

1 A bill to be entitled
2 An act relating to onsite sewage treatment and
3 disposal systems; amending s. 381.0065, F.S.; deleting
4 legislative intent; defining the term "bedroom";
5 conforming cross-references; providing for any permit
6 issued and approved by the Department of Health for
7 the installation, modification, or repair of an onsite
8 sewage treatment and disposal system to transfer with
9 the title of the property; providing circumstances in
10 which an onsite sewage treatment and disposal system
11 is not considered abandoned; providing for the
12 validity of an onsite sewage treatment and disposal
13 system permit if rules change before final approval of
14 the constructed system; providing that a system
15 modification, replacement, or upgrade is not required
16 unless a bedroom is added to a single-family home;
17 deleting provisions requiring the department to
18 administer an evaluation and assessment program of
19 onsite sewage treatment and disposal systems and
20 requiring property owners to have such systems
21 evaluated at least once every 5 years; deleting
22 obsolete provisions; creating s. 381.00651, F.S.;
23 requiring a county or municipality containing a first
24 magnitude spring to adopt by ordinance, under certain
25 circumstances, a program for the periodic evaluation
26 and assessment of onsite sewage treatment and disposal
27 systems; requiring the county or municipality to
28 notify the Secretary of State of the ordinance;

29 | authorizing a county or municipality, in specified
30 | circumstances, to opt out by a majority vote of
31 | certain requirements by a specified date; authorizing
32 | a county or municipality to adopt or repeal, after a
33 | specified date, an ordinance creating an evaluation
34 | and assessment program, subject to notification of the
35 | Secretary of State; providing criteria for
36 | evaluations, qualified contractors, and repair of
37 | systems; providing for certain procedures and
38 | exemptions in special circumstances; defining the term
39 | "system failure"; requiring that certain procedures be
40 | used for conducting tank and drainfield evaluations;
41 | providing for certain procedures in special
42 | circumstances; providing for assessment procedures;
43 | providing requirements for county health departments;
44 | requiring the county or municipality to develop a
45 | system for tracking the evaluations; providing
46 | criteria; requiring counties and municipalities to
47 | notify the Secretary of Environmental Protection and
48 | the Department of Health that an evaluation program
49 | ordinance is adopted; requiring the Department of
50 | Environmental Protection to notify those counties or
51 | municipalities of the use of, and access to, certain
52 | state and federal program funds and to provide certain
53 | guidance and technical assistance upon request;
54 | requiring the Department of Health to provide access
55 | to certain information to county health departments
56 | and qualified contractors; prohibiting the adoption of

57 | certain rules by the Department of Health; providing
 58 | for applicability; repealing s. 381.00656, F.S.,
 59 | relating to a grant program for the repair of onsite
 60 | sewage treatment and disposal systems; amending s.
 61 | 381.0066, F.S.; lowering the fees imposed by the
 62 | department for certain permits; conforming cross-
 63 | references; providing an effective date.
 64 |

65 | Be It Enacted by the Legislature of the State of Florida:
 66 |

67 | Section 1. Subsections (1), (5), (6), and (7) of section
 68 | 381.0065, Florida Statutes, are amended, paragraphs (b) through
 69 | (p) of subsection (2) of that section are redesignated as
 70 | paragraphs (c) through (q), respectively, a new paragraph (b) is
 71 | added to that subsection, paragraph (j) of subsection (3) and
 72 | paragraph (n) of subsection (4) of that section are amended, and
 73 | paragraphs (w) through (z) are added to subsection (4) of that
 74 | section, to read:

75 | 381.0065 Onsite sewage treatment and disposal systems;
 76 | regulation.—

77 | (1) LEGISLATIVE INTENT.—

78 | (a) It is the intent of the Legislature that proper
 79 | management of onsite sewage treatment and disposal systems is
 80 | paramount to the health, safety, and welfare of the public. ~~It~~
 81 | ~~is further the intent of the Legislature that the department~~
 82 | ~~shall administer an evaluation program to ensure the operational~~
 83 | ~~condition of the system and identify any failure with the~~
 84 | ~~system.~~

85 ~~(b)~~ It is the intent of the Legislature that where a
86 publicly owned or investor-owned sewerage system is not
87 available, the department shall issue permits for the
88 construction, installation, modification, abandonment, or repair
89 of onsite sewage treatment and disposal systems under conditions
90 as described in this section and rules adopted under this
91 section. It is further the intent of the Legislature that the
92 installation and use of onsite sewage treatment and disposal
93 systems not adversely affect the public health or significantly
94 degrade the groundwater or surface water.

