a
310 business that uses an onsite sewage treatment and disposal
311 system that was installed and approved before July 5, 1989, does
312 not need to obtain a system operating permit. However, upon
313 change of ownership or tenancy, the new owner or operator must
314 notify the department of the change, and the new owner or
315 operator must obtain an annual system operating permit,
316 regardless of the date that the system was installed or
317 approved.

318 3. The department shall periodically review and evaluate
319 the continued use of onsite sewage treatment and disposal

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320 systems in areas zoned or used for industrial or manufacturing
321 purposes, or its equivalent, and may require the collection and
322 analyses of samples from within and around such systems. If the
323 department finds that toxic or hazardous chemicals or toxic,
324 hazardous, or industrial wastewater have been or are being
325 disposed of through an onsite sewage treatment and disposal
326 system, the department shall initiate enforcement actions
327 against the owner or tenant to ensure adequate cleanup,
328 treatment, and disposal.

329 (1)~~(j)~~ An onsite sewage treatment and disposal system
330 designed by a professional engineer registered in the state and
331 certified by such engineer as complying with performance
332 criteria adopted by the department must be approved by the
333 department subject to the following:

334 1. The performance criteria applicable to engineer-designed
335 systems must be limited to those necessary to ensure that such
336 systems do not adversely affect the public health or
337 significantly degrade the groundwater or surface water. Such
338 performance criteria shall include consideration of the quality
339 of system effluent, the proposed total sewage flow per acre,
340 wastewater treatment capabilities of the natural or replaced
341 soil, water quality classification of the potential surface-
342 water-receiving body, and the structural and maintenance
343 viability of the system for the treatment of domestic
344 wastewater. However, performance criteria shall address only the
345 performance of a system and not a system's design.

346 2. A person electing to use an engineer-designed system
347 shall, upon completion of the system design, submit such design,
348 certified by a registered professional engineer, to the county

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349 health department. The county health department may use an
350 outside consultant to review the engineer-designed system, with
351 the actual cost of such review to be borne by the applicant.
352 Within 5 working days after receiving an engineer-designed
353 system permit application, the county health department shall
354 request additional information if the application is not
355 complete. Within 15 working days after receiving a complete
356 application for an engineer-designed system, the county health
357 department shall issue the permit or, if it determines that the
358 system does not comply with the performance criteria, shall
359 notify the applicant of that determination and refer the
360 application to the department for a determination as to whether
361 the system should be approved, disapproved, or approved with
362 modification. The department engineer's determination shall
363 prevail over the action of the county health department. The
364 applicant shall be notified in writing of the department's
365 determination and of the applicant's rights to pursue a variance
366 or seek review under the provisions of chapter 120.

367 3. The owner of an engineer-designed performance-based
368 system must maintain a current maintenance service agreement
369 with a maintenance entity permitted by the department. The
370 maintenance entity shall inspect each system at least twice each
371 year and shall report quarterly to the department on the number
372 of systems inspected and serviced. The reports may be submitted
373 electronically.

374 4. The property owner of an owner-occupied, single-family
375 residence may be approved and permitted by the department as a
376 maintenance entity for his or her own performance-based
377 treatment system upon written certification from the system

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378 manufacturer's approved representative that the property owner
379 has received training on the proper installation and service of
380 the system. The maintenance service agreement must conspicuously
381 disclose that the property owner has the right to maintain his
382 or her own system and is exempt from contractor registration
383 requirements for performing construction, maintenance, or
384 repairs on the system but is subject to all permitting
385 requirements.

386 5. The property owner shall obtain a biennial system
387 operating permit from the department for each system. The
388 department shall inspect the system at least annually, or on
389 such periodic basis as the fee collected permits, and may
390 collect system-effluent samples if appropriate to determine
391 compliance with the performance criteria. The fee for the
392 biennial operating permit shall be collected beginning with the
393 second year of system operation.

394 6. If an engineer-designed system fails to properly
395 function or fails to meet performance standards, the system
396 shall be re-engineered, if necessary, to bring the system into
397 compliance with the provisions of this section.

398 (m)~~(k)~~ An innovative system may be approved in conjunction
399 with an engineer-designed site-specific system that is certified
400 by the engineer to meet the performance-based criteria adopted
401 by the department.

