

By the Committees on Budget; Health Regulation; and Environmental Preservation and Conservation; and Senators Dean, Evers, Storms, Gaetz, and Montford

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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 conditions under
10 which governmental entities are prohibited from
11 requiring certain inspections and systems; providing
12 applicability; providing an exception; providing
13 circumstances in which an onsite sewage treatment and
14 disposal system is not considered abandoned; providing
15 for the validity of an onsite sewage treatment and
16 disposal system permit if rules change before final
17 approval of the constructed system, under certain
18 conditions; providing that a system modification,
19 replacement, or upgrade is not required unless a
20 bedroom is added to a single-family home; deleting
21 provisions requiring the department to administer an
22 evaluation and assessment program of onsite sewage
23 treatment and disposal systems and requiring property
24 owners to have such systems evaluated at least once
25 every 5 years; deleting obsolete provisions; creating
26 s. 381.00651, F.S.; requiring a county or municipality
27 containing a first magnitude spring to adopt by
28 ordinance, under certain circumstances, the program
29 for the periodic evaluation and assessment of onsite

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30 sewage treatment and disposal systems; requiring the
31 county or municipality to notify the Secretary of
32 State of the ordinance; authorizing a county or
33 municipality, in specified circumstances, to opt out
34 by a vote of 60 percent of the governing board;
35 authorizing a county or municipality to adopt or
36 repeal, after a specified date, an ordinance creating
37 an evaluation and assessment program, subject to
38 notification of the Secretary of State; providing
39 criteria for evaluations, qualified contractors, and
40 repair of systems; providing for certain procedures
41 and exemptions in special circumstances; defining the
42 term "system failure"; requiring that certain
43 procedures be used for conducting tank and drainfield
44 evaluations; providing for certain procedures in
45 special circumstances; providing for contractor
46 immunity from liability under certain conditions;
47 providing for assessment procedures; providing
48 requirements for county health departments; requiring
49 the Department of Health to allow county health
50 departments and qualified contractors to access the
51 state database to track data and evaluation reports;
52 requiring counties and municipalities to notify the
53 Secretary of Environmental Protection and the
54 Department of Health when an evaluation program
55 ordinance is adopted; requiring the Department of
56 Environmental Protection to notify those counties or
57 municipalities of the use of, and access to, certain
58 state and federal program funds and to provide certain

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59 guidance and technical assistance upon request;
60 prohibiting the adoption of certain rules by the
61 Department of Health; providing for applicability;
62 repealing s. 381.00656, F.S., relating to a grant
63 program for the repair of onsite sewage treatment and
64 disposal systems; amending s. 381.0066, F.S.; lowering
65 the fees imposed by the department for certain
66 permits; conforming cross-references; providing an
67 effective date.

68
69 Be It Enacted by the Legislature of the State of Florida:
70

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

79 381.0065 Onsite sewage treatment and disposal systems;
80 regulation.—

81 (1) LEGISLATIVE INTENT.—

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

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88 system.

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

99 (2) DEFINITIONS.—As used in ss. 381.0065-381.0067, the
100 term:

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

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

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

108 c. Is located along an exterior wall;

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

111 e. Has an emergency means of escape and rescue opening to
112 the outside.

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

115 3. "Bedroom" does not include a hallway, bathroom, kitchen,
116 living room, family room, dining room, den, breakfast nook,

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117 pantry, laundry room, sunroom, recreation room, media/video
118 room, or exercise room.

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

121 (j) Supervise research on, demonstration of, and training
122 on the performance, environmental impact, and public health
123 impact of onsite sewage treatment and disposal systems within
124 this state. Research fees collected under s. 381.0066(2)(k)
125 ~~381.0066(2)(1)~~ must be used to develop and fund hands-on
126 training centers designed to provide practical information about
127 onsite sewage treatment and disposal systems to septic tank
128 contractors, master septic tank contractors, contractors,
129 inspectors, engineers, and the public and must also be used to
130 fund research projects which focus on improvements of onsite
131 sewage treatment and disposal systems, including use of
132 performance-based standards and reduction of environmental
133 impact. Research projects shall be initially approved by the
134 technical review and advisory panel and shall be applicable to
135 and reflect the soil conditions specific to Florida. Such
136 projects shall be awarded through competitive negotiation, using
137 the procedures provided in s. 287.055, to public or private
138 entities that have experience in onsite sewage treatment and
139 disposal systems in Florida and that are principally located in
140 Florida. Research projects shall not be awarded to firms or
141 entities that employ or are associated with persons who serve on
142 either the technical review and advisory panel or the research
143 review and advisory committee.