95 (2) DEFINITIONS.—As used in ss. 381.0065–381.0067, the
96 term:

97 (b)1. "Bedroom" means a room that can be used for sleeping
98 and that:

99 a. For site-built dwellings, has a minimum of 70 square
100 feet of conditioned space;

101 b. For manufactured homes, is constructed according to
102 standards of the United States Department of Housing and Urban
103 Development and has a minimum of 50 square feet of floor area;

104 c. Is located along an exterior wall;

105 d. Has a closet and a door or an entrance where a door
106 could be reasonably installed; and

107 e. Has an emergency means of escape and rescue opening to
108 the outside.

109 2. A room may not be considered a bedroom if it is used to
110 access another room except a bathroom or closet.

111 3. "Bedroom" does not include a hallway, bathroom,
112 kitchen, living room, family room, dining room, den, breakfast

113 nook, pantry, laundry room, sunroom, recreation room,
 114 media/video room, or exercise room.

115 (3) DUTIES AND POWERS OF THE DEPARTMENT OF HEALTH.—The
 116 department shall:

117 (j) Supervise research on, demonstration of, and training
 118 on the performance, environmental impact, and public health
 119 impact of onsite sewage treatment and disposal systems within
 120 this state. Research fees collected under s. 381.0066(2)(k)
 121 ~~381.0066(2)(l)~~ must be used to develop and fund hands-on
 122 training centers designed to provide practical information about
 123 onsite sewage treatment and disposal systems to septic tank
 124 contractors, master septic tank contractors, contractors,
 125 inspectors, engineers, and the public and must also be used to
 126 fund research projects which focus on improvements of onsite
 127 sewage treatment and disposal systems, including use of
 128 performance-based standards and reduction of environmental
 129 impact. Research projects shall be initially approved by the
 130 technical review and advisory panel and shall be applicable to
 131 and reflect the soil conditions specific to Florida. Such
 132 projects shall be awarded through competitive negotiation, using
 133 the procedures provided in s. 287.055, to public or private
 134 entities that have experience in onsite sewage treatment and
 135 disposal systems in Florida and that are principally located in
 136 Florida. Research projects may ~~shall~~ not be awarded to firms or
 137 entities that employ or are associated with persons who serve on
 138 either the technical review and advisory panel or the research
 139 review and advisory committee.

140 (4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may

141 not construct, repair, modify, abandon, or operate an onsite
142 sewage treatment and disposal system without first obtaining a
143 permit approved by the department. The department may issue
144 permits to carry out this section, but may ~~shall~~ not make the
145 issuance of such permits contingent upon prior approval by the
146 Department of Environmental Protection, except that the issuance
147 of a permit for work seaward of the coastal construction control
148 line established under s. 161.053 shall be contingent upon
149 receipt of any required coastal construction control line permit
150 from the Department of Environmental Protection. A construction
151 permit is valid for 18 months from the issuance date and may be
152 extended by the department for one 90-day period under rules
153 adopted by the department. A repair permit is valid for 90 days
154 from the date of issuance. An operating permit must be obtained
155 prior to the use of any aerobic treatment unit or if the
156 establishment generates commercial waste. Buildings or
157 establishments that use an aerobic treatment unit or generate
158 commercial waste shall be inspected by the department at least
159 annually to assure compliance with the terms of the operating
160 permit. The operating permit for a commercial wastewater system
161 is valid for 1 year from the date of issuance and must be
162 renewed annually. The operating permit for an aerobic treatment
163 unit is valid for 2 years from the date of issuance and must be
164 renewed every 2 years. If all information pertaining to the
165 siting, location, and installation conditions or repair of an
166 onsite sewage treatment and disposal system remains the same, a
167 construction or repair permit for the onsite sewage treatment
168 and disposal system may be transferred to another person, if the

169 transferee files, within 60 days after the transfer of
170 ownership, an amended application providing all corrected
171 information and proof of ownership of the property. There is no
172 fee associated with the processing of this supplemental
173 information. A person may not contract to construct, modify,
174 alter, repair, service, abandon, or maintain any portion of an
175 onsite sewage treatment and disposal system without being
176 registered under part III of chapter 489. A property owner who
177 personally performs construction, maintenance, or repairs to a
178 system serving his or her own owner-occupied single-family
179 residence is exempt from registration requirements for
180 performing such construction, maintenance, or repairs on that
181 residence, but is subject to all permitting requirements. A
182 municipality or political subdivision of the state may not issue
183 a building or plumbing permit for any building that requires the
184 use of an onsite sewage treatment and disposal system unless the
185 owner or builder has received a construction permit for such
186 system from the department. A building or structure may not be
187 occupied and a municipality, political subdivision, or any state
188 or federal agency may not authorize occupancy until the
189 department approves the final installation of the onsite sewage
190 treatment and disposal system. A municipality or political
191 subdivision of the state may not approve any change in occupancy
192 or tenancy of a building that uses an onsite sewage treatment
193 and disposal system until the department has reviewed the use of
194 the system with the proposed change, approved the change, and
195 amended the operating permit.