402 (n)~~(l)~~ For the Florida Keys, the department shall adopt a
403 special rule for the construction, installation, modification,
404 operation, repair, maintenance, and performance of onsite sewage
405 treatment and disposal systems which considers the unique soil
406 conditions and water table elevations, densities, and setback

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407 requirements. On lots where a setback distance of 75 feet from
408 surface waters, saltmarsh, and buttonwood association habitat
409 areas cannot be met, an injection well, approved and permitted
410 by the department, may be used for disposal of effluent from
411 onsite sewage treatment and disposal systems. The following
412 additional requirements apply to onsite sewage treatment and
413 disposal systems in Monroe County:

414 1. The county, each municipality, and those special
415 districts established for the purpose of the collection,
416 transmission, treatment, or disposal of sewage shall ensure, in
417 accordance with the specific schedules adopted by the
418 Administration Commission under s. 380.0552, the completion of
419 onsite sewage treatment and disposal system upgrades to meet the
420 requirements of this paragraph.

421 2. Onsite sewage treatment and disposal systems must cease
422 discharge by December 31, 2015, or must comply with department
423 rules and provide the level of treatment which, on a permitted
424 annual average basis, produces an effluent that contains no more
425 than the following concentrations:

426 a. Biochemical oxygen demand (CBOD5) of 10 mg/l.

427 b. Suspended solids of 10 mg/l.

428 c. Total nitrogen, expressed as N, of 10 mg/l or a
429 reduction in nitrogen of at least 70 percent. A system that has
430 been tested and certified to reduce nitrogen concentrations by
431 at least 70 percent shall be deemed to be in compliance with
432 this standard.

433 d. Total phosphorus, expressed as P, of 1 mg/l.

434
435 In addition, onsite sewage treatment and disposal systems

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436 discharging to an injection well must provide basic disinfection
437 as defined by department rule.

438 3. In areas not scheduled to be served by a central
439 sewerage system, onsite sewage treatment and disposal systems
440 must, by December 31, 2015, comply with department rules and
441 provide the level of treatment described in subparagraph 2.

442 4. In areas scheduled to be served by a central sewerage
443 system by December 31, 2015, if the property owner has paid a
444 connection fee or assessment for connection to the central
445 sewerage system, the property owner may install a holding tank
446 with a high water alarm or an onsite sewage treatment and
447 disposal system that meets the following minimum standards:

448 a. The existing tanks must be pumped and inspected and
449 certified as being watertight and free of defects in accordance
450 with department rule; and

451 b. A sand-lined drainfield or injection well in accordance
452 with department rule must be installed.

453 5. Onsite sewage treatment and disposal systems must be
454 monitored for total nitrogen and total phosphorus concentrations
455 as required by department rule.

456 6. The department shall enforce proper installation,
457 operation, and maintenance of onsite sewage treatment and
458 disposal systems pursuant to this chapter, including ensuring
459 that the appropriate level of treatment described in
460 subparagraph 2. is met.

461 7. The authority of a local government, including a special
462 district, to mandate connection of an onsite sewage treatment
463 and disposal system is governed by s. 4, chapter 99-395, Laws of
464 Florida.

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465 8. Notwithstanding any other law, an onsite sewage
466 treatment and disposal system installed after July 1, 2010, in
467 unincorporated Monroe County, excluding special wastewater
468 districts, that complies with the standards in subparagraph 2.
469 is not required to connect to a central sewerage system until
470 December 31, 2020.

471 (o)~~(m)~~ A product sold in the state for use in onsite sewage
472 treatment and disposal systems may not contain any substance in
473 concentrations or amounts that would interfere with or prevent
474 the successful operation of such system, or that would cause
475 discharges from such systems to violate applicable water quality
476 standards. The department shall publish criteria for products
477 known or expected to meet the conditions of this paragraph. If a
478 product does not meet such criteria, such product may be sold if
479 the manufacturer satisfactorily demonstrates to the department
480 that the conditions of this paragraph are met.