144 (4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not
145 construct, repair, modify, abandon, or operate an onsite sewage

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146 treatment and disposal system without first obtaining a permit
147 approved by the department. The department may issue permits to
148 carry out this section, but shall not make the issuance of such
149 permits contingent upon prior approval by the Department of
150 Environmental Protection, except that the issuance of a permit
151 for work seaward of the coastal construction control line
152 established under s. 161.053 shall be contingent upon receipt of
153 any required coastal construction control line permit from the
154 Department of Environmental Protection. A construction permit is
155 valid for 18 months from the issuance date and may be extended
156 by the department for one 90-day period under rules adopted by
157 the department. A repair permit is valid for 90 days from the
158 date of issuance. An operating permit must be obtained prior to
159 the use of any aerobic treatment unit or if the establishment
160 generates commercial waste. Buildings or establishments that use
161 an aerobic treatment unit or generate commercial waste shall be
162 inspected by the department at least annually to assure
163 compliance with the terms of the operating permit. The operating
164 permit for a commercial wastewater system is valid for 1 year
165 from the date of issuance and must be renewed annually. The
166 operating permit for an aerobic treatment unit is valid for 2
167 years from the date of issuance and must be renewed every 2
168 years. If all information pertaining to the siting, location,
169 and installation conditions or repair of an onsite sewage
170 treatment and disposal system remains the same, a construction
171 or repair permit for the onsite sewage treatment and disposal
172 system may be transferred to another person, if the transferee
173 files, within 60 days after the transfer of ownership, an
174 amended application providing all corrected information and

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

199 (n) Evaluations for determining the seasonal high-water
200 table elevations or the suitability of soils for the use of a
201 new onsite sewage treatment and disposal system shall be
202 performed by department personnel, professional engineers
203 registered in the state, or such other persons with expertise,

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204 as defined by rule, in making such evaluations. Evaluations for
205 determining mean annual flood lines shall be performed by those
206 persons identified in paragraph (2)(j) ~~(2)(i)~~. The department
207 shall accept evaluations submitted by professional engineers and
208 such other persons as meet the expertise established by this
209 section or by rule unless the department has a reasonable
210 scientific basis for questioning the accuracy or completeness of
211 the evaluation.

212 (w) Any permit issued and approved by the department for
213 the installation, modification, or repair of an onsite sewage
214 treatment and disposal system shall transfer with the title to
215 the property in a real estate transaction. A title may not be
216 encumbered at the time of transfer by new permit requirements by
217 a governmental entity for an onsite sewage treatment and
218 disposal system which differ from the permitting requirements in
219 effect at the time the system was permitted, modified, or
220 repaired. No inspection of a system shall be mandated by any
221 governmental entity at the point of sale in a real estate
222 transaction.

223 (x) A governmental entity, including a municipality,
224 county, or statutorily created commission, may not require an
225 engineer-designed performance-based treatment system, excluding
226 a passive engineer-designed performance-based treatment system,
227 before the completion of the Florida Onsite Sewage Nitrogen
228 Reduction Strategies Project. This paragraph does not apply to a
229 governmental entity, including a municipality, county, or
230 statutorily created commission, which adopted a local law,
231 ordinance, or regulation on or before January 31, 2012.
232 Notwithstanding this paragraph, an engineer-designed

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233 performance-based treatment system may be used to meet the
234 requirements of the variance review and advisory committee
235 recommendations.

236 (y)1. An onsite sewage treatment and disposal system is not
237 considered abandoned if the system is disconnected from a
238 structure that was made unusable or destroyed following a
239 disaster and if the system was properly functioning at the time
240 of disconnection and not adversely affected by the disaster. The
241 onsite sewage treatment and disposal system may be reconnected
242 to a rebuilt structure if:

243 a. The reconnection of the system is to the same type of
244 structure which contains the same number of bedrooms or fewer,
245 if the square footage of the structure is less than or equal to
246 110 percent of the original square footage of the structure that
247 existed before the disaster;

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

249 c. The system has not been altered without prior
250 authorization.

251 2. An onsite sewage treatment and disposal system that
252 serves a property that is foreclosed upon is not considered
253 abandoned.

254 (z) If an onsite sewage treatment and disposal system
255 permittee receives, relies upon, and undertakes construction of
256 a system based upon a validly issued construction permit under
257 rules applicable at the time of construction but a change to a
258 rule occurs within 5 years after the approval of the system for
259 construction but before the final approval of the system, the
260 rules applicable and in effect at the time of construction
261 approval apply at the time of final approval if fundamental site

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262 conditions have not changed between the time of construction
263 approval and final approval.

264 (aa) A modification, replacement, or upgrade of an onsite
265 sewage treatment and disposal system is not required for a
266 remodeling addition to a single-family home if a bedroom is not
267 added.