196 (n) Evaluations for determining the seasonal high-water

197 table elevations or the suitability of soils for the use of a
198 new onsite sewage treatment and disposal system shall be
199 performed by department personnel, professional engineers
200 registered in the state, or such other persons with expertise,
201 as defined by rule, in making such evaluations. Evaluations for
202 determining mean annual flood lines shall be performed by those
203 persons identified in paragraph (2)(j) ~~(2)(i)~~. The department
204 shall accept evaluations submitted by professional engineers and
205 such other persons as meet the expertise established by this
206 section or by rule unless the department has a reasonable
207 scientific basis for questioning the accuracy or completeness of
208 the evaluation.

209 (w) Any permit issued and approved by the department for
210 the installation, modification, or repair of an onsite sewage
211 treatment and disposal system shall transfer with the title to
212 the property in a real estate transaction. A title may not be
213 encumbered at the time of transfer by new permit requirements by
214 a governmental entity for an onsite sewage treatment and
215 disposal system which differ from the permitting requirements in
216 effect at the time the system was permitted, modified, or
217 repaired. Inspection of a system may not be mandated by any
218 governmental entity at the point of sale in a real estate
219 transaction.

220 (x)1. An onsite sewage treatment and disposal system is
221 not considered abandoned if the system is disconnected from a
222 structure that was made unusable or destroyed following a
223 disaster and was properly functioning at the time of
224 disconnection and not adversely affected by the disaster. The

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225 onsite sewage treatment and disposal system may be reconnected
226 to a rebuilt structure if:

227 a. The reconnection of the system is to the same type and
228 approximate size of structure that existed prior to the
229 disaster;

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

231 c. The system has not been altered without prior
232 authorization.

233 2. An onsite sewage treatment and disposal system that
234 serves a property that is foreclosed upon is not considered
235 abandoned.

236 (y) If an onsite sewage treatment and disposal system
237 permittee receives, relies upon, and undertakes construction of
238 a system based upon a validly issued construction permit under
239 rules applicable at the time of construction but a change to a
240 rule occurs after the approval of the system for construction
241 but before the final approval of the system, the rules
242 applicable and in effect at the time of construction approval
243 apply at the time of final approval if fundamental site
244 conditions have not changed between the time of construction
245 approval and final approval.

246 (z) A modification, replacement, or upgrade of an onsite
247 sewage treatment and disposal system is not required for a
248 remodeling addition to a single-family home if a bedroom is not
249 added.

250 ~~(5) EVALUATION AND ASSESSMENT.~~

251 ~~(a) Beginning July 1, 2011, the department shall~~
252 ~~administer an onsite sewage treatment and disposal system~~

253 ~~evaluation program for the purpose of assessing the fundamental~~
 254 ~~operational condition of systems and identifying any failures~~
 255 ~~within the systems. The department shall adopt rules~~
 256 ~~implementing the program standards, procedures, and~~
 257 ~~requirements, including, but not limited to, a schedule for a 5-~~
 258 ~~year evaluation cycle, requirements for the pump out of a system~~
 259 ~~or repair of a failing system, enforcement procedures for~~
 260 ~~failure of a system owner to obtain an evaluation of the system,~~
 261 ~~and failure of a contractor to timely submit evaluation results~~
 262 ~~to the department and the system owner. The department shall~~
 263 ~~ensure statewide implementation of the evaluation and assessment~~
 264 ~~program by January 1, 2016.~~

265 ~~(b) Owners of an onsite sewage treatment and disposal~~
 266 ~~system, excluding a system that is required to obtain an~~
 267 ~~operating permit, shall have the system evaluated at least once~~
 268 ~~every 5 years to assess the fundamental operational condition of~~
 269 ~~the system, and identify any failure within the system.~~

270 ~~(c) All evaluation procedures must be documented and~~
 271 ~~nothing in this subsection limits the amount of detail an~~
 272 ~~evaluator may provide at his or her professional discretion. The~~
 273 ~~evaluation must include a tank and drainfield evaluation, a~~
 274 ~~written assessment of the condition of the system, and, if~~
 275 ~~necessary, a disclosure statement pursuant to the department's~~
 276 ~~procedure.~~

277 ~~(d)1. Systems being evaluated that were installed prior to~~
 278 ~~January 1, 1983, shall meet a minimum 6-inch separation from the~~
 279 ~~bottom of the drainfield to the wettest season water table~~
 280 ~~elevation as defined by department rule. All drainfield repairs,~~

281 ~~replacements or modifications to systems installed prior to~~
282 ~~January 1, 1983, shall meet a minimum 12-inch separation from~~
283 ~~the bottom of the drainfield to the wettest season water table~~
284 ~~elevation as defined by department rule.~~