481 (p)~~(n)~~ Evaluations for determining the seasonal high-water
482 table elevations or the suitability of soils for the use of a
483 new onsite sewage treatment and disposal system shall be
484 performed by department personnel, professional engineers
485 registered in the state, or such other persons with expertise,
486 as defined by rule, in making such evaluations. Evaluations for
487 determining mean annual flood lines shall be performed by those
488 persons identified in paragraph (2)(1). The department shall
489 accept evaluations submitted by professional engineers and such
490 other persons as meet the expertise established by this section
491 or by rule unless the department has a reasonable scientific
492 basis for questioning the accuracy or completeness of the
493 evaluation.

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494 (q)~~(o)~~ An application for an onsite sewage treatment and
495 disposal system permit shall be completed in full, signed by the
496 owner or the owner's authorized representative, or by a
497 contractor licensed under chapter 489, and shall be accompanied
498 by all required exhibits and fees. Specific documentation of
499 property ownership is not required as a prerequisite to the
500 review of an application or the issuance of a permit. The
501 issuance of a permit does not constitute determination by the
502 department of property ownership.

503 (r)~~(p)~~ The department may not require any form of
504 subdivision analysis of property by an owner, developer, or
505 subdivider before submission of an application for an onsite
506 sewage treatment and disposal system.

507 (s)~~(q)~~ This section does not limit the power of a
508 municipality or county to enforce other laws for the protection
509 of the public health and safety.

510 (t)~~(r)~~ In the siting of onsite sewage treatment and
511 disposal systems, including drainfields, shoulders, and slopes,
512 guttering may not be required on single-family residential
513 dwelling units for systems located greater than 5 feet from the
514 roof drip line of the house. If guttering is used on residential
515 dwelling units, the downspouts shall be directed away from the
516 drainfield.

517 (u)~~(s)~~ Notwithstanding subparagraph (i)1. ~~(g)1.~~, onsite
518 sewage treatment and disposal systems located in floodways of
519 the Suwannee and Aucilla Rivers must adhere to the following
520 requirements:

521 1. The absorption surface of the drainfield may not be
522 subject to flooding based on 10-year flood elevations. Provided,

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523 however, for lots or parcels created by the subdivision of land
524 in accordance with applicable local government regulations
525 before January 17, 1990, if an applicant cannot construct a
526 drainfield system with the absorption surface of the drainfield
527 at an elevation equal to or above 10-year flood elevation, the
528 department shall issue a permit for an onsite sewage treatment
529 and disposal system within the 10-year floodplain of rivers,
530 streams, and other bodies of flowing water if all of the
531 following criteria are met:

532 a. The lot is at least one-half acre in size;
533 b. The bottom of the drainfield is at least 36 inches above
534 the 2-year flood elevation; and
535 c. The applicant installs a waterless, incinerating, or
536 organic waste composting toilet and a graywater system and
537 drainfield in accordance with department rules; an aerobic
538 treatment unit and drainfield in accordance with department
539 rules; a system that is capable of reducing effluent nitrate by
540 at least 50 percent in accordance with department rules; or a
541 system other than a system using alternative drainfield
542 materials in accordance with department rules. The United States
543 Department of Agriculture Soil Conservation Service soil maps,
544 State of Florida Water Management District data, and Federal
545 Emergency Management Agency Flood Insurance maps are resources
546 that shall be used to identify flood-prone areas.

547 2. The use of fill or mounding to elevate a drainfield
548 system out of the 10-year floodplain of rivers, streams, or
549 other bodies of flowing water may not be permitted if such a
550 system lies within a regulatory floodway of the Suwannee and
551 Aucilla Rivers. In cases where the 10-year flood elevation does

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552 not coincide with the boundaries of the regulatory floodway, the
553 regulatory floodway will be considered for the purposes of this
554 subsection to extend at a minimum to the 10-year flood
555 elevation.

556 (v)1.~~(t)~~1. The owner of an aerobic treatment unit system
557 shall maintain a current maintenance service agreement with an
558 aerobic treatment unit maintenance entity permitted by the
559 department. The maintenance entity shall inspect each aerobic
560 treatment unit system at least twice each year and shall report
561 quarterly to the department on the number of aerobic treatment
562 unit systems inspected and serviced. The reports may be
563 submitted electronically.