268 ~~(5) EVALUATION AND ASSESSMENT.—~~

269 ~~(a) Beginning July 1, 2011, the department shall administer~~
270 ~~an onsite sewage treatment and disposal system evaluation~~
271 ~~program for the purpose of assessing the fundamental operational~~
272 ~~condition of systems and identifying any failures within the~~
273 ~~systems. The department shall adopt rules implementing the~~
274 ~~program standards, procedures, and requirements, including, but~~
275 ~~not limited to, a schedule for a 5-year evaluation cycle,~~
276 ~~requirements for the pump-out of a system or repair of a failing~~
277 ~~system, enforcement procedures for failure of a system owner to~~
278 ~~obtain an evaluation of the system, and failure of a contractor~~
279 ~~to timely submit evaluation results to the department and the~~
280 ~~system owner. The department shall ensure statewide~~
281 ~~implementation of the evaluation and assessment program by~~
282 ~~January 1, 2016.~~

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

288 ~~(c) All evaluation procedures must be documented and~~
289 ~~nothing in this subsection limits the amount of detail an~~
290 ~~evaluator may provide at his or her professional discretion. The~~

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291 ~~evaluation must include a tank and drainfield evaluation, a~~
292 ~~written assessment of the condition of the system, and, if~~
293 ~~necessary, a disclosure statement pursuant to the department's~~
294 ~~procedure.~~

295 ~~(d)1. Systems being evaluated that were installed prior to~~
296 ~~January 1, 1983, shall meet a minimum 6-inch separation from the~~
297 ~~bottom of the drainfield to the wettest season water table~~
298 ~~elevation as defined by department rule. All drainfield repairs,~~
299 ~~replacements or modifications to systems installed prior to~~
300 ~~January 1, 1983, shall meet a minimum 12-inch separation from~~
301 ~~the bottom of the drainfield to the wettest season water table~~
302 ~~elevation as defined by department rule.~~

303 ~~2. Systems being evaluated that were installed on or after~~
304 ~~January 1, 1983, shall meet a minimum 12-inch separation from~~
305 ~~the bottom of the drainfield to the wettest season water table~~
306 ~~elevation as defined by department rule. All drainfield repairs,~~
307 ~~replacements or modification to systems developed on or after~~
308 ~~January 1, 1983, shall meet a minimum 24-inch separation from~~
309 ~~the bottom of the drainfield to the wettest season water table~~
310 ~~elevation.~~

311 ~~(e) If documentation of a tank pump-out or a permitted new~~
312 ~~installation, repair, or modification of the system within the~~
313 ~~previous 5 years is provided, and states the capacity of the~~
314 ~~tank and indicates that the condition of the tank is not a~~
315 ~~sanitary or public health nuisance pursuant to department rule,~~
316 ~~a pump-out of the system is not required.~~

317 ~~(f) Owners are responsible for paying the cost of any~~
318 ~~required pump-out, repair, or replacement pursuant to department~~
319 ~~rule, and may not request partial evaluation or the omission of~~

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320 ~~portions of the evaluation.~~

321 ~~(g) Each evaluation or pump-out required under this~~
322 ~~subsection must be performed by a septic tank contractor or~~
323 ~~master septic tank contractor registered under part III of~~
324 ~~chapter 489, a professional engineer with wastewater treatment~~
325 ~~system experience licensed pursuant to chapter 471, or an~~
326 ~~environmental health professional certified under chapter 381 in~~
327 ~~the area of onsite sewage treatment and disposal system~~
328 ~~evaluation.~~

329 ~~(h) The evaluation report fee collected pursuant to s.~~
330 ~~381.0066(2)(b) shall be remitted to the department by the~~
331 ~~evaluator at the time the report is submitted.~~

332 ~~(i) Prior to any evaluation deadline, the department must~~
333 ~~provide a minimum of 60 days' notice to owners that their~~
334 ~~systems must be evaluated by that deadline. The department may~~
335 ~~include a copy of any homeowner educational materials developed~~
336 ~~pursuant to this section which provides information on the~~
337 ~~proper maintenance of onsite sewage treatment and disposal~~
338 ~~systems.~~

339 (5)~~(6)~~ ENFORCEMENT; RIGHT OF ENTRY; CITATIONS.-

340 (a) Department personnel who have reason to believe
341 noncompliance exists, may at any reasonable time, enter the
342 premises permitted under ss. 381.0065-381.0066, or the business
343 premises of any septic tank contractor or master septic tank
344 contractor registered under part III of chapter 489, or any
345 premises that the department has reason to believe is being
346 operated or maintained not in compliance, to determine
347 compliance with the provisions of this section, part I of
348 chapter 386, or part III of chapter 489 or rules or standards

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349 adopted under ss. 381.0065-381.0067, part I of chapter 386, or
350 part III of chapter 489. As used in this paragraph, the term
351 "premises" does not include a residence or private building. To
352 gain entry to a residence or private building, the department
353 must obtain permission from the owner or occupant or secure an
354 inspection warrant from a court of competent jurisdiction.