285 ~~2. Systems being evaluated that were installed on or after~~
286 ~~January 1, 1983, shall meet a minimum 12-inch separation from~~
287 ~~the bottom of the drainfield to the wettest season water table~~
288 ~~elevation as defined by department rule. All drainfield repairs,~~
289 ~~replacements or modification to systems developed on or after~~
290 ~~January 1, 1983, shall meet a minimum 24-inch separation from~~
291 ~~the bottom of the drainfield to the wettest season water table~~
292 ~~elevation.~~

293 ~~(c) If documentation of a tank pump-out or a permitted new~~
294 ~~installation, repair, or modification of the system within the~~
295 ~~previous 5 years is provided, and states the capacity of the~~
296 ~~tank and indicates that the condition of the tank is not a~~
297 ~~sanitary or public health nuisance pursuant to department rule,~~
298 ~~a pump-out of the system is not required.~~

299 ~~(f) Owners are responsible for paying the cost of any~~
300 ~~required pump-out, repair, or replacement pursuant to department~~
301 ~~rule, and may not request partial evaluation or the omission of~~
302 ~~portions of the evaluation.~~

303 ~~(g) Each evaluation or pump-out required under this~~
304 ~~subsection must be performed by a septic tank contractor or~~
305 ~~master septic tank contractor registered under part III of~~
306 ~~chapter 489, a professional engineer with wastewater treatment~~
307 ~~system experience licensed pursuant to chapter 471, or an~~
308 ~~environmental health professional certified under chapter 381 in~~

309 ~~the area of onsite sewage treatment and disposal system~~
310 ~~evaluation.~~

311 ~~(h) The evaluation report fee collected pursuant to s.~~
312 ~~381.0066(2)(b) shall be remitted to the department by the~~
313 ~~evaluator at the time the report is submitted.~~

314 ~~(i) Prior to any evaluation deadline, the department must~~
315 ~~provide a minimum of 60 days' notice to owners that their~~
316 ~~systems must be evaluated by that deadline. The department may~~
317 ~~include a copy of any homeowner educational materials developed~~
318 ~~pursuant to this section which provides information on the~~
319 ~~proper maintenance of onsite sewage treatment and disposal~~
320 ~~systems.~~

321 (5)~~(6)~~ ENFORCEMENT; RIGHT OF ENTRY; CITATIONS.-

322 (a) Department personnel who have reason to believe
323 noncompliance exists, may at any reasonable time, enter the
324 premises permitted under ss. 381.0065-381.0066, or the business
325 premises of any septic tank contractor or master septic tank
326 contractor registered under part III of chapter 489, or any
327 premises that the department has reason to believe is being
328 operated or maintained not in compliance, to determine
329 compliance with the provisions of this section, part I of
330 chapter 386, or part III of chapter 489 or rules or standards
331 adopted under ss. 381.0065-381.0067, part I of chapter 386, or
332 part III of chapter 489. As used in this paragraph, the term
333 "premises" does not include a residence or private building. To
334 gain entry to a residence or private building, the department
335 must obtain permission from the owner or occupant or secure an
336 inspection warrant from a court of competent jurisdiction.

337 (b)1. The department may issue citations that may contain
338 an order of correction or an order to pay a fine, or both, for
339 violations of ss. 381.0065-381.0067, part I of chapter 386, or
340 part III of chapter 489 or the rules adopted by the department,
341 when a violation of these sections or rules is enforceable by an
342 administrative or civil remedy, or when a violation of these
343 sections or rules is a misdemeanor of the second degree. A
344 citation issued under ss. 381.0065-381.0067, part I of chapter
345 386, or part III of chapter 489 constitutes a notice of proposed
346 agency action.

347 2. A citation must be in writing and must describe the
348 particular nature of the violation, including specific reference
349 to the provisions of law or rule allegedly violated.

350 3. The fines imposed by a citation issued by the
351 department may not exceed \$500 for each violation. Each day the
352 violation exists constitutes a separate violation for which a
353 citation may be issued.

354 4. The department shall inform the recipient, by written
355 notice pursuant to ss. 120.569 and 120.57, of the right to an
356 administrative hearing to contest the citation within 21 days
357 after the date the citation is received. The citation must
358 contain a conspicuous statement that if the recipient fails to
359 pay the fine within the time allowed, or fails to appear to
360 contest the citation after having requested a hearing, the
361 recipient has waived the recipient's right to contest the
362 citation and must pay an amount up to the maximum fine.

363 5. The department may reduce or waive the fine imposed by
364 the citation. In determining whether to reduce or waive the

365 fine, the department must consider the gravity of the violation,
 366 the person's attempts at correcting the violation, and the
 367 person's history of previous violations including violations for
 368 which enforcement actions were taken under ss. 381.0065-
 369 381.0067, part I of chapter 386, part III of chapter 489, or
 370 other provisions of law or rule.