564 2. The property owner of an owner-occupied, single-family
565 residence may be approved and permitted by the department as a
566 maintenance entity for his or her own aerobic treatment unit
567 system upon written certification from the system manufacturer's
568 approved representative that the property owner has received
569 training on the proper installation and service of the system.
570 The maintenance entity service agreement must conspicuously
571 disclose that the property owner has the right to maintain his
572 or her own system and is exempt from contractor registration
573 requirements for performing construction, maintenance, or
574 repairs on the system but is subject to all permitting
575 requirements.

576 3. A septic tank contractor licensed under part III of
577 chapter 489, if approved by the manufacturer, may not be denied
578 access by the manufacturer to aerobic treatment unit system
579 training or spare parts for maintenance entities. After the
580 original warranty period, component parts for an aerobic

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581 treatment unit system may be replaced with parts that meet
582 manufacturer's specifications but are manufactured by others.
583 The maintenance entity shall maintain documentation of the
584 substitute part's equivalency for 2 years and shall provide such
585 documentation to the department upon request.

586 4. The owner of an aerobic treatment unit system shall
587 obtain a system operating permit from the department and allow
588 the department to inspect during reasonable hours each aerobic
589 treatment unit system at least annually, and such inspection may
590 include collection and analysis of system-effluent samples for
591 performance criteria established by rule of the department.

592 (w)~~(u)~~ The department may require the submission of
593 detailed system construction plans that are prepared by a
594 professional engineer registered in this state. The department
595 shall establish by rule criteria for determining when such a
596 submission is required.

597 (x)~~(v)~~ Any permit issued and approved by the department for
598 the installation, modification, or repair of an onsite sewage
599 treatment and disposal system shall transfer with the title to
600 the property in a real estate transaction. A title may not be
601 encumbered at the time of transfer by new permit requirements by
602 a governmental entity for an onsite sewage treatment and
603 disposal system which differ from the permitting requirements in
604 effect at the time the system was permitted, modified, or
605 repaired. An inspection of a system may not be mandated by a
606 governmental entity at the point of sale in a real estate
607 transaction. This paragraph does not affect a septic tank phase-
608 out deferral program implemented by a consolidated government as
609 defined in s. 9, Art. VIII of the State Constitution of 1885.

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610 (y)~~(w)~~ A governmental entity, including a municipality,
611 county, or statutorily created commission, may not require an
612 engineer-designed performance-based treatment system, excluding
613 a passive engineer-designed performance-based treatment system,
614 before the completion of the Florida Onsite Sewage Nitrogen
615 Reduction Strategies Project. This paragraph does not apply to a
616 governmental entity, including a municipality, county, or
617 statutorily created commission, which adopted a local law,
618 ordinance, or regulation on or before January 31, 2012.
619 Notwithstanding this paragraph, an engineer-designed
620 performance-based treatment system may be used to meet the
621 requirements of the variance review and advisory committee
622 recommendations.

623 (z)~~1.(x)1.~~ An onsite sewage treatment and disposal system
624 is not considered abandoned if the system is disconnected from a
625 structure that was made unusable or destroyed following a
626 disaster and if the system was properly functioning at the time
627 of disconnection and was not adversely affected by the disaster.
628 The onsite sewage treatment and disposal system may be
629 reconnected to a rebuilt structure if:

630 a. The reconnection of the system is to the same type of
631 structure which contains the same number of bedrooms or fewer,
632 if the square footage of the structure is less than or equal to
633 110 percent of the original square footage of the structure that
634 existed before the disaster;

635 b. The system is not a sanitary nuisance; and

636 c. The system has not been altered without prior
637 authorization.

638 2. An onsite sewage treatment and disposal system that

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639 serves a property that is foreclosed upon is not considered
640 abandoned.

641 (aa)~~(y)~~ If an onsite sewage treatment and disposal system
642 permittee receives, relies upon, and undertakes construction of
643 a system based upon a validly issued construction permit under
644 rules applicable at the time of construction but a change to a
645 rule occurs within 5 years after the approval of the system for
646 construction but before the final approval of the system, the
647 rules applicable and in effect at the time of construction
648 approval apply at the time of final approval if fundamental site
649 conditions have not changed between the time of construction
650 approval and final approval.