355 (b)1. The department may issue citations that may contain
356 an order of correction or an order to pay a fine, or both, for
357 violations of ss. 381.0065-381.0067, part I of chapter 386, or
358 part III of chapter 489 or the rules adopted by the department,
359 when a violation of these sections or rules is enforceable by an
360 administrative or civil remedy, or when a violation of these
361 sections or rules is a misdemeanor of the second degree. A
362 citation issued under ss. 381.0065-381.0067, part I of chapter
363 386, or part III of chapter 489 constitutes a notice of proposed
364 agency action.

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

368 3. The fines imposed by a citation issued by the department
369 may not exceed \$500 for each violation. Each day the violation
370 exists constitutes a separate violation for which a citation may
371 be issued.

372 4. The department shall inform the recipient, by written
373 notice pursuant to ss. 120.569 and 120.57, of the right to an
374 administrative hearing to contest the citation within 21 days
375 after the date the citation is received. The citation must
376 contain a conspicuous statement that if the recipient fails to
377 pay the fine within the time allowed, or fails to appear to

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378 contest the citation after having requested a hearing, the
379 recipient has waived the recipient's right to contest the
380 citation and must pay an amount up to the maximum fine.

381 5. The department may reduce or waive the fine imposed by
382 the citation. In determining whether to reduce or waive the
383 fine, the department must consider the gravity of the violation,
384 the person's attempts at correcting the violation, and the
385 person's history of previous violations including violations for
386 which enforcement actions were taken under ss. 381.0065-
387 381.0067, part I of chapter 386, part III of chapter 489, or
388 other provisions of law or rule.

389 6. Any person who willfully refuses to sign and accept a
390 citation issued by the department commits a misdemeanor of the
391 second degree, punishable as provided in s. 775.082 or s.
392 775.083.

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

397 8. This section provides an alternative means of enforcing
398 ss. 381.0065-381.0067, part I of chapter 386, and part III of
399 chapter 489. This section does not prohibit the department from
400 enforcing ss. 381.0065-381.0067, part I of chapter 386, or part
401 III of chapter 489, or its rules, by any other means. However,
402 the department must elect to use only a single method of
403 enforcement for each violation.

404 (6) ~~(7)~~ LAND APPLICATION OF SEPTAGE PROHIBITED.—Effective
405 January 1, 2016, the land application of septage from onsite
406 sewage treatment and disposal systems is prohibited. ~~By February~~

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407 ~~1, 2011, the department, in consultation with the Department of~~
408 ~~Environmental Protection, shall provide a report to the~~
409 ~~Governor, the President of the Senate, and the Speaker of the~~
410 ~~House of Representatives, recommending alternative methods to~~
411 ~~establish enhanced treatment levels for the land application of~~
412 ~~septage from onsite sewage and disposal systems. The report~~
413 ~~shall include, but is not limited to, a schedule for the~~
414 ~~reduction in land application, appropriate treatment levels,~~
415 ~~alternative methods for treatment and disposal, enhanced~~
416 ~~application site permitting requirements including any~~
417 ~~requirements for nutrient management plans, and the range of~~
418 ~~costs to local governments, affected businesses, and individuals~~
419 ~~for alternative treatment and disposal methods. The report shall~~
420 ~~also include any recommendations for legislation or rule~~
421 ~~authority needed to reduce land application of septage.~~

422 Section 2. Section 381.00651, Florida Statutes, is created
423 to read:

424 381.00651 Periodic evaluation and assessment of onsite
425 sewage treatment and disposal systems.-

426 (1) For the purposes of this section, the term "first
427 magnitude spring" means a spring that has a median water
428 discharge of greater than or equal to 100 cubic feet per second
429 for the period of record, as determined by the Department of
430 Environmental Protection.

431 (2) A county or municipality that contains a first
432 magnitude spring shall, by no later than January 1, 2013,
433 develop and adopt by local ordinance an onsite sewage treatment
434 and disposal system evaluation and assessment program that meets
435 the requirements of this section. The ordinance may apply within

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436 all or part of its geographic area. Those counties or
437 municipalities containing a first magnitude spring which have
438 already adopted an onsite sewage treatment and disposal system
439 evaluation and assessment program and which meet the
440 grandfathering requirements contained in this section, or have
441 chosen to opt out of this section in the manner provided herein,
442 are exempt from the requirement to adopt an ordinance
443 implementing an evaluation and assessment program. The governing
444 body of a local government that chooses to opt out of this
445 section, by a 60 percent vote of the voting members of the
446 governing board, shall do so by adopting a resolution that
447 indicates an intent on the part of such local government not to
448 adopt an onsite sewage treatment and disposal