371 6. Any person who willfully refuses to sign and accept a
 372 citation issued by the department commits a misdemeanor of the
 373 second degree, punishable as provided in s. 775.082 or s.
 374 775.083.

375 7. The department, pursuant to ss. 381.0065-381.0067, part
 376 I of chapter 386, or part III of chapter 489, shall deposit any
 377 fines it collects in the county health department trust fund for
 378 use in providing services specified in those sections.

379 8. This section provides an alternative means of enforcing
 380 ss. 381.0065-381.0067, part I of chapter 386, and part III of
 381 chapter 489. This section does not prohibit the department from
 382 enforcing ss. 381.0065-381.0067, part I of chapter 386, or part
 383 III of chapter 489, or its rules, by any other means. However,
 384 the department must elect to use only a single method of
 385 enforcement for each violation.

386 (6)~~(7)~~ LAND APPLICATION OF SEPTAGE PROHIBITED.—Effective
 387 January 1, 2016, the land application of septage from onsite
 388 sewage treatment and disposal systems is prohibited. ~~By February~~
 389 ~~1, 2011, the department, in consultation with the Department of~~
 390 ~~Environmental Protection, shall provide a report to the~~
 391 ~~Governor, the President of the Senate, and the Speaker of the~~
 392 ~~House of Representatives, recommending alternative methods to~~

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393 ~~establish enhanced treatment levels for the land application of~~
394 ~~septage from onsite sewage and disposal systems. The report~~
395 ~~shall include, but is not limited to, a schedule for the~~
396 ~~reduction in land application, appropriate treatment levels,~~
397 ~~alternative methods for treatment and disposal, enhanced~~
398 ~~application site permitting requirements including any~~
399 ~~requirements for nutrient management plans, and the range of~~
400 ~~costs to local governments, affected businesses, and individuals~~
401 ~~for alternative treatment and disposal methods. The report shall~~
402 ~~also include any recommendations for legislation or rule~~
403 ~~authority needed to reduce land application of septage.~~

404 Section 2. Section 381.00651, Florida Statutes, is created
405 to read:

406 381.00651 Periodic evaluation and assessment of onsite
407 sewage treatment and disposal systems.-

408 (1) (a) For the purposes of this subsection, the term
409 "first magnitude spring" means a spring that has a median water
410 discharge of greater than or equal to 100 cubic feet per second
411 for the period of record, as determined by the Department of
412 Environmental Protection.

413 (b) A county or municipality containing a first magnitude
414 spring that has not adopted an onsite sewage treatment and
415 disposal system evaluation and assessment program, or that does
416 not opt out of this section, shall develop and adopt by
417 ordinance a local onsite sewage treatment and disposal system
418 evaluation and assessment program that meets the requirements of
419 this section within all or part of its geographic area. A county
420 or municipality that does not contain a first magnitude spring

421 may develop and adopt by local ordinance an onsite sewage
422 treatment and disposal system evaluation and assessment program
423 that meets the requirements of this section within all or part
424 of its geographic area. A county or municipality that has
425 adopted an onsite sewage treatment and disposal system
426 evaluation and assessment program before July 1, 2011, may
427 continue to enforce its program without having to meet the
428 requirements of this section, if the program does not require an
429 evaluation at the point of sale in a real estate transaction.

430 (c) By a majority vote of the governing body of a local
431 government, a county or municipality containing a first
432 magnitude spring may opt out of the requirements of this section
433 at any time before January 1, 2013, by adopting a separate
434 resolution. The resolution shall be directed to and filed with
435 the Secretary of State and shall state the intent of the county
436 or municipality not to adopt an onsite sewage treatment and
437 disposal system evaluation and assessment program. Absent an
438 interlocal agreement or county charter provision to the
439 contrary, a municipality may elect to opt out of the
440 requirements of this section, notwithstanding the decision of
441 the governing body of the county in which the municipality is
442 located. A county or municipality may subsequently adopt an
443 ordinance imposing an onsite sewage treatment and disposal
444 system evaluation and assessment program if the program meets
445 the requirements of this section.

446 (d) A county or municipality may repeal an ordinance
447 adopted pursuant to this section only if the county or
448 municipality notifies the Secretary of State by letter of the

449 repeal. A county or municipality may not adopt an onsite sewage
450 treatment and disposal system evaluation and assessment program
451 except pursuant to this section.

452 (2) An onsite sewage treatment and disposal system
453 evaluation and assessment program adopted pursuant to this
454 section shall provide for the following:

455 (a) Evaluations.—An evaluation of each onsite sewage
456 treatment and disposal system within all or part of the county's
457 or municipality's jurisdiction must take place once every 5
458 years to assess the fundamental operational condition of the
459 system and to identify system failures. The ordinance may not
460 mandate an evaluation at the point of sale in a real estate
461 transaction and may not require a soil examination. The location
462 of the system shall be identified. A tank and drainfield
463 evaluation and a written assessment of the overall condition of
464 the system pursuant to the assessment procedure prescribed in
465 paragraph (3) (d) are required.