651 (bb)~~(z)~~ An existing-system inspection or evaluation and
652 assessment, or a modification, replacement, or upgrade of an
653 onsite sewage treatment and disposal system is not required for
654 a remodeling addition or modification to a single-family home if
655 a bedroom is not added. However, a remodeling addition or
656 modification to a single-family home may not cover any part of
657 the existing system or encroach upon a required setback or the
658 unobstructed area. To determine if a setback or the unobstructed
659 area is impacted, the local health department shall review and
660 verify a floor plan and site plan of the proposed remodeling
661 addition or modification to the home submitted by a remodeler
662 which shows the location of the system, including the distance
663 of the remodeling addition or modification to the home from the
664 onsite sewage treatment and disposal system. The local health
665 department may visit the site or otherwise determine the best
666 means of verifying the information submitted. A verification of
667 the location of a system is not an inspection or evaluation and

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668 assessment of the system. The review and verification must be
669 completed within 7 business days after receipt by the local
670 health department of a floor plan and site plan. If the review
671 and verification is not completed within such time, the
672 remodeling addition or modification to the single-family home,
673 for the purposes of this paragraph, is approved.

674 Section 2. Effective July 1, 2026, subsection (10) is added
675 to section 381.0065, Florida Statutes, to read:

676 381.0065 Onsite sewage treatment and disposal systems;
677 regulation.—

678 (10) ADOPTION OF NEW RULES.—Any new rule for the use and
679 installation of onsite sewage treatment and disposal systems
680 adopted by the department under this section does not apply to
681 permit applications submitted within 90 days after the date such
682 rule is adopted.

683 Section 3. Paragraph (i) of subsection (2), paragraph (b)
684 of subsection (4), paragraph (j) of subsection (7), and
685 paragraph (a) of subsection (9) of section 380.0552, Florida
686 Statutes, are amended to read:

687 380.0552 Florida Keys Area; protection and designation as
688 area of critical state concern.—

689 (2) LEGISLATIVE INTENT.—It is the intent of the Legislature
690 to:

691 (i) Protect and improve the nearshore water quality of the
692 Florida Keys through federal, state, and local funding of water
693 quality improvement projects, including the construction and
694 operation of wastewater management facilities that meet the
695 requirements of ss. 381.0065(4)(n) and 403.086(11) ~~ss.~~
696 ~~381.0065(4)(l) and 403.086(11)~~, as applicable.

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697 (4) REMOVAL OF DESIGNATION.—

698 (b) Beginning November 30, 2010, the state land planning
699 agency shall annually submit a written report to the
700 Administration Commission describing the progress of the Florida
701 Keys Area toward completing the work program tasks specified in
702 commission rules. The land planning agency shall recommend
703 removing the Florida Keys Area from being designated as an area
704 of critical state concern to the commission if it determines
705 that:

706 1. All of the work program tasks have been completed,
707 including construction of, operation of, and connection to
708 central wastewater management facilities pursuant to s.
709 403.086(11) and upgrade of onsite sewage treatment and disposal
710 systems pursuant to s. 381.0065(4)(n) ~~s. 381.0065(4)(l)~~;

711 2. All local comprehensive plans and land development
712 regulations and the administration of such plans and regulations
713 are adequate to protect the Florida Keys Area, fulfill the
714 legislative intent specified in subsection (2), and are
715 consistent with and further the principles guiding development;
716 and

717 3. A local government has adopted a resolution at a public
718 hearing recommending the removal of the designation.

719 (7) PRINCIPLES FOR GUIDING DEVELOPMENT.—State, regional,
720 and local agencies and units of government in the Florida Keys
721 Area shall coordinate their plans and conduct their programs and
722 regulatory activities consistent with the principles for guiding
723 development as specified in chapter 27F-8, Florida
724 Administrative Code, as amended effective August 23, 1984, which
725 is adopted and incorporated herein by reference. For the

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726 purposes of reviewing the consistency of the adopted plan, or
727 any amendments to that plan, with the principles for guiding
728 development, and any amendments to the principles, the
729 principles shall be construed as a whole and specific provisions
730 may not be construed or applied in isolation from the other
731 provisions. However, the principles for guiding development are
732 repealed 18 months from July 1, 1986. After repeal, any plan
733 amendments must be consistent with the following principles:

734 (j) Ensuring the improvement of nearshore water quality by
735 requiring the construction and operation of wastewater
736 management facilities that meet the requirements of ss.
737 381.0065(4)(n) and 403.086(11) ~~ss. 381.0065(4)(l) and~~
738 ~~403.086(11)~~, as applicable, and by directing growth to areas
739 served by central wastewater treatment facilities through permit
740 allocation systems.