466 (b) Qualified contractors.—Each evaluation required under
467 this subsection must be performed by a qualified contractor, who
468 may be a septic tank contractor or master septic tank contractor
469 registered under part III of chapter 489, a professional
470 engineer having wastewater treatment system experience and
471 licensed under chapter 471, or an environmental health
472 professional certified under this chapter in the area of onsite
473 sewage treatment and disposal system evaluation. Evaluations and
474 pump-outs may also be performed by an authorized employee
475 working under the supervision of an individual listed in this
476 paragraph; however, all evaluation forms must be signed by a

477 qualified contractor in writing or by electronic signature.

478 (c) Repair of systems.—The local ordinance may not require
479 a repair, modification, or replacement of a system as a result
480 of an evaluation unless the evaluation identifies a system
481 failure. For purposes of this subsection, the term "system
482 failure" means a condition existing within an onsite sewage
483 treatment and disposal system which results in the discharge of
484 untreated or partially treated wastewater onto the ground
485 surface or into surface water or results in the failure of
486 building plumbing to discharge properly and presents a sanitary
487 nuisance. A system is not in failure if the system does not have
488 a minimum separation distance between the drainfield and the
489 wettest season water table or if an obstruction in a sanitary
490 line or an effluent screen or filter prevents effluent from
491 flowing into a drainfield. If a system failure is identified and
492 several allowable remedial measures are available to resolve the
493 failure, the system owner may choose the least costly allowable
494 remedial measure to fix the system. There may be instances in
495 which a pump-out is sufficient to resolve a system failure.
496 Allowable remedial measures to resolve a system failure are
497 limited to what is necessary to resolve the failure and must
498 meet, to the maximum extent practicable, the requirements of the
499 repair code in effect when the repair is made, subject to the
500 exceptions specified in s. 381.0065(4)(g). An engineer-designed
501 performance-based treatment system to reduce nutrients may not
502 be required as an alternative remediation measure to resolve the
503 failure of a conventional system.

504 (d) Exemptions.—

505 1. The local ordinance shall exempt from the evaluation
506 requirements any system that is required to obtain an operating
507 permit pursuant to state law or that is inspected by the
508 department pursuant to the annual permit inspection requirements
509 of chapter 513.

510 2. The local ordinance may provide for an exemption or an
511 extension of time to obtain an evaluation and assessment if
512 connection to a sewer system is available, connection to the
513 sewer system is imminent, and written arrangements for payment
514 of any utility assessments or connection fees have been made by
515 the system owner.

516 3. A septic tank system serving a residential dwelling
517 unit on a lot with a ratio of one bedroom per acre or greater is
518 exempt from the requirements of this section and may not be
519 included in a septic tank system inspection program.

520 (3) The following procedures shall be used for conducting
521 evaluations:

522 (a) Tank evaluation.—The tank evaluation shall assess the
523 apparent structural condition and watertightness of the tank and
524 shall estimate the size of the tank. The evaluation must include
525 a pump-out. However, an ordinance may not require a pump-out if
526 there is documentation indicating that a tank pump-out or a
527 permitted new installation, repair, or modification of the
528 system has occurred within the previous 5 years, identifying the
529 capacity of the tank, and indicating that the condition of the
530 tank is structurally sound and watertight. Visual inspection of
531 the tank must be made when the tank is empty to detect cracks,
532 leaks, or other defects. Baffles or tees must be checked to

533 ensure that they are intact and secure. The evaluation shall
534 note the presence and condition of outlet devices, effluent
535 filters, and compartment walls; any structural defect in the
536 tank; the condition and fit of the tank lid, including manholes;
537 whether surface water can infiltrate the tank; and whether the
538 tank was pumped out. If the tank, in the opinion of the
539 qualified contractor, is in danger of being damaged by leaving
540 the tank empty after inspection, the tank shall be refilled
541 before concluding the inspection. Broken or damaged lids or
542 manholes shall be replaced without obtaining a repair permit.

543 (b) Drainfield evaluation.—The drainfield evaluation must
544 include a determination of the approximate size and location of
545 the drainfield. The evaluation shall state whether there is any
546 sewage or effluent visible on the ground or discharging to a
547 ditch or other water body and the location of any downspout or
548 other source of water near or in the vicinity of the drainfield.

549 (c) Special circumstances.—If the system contains pumps,
550 siphons, or alarms, the following information may be provided at
551 the request of the homeowner:

552 1. An assessment of dosing tank integrity, including the
553 approximate volume and the type of material used in the tank's
554 construction;

555 2. Whether the pump is elevated off the bottom of the
556 chamber and its operational status;

557 3. Whether the system has a check valve and purge hole;
558 and

559 4. Whether the system has a high-water alarm, and if so
560 whether the alarm is audio or visual or both, the location and

561 operational condition of the alarm, and whether the electrical
562 connections to the alarm appear satisfactory.

563

564 If the homeowner does not request this information, the
565 qualified contractor and his or her employee shall not be liable
566 for any damages directly relating from a failure of the system's
567 pumps, siphons, or alarms. This exclusion of liability shall be
568 stated on the front cover of the report required under paragraph
569 (d).

570 (d) Assessment procedure.—All evaluation procedures used
571 by a qualified contractor shall be documented in the
572 Environmental Health Database. The qualified contractor shall
573 provide a copy of a written, signed evaluation report to the
574 property owner upon completion of the evaluation and to the
575 county health department within 30 days after the evaluation.
576 The report shall contain the name and license number of the
577 company providing the report. A copy of the evaluation report
578 shall be retained by the local county health department for a
579 minimum of 5 years and until a subsequent inspection report is
580 filed. The front cover of the report must identify any system
581 failure and include a clear and conspicuous notice to the owner
582 that the owner has a right to have any remediation of the
583 failure performed by a qualified contractor other than the
584 contractor performing the evaluation and a notice of the
585 exclusion of liability under paragraph (c). The report must
586 further identify any crack, leak, improper fit, or other defect
587 in the tank, manhole, or lid, and any other damaged or missing
588 component; any sewage or effluent visible on the ground or

589 discharging to a ditch or other surface water body; any
590 downspout, stormwater, or other source of water directed onto or
591 toward the system; and any other maintenance need or condition
592 of the system at the time of the evaluation which, in the
593 opinion of the qualified contractor, would possibly interfere
594 with or restrict any future repair or modification to the
595 existing system. The report shall conclude with an overall
596 assessment of the fundamental operational condition of the
597 system.

598 (4) The county health department shall administer any
599 evaluation program on behalf of a county, or a municipality
600 within the county, that has adopted an evaluation program
601 pursuant to this section. In order to administer the evaluation
602 program, the county or municipality, in consultation with the
603 county health department, may develop a reasonable fee schedule
604 to be used solely to pay for the costs of administering the
605 evaluation program. Such a fee schedule shall be identified in
606 the ordinance that adopts the evaluation program. When arriving
607 at a reasonable fee schedule, the estimated annual revenues to
608 be derived from fees may not exceed reasonable estimated annual
609 costs of the program. Fees shall be assessed to the system owner
610 during an inspection and separately identified on the invoice of
611 the qualified contractor. Fees shall be remitted by the
612 qualified contractor to the county health department. The county
613 health department's administrative responsibilities include the
614 following:

615 (a) Providing a notice to the system owner at least 60
616 days before the system is due for an evaluation. The notice may

617 include information on the proper maintenance of onsite sewage
618 treatment and disposal systems.

619 (b) In consultation with the Department of Health,
620 providing uniform disciplinary procedures and penalties for
621 qualified contractors who do not comply with the requirements of
622 the adopted ordinance, including, but not limited to, failure to
623 provide the evaluation report as required in this subsection to
624 the system owner and the county health department. Only the
625 county health department may assess penalties against system
626 owners for failure to comply with the adopted ordinance,
627 consistent with existing requirements of law.

628 (5) (a) A county or municipality that adopts an onsite
629 sewage treatment and disposal system evaluation and assessment
630 program pursuant to this section shall notify the Secretary of
631 Environmental Protection, the Department of Health, and the
632 applicable county health department upon the adoption of its
633 ordinance establishing the program.

634 (b) Upon receipt of the notice under paragraph (a), the
635 Department of Environmental Protection shall, within existing
636 resources, notify the county or municipality of the potential
637 use of, and access to, program funds under the Clean Water State
638 Revolving Fund or s. 319 of the Clean Water Act, provide
639 guidance in the application process to receive such moneys, and
640 provide advice and technical assistance to the county or
641 municipality on how to establish a low-interest revolving loan
642 program or how to model a revolving loan program after the low-
643 interest loan program of the Clean Water State Revolving Fund.
644 This paragraph does not obligate the Department of Environmental

645 Protection to provide any county or municipality with money to
646 fund such programs.

647 (c)1. The Department of Health shall provide access to the
648 Environmental Health Database to county health departments and
649 qualified contractors for use in the requirement of this section
650 for the assimilation of data to track relevant information
651 resulting from an assessment and evaluation of the overall
652 condition of onsite sewage treatment and disposal systems. The
653 Environmental Health Database shall be used by contractors to
654 report all service and evaluation events and by the county
655 health department to notify owners of onsite sewage treatment
656 and disposal systems when evaluations are due. Data and
657 information shall be recorded and updated as service and
658 evaluations are conducted and reported.