741 (9) MODIFICATION TO PLANS AND REGULATIONS.—

742 (a) Any land development regulation or element of a local
743 comprehensive plan in the Florida Keys Area may be enacted,
744 amended, or rescinded by a local government, but the enactment,
745 amendment, or rescission becomes effective only upon approval by
746 the state land planning agency. The state land planning agency
747 shall review the proposed change to determine if it is in
748 compliance with the principles for guiding development specified
749 in chapter 27F-8, Florida Administrative Code, as amended
750 effective August 23, 1984, and must approve or reject the
751 requested changes within 60 days after receipt. Amendments to
752 local comprehensive plans in the Florida Keys Area must also be
753 reviewed for compliance with the following:

754 1. Construction schedules and detailed capital financing

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755 plans for wastewater management improvements in the annually
756 adopted capital improvements element, and standards for the
757 construction of wastewater treatment and disposal facilities or
758 collection systems that meet or exceed the criteria in s.
759 403.086(11) for wastewater treatment and disposal facilities or
760 s. 381.0065(4) (n) ~~s. 381.0065(4) (1)~~ for onsite sewage treatment
761 and disposal systems.

762 2. Goals, objectives, and policies to protect public safety
763 and welfare in the event of a natural disaster by maintaining a
764 hurricane evacuation clearance time for permanent residents of
765 no more than 24.5 hours. The hurricane evacuation clearance time
766 shall be determined by a hurricane evacuation study conducted in
767 accordance with a professionally accepted methodology and
768 approved by the state land planning agency. For purposes of
769 hurricane evacuation clearance time:

770 a. Mobile home residents are not considered permanent
771 residents.

772 b. The City of Key West Area of Critical State Concern
773 established by chapter 28-36, Florida Administrative Code, shall
774 be included in the hurricane evacuation study and is subject to
775 the evacuation requirements of this subsection.

776 Section 4. Paragraph (c) of subsection (6) of section
777 381.00651, Florida Statutes, is amended to read:

778 381.00651 Periodic evaluation and assessment of onsite
779 sewage treatment and disposal systems.—

780 (6) The requirements for an onsite sewage treatment and
781 disposal system evaluation and assessment program are as
782 follows:

783 (c) *Repair of systems.*—The local ordinance may not require

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784 a repair, modification, or replacement of a system as a result
785 of an evaluation unless the evaluation identifies a system
786 failure. For purposes of this subsection, the term "system
787 failure" means a condition existing within an onsite sewage
788 treatment and disposal system which results in the discharge of
789 untreated or partially treated wastewater onto the ground
790 surface or into surface water or that results in the failure of
791 building plumbing to discharge properly and presents a sanitary
792 nuisance. A system is not in failure if the system does not have
793 a minimum separation distance between the drainfield and the
794 wettest season water table or if an obstruction in a sanitary
795 line or an effluent screen or filter prevents effluent from
796 flowing into a drainfield. If a system failure is identified and
797 several allowable remedial measures are available to resolve the
798 failure, the system owner may choose the least costly allowable
799 remedial measure to fix the system. There may be instances in
800 which a pump-out is sufficient to resolve a system failure.
801 Allowable remedial measures to resolve a system failure are
802 limited to what is necessary to resolve the failure and must
803 meet, to the maximum extent practicable, the requirements of the
804 repair code in effect when the repair is made, subject to the
805 exceptions specified in s. 381.0065(4)(i) ~~s. 381.0065(4)(g)~~. An
806 engineer-designed performance-based treatment system to reduce
807 nutrients may not be required as an alternative remediation
808 measure to resolve the failure of a conventional system.

809 Section 5. Except as expressly provided in this act, this
810 act shall take effect upon becoming a law.