659 2. The Department of Health may not adopt any rule that
660 alters the provisions of this section.

661 (6) This section does not:

662 (a) Derogate or limit county and municipal home rule
663 authority to act outside the scope of the evaluation and
664 assessment program set forth in this section.

665 (b) Repeal or affect any other law relating to the subject
666 matter of this section.

667 (c) Prohibit a county or municipality that has adopted an
668 evaluation and assessment program pursuant to this section from:

669 1. Enforcing existing ordinances or adopting new
670 ordinances relating to onsite sewage treatment facilities to
671 address public health and safety if such ordinances do not
672 repeal, suspend, or alter the requirements or limitations of

673 this section.

674 2. Adopting local environmental and pollution abatement
 675 measures for water quality improvement as provided for by law if
 676 such measures do not repeal, suspend, or alter the requirements
 677 or limitations of this section.

678 3. Exercising its independent and existing authority to
 679 use and meet the requirements of s. 381.00655.

680 Section 3. Section 381.00656, Florida Statutes, is
 681 repealed.

682 Section 4. Subsection (2) of section 381.0066, Florida
 683 Statutes, is amended to read:

684 381.0066 Onsite sewage treatment and disposal systems;
 685 fees.—

686 (2) The minimum fees in the following fee schedule apply
 687 until changed by rule by the department within the following
 688 limits:

689 (a) Application review, permit issuance, or system
 690 inspection, including repair of a subsurface, mound, filled, or
 691 other alternative system or permitting of an abandoned system: a
 692 fee of not less than \$25, or more than \$125.

693 ~~(b) A 5-year evaluation report submitted pursuant to s.~~
 694 ~~381.0065(5): a fee not less than \$15, or more than \$30. At least~~
 695 ~~\$1 and no more than \$5 collected pursuant to this paragraph~~
 696 ~~shall be used to fund a grant program established under s.~~
 697 ~~381.00656.~~

698 (b)(e) Site evaluation, site reevaluation, evaluation of a
 699 system previously in use, or a per annum septage disposal site
 700 evaluation: a fee of not less than \$40, or more than \$115.

701 (c)~~(d)~~ Biennial Operating permit for aerobic treatment
 702 units or performance-based treatment systems: a fee of not more
 703 than \$100.

704 (d)~~(e)~~ Annual operating permit for systems located in
 705 areas zoned for industrial manufacturing or equivalent uses or
 706 where the system is expected to receive wastewater which is not
 707 domestic in nature: a fee of not less than \$150, or more than
 708 \$300.

709 (e)~~(f)~~ Innovative technology: a fee not to exceed \$25,000.

710 (f)~~(g)~~ Septage disposal service, septage stabilization
 711 facility, portable or temporary toilet service, tank
 712 manufacturer inspection: a fee of not less than \$25, or more
 713 than \$200, per year.

714 (g)~~(h)~~ Application for variance: a fee of not less than
 715 \$150, or more than \$300.

716 (h)~~(i)~~ Annual operating permit for waterless,
 717 incinerating, or organic waste composting toilets: a fee of not
 718 less than \$15 ~~\$50~~, or more than \$30 ~~\$150~~.

719 (i)~~(j)~~ Aerobic treatment unit or performance-based
 720 treatment system maintenance entity permit: a fee of not less
 721 than \$25, or more than \$150, per year.

722 (j)~~(k)~~ Reinspection fee per visit for site inspection
 723 after system construction approval or for noncompliant system
 724 installation per site visit: a fee of not less than \$25, or more
 725 than \$100.

726 (k)~~(l)~~ Research: An additional \$5 fee shall be added to
 727 each new system construction permit issued to be used to fund
 728 onsite sewage treatment and disposal system research,

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729 demonstration, and training projects. Five dollars from any
730 repair permit fee collected under this section shall be used for
731 funding the hands-on training centers described in s.
732 381.0065(3)(j).

733 (1)~~(m)~~ Annual operating permit, including annual
734 inspection and any required sampling and laboratory analysis of
735 effluent, for an engineer-designed performance-based system: a
736 fee of not less than \$150, or more than \$300.

737
738 ~~On or before January 1, 2011, the Surgeon General, after~~
739 ~~consultation with the Revenue Estimating Conference, shall~~
740 ~~determine a revenue neutral fee schedule for services provided~~
741 ~~pursuant to s. 381.0065(5) within the parameters set in~~
742 ~~paragraph (b). Such determination is not subject to the~~
743 ~~provisions of chapter 120.~~ The funds collected pursuant to this
744 subsection must be deposited in a trust fund administered by the
745 department, to be used for the purposes stated in this section
746 and ss. 381.0065 and 381.00655.

747 Section 5. This act shall take effect upon becoming a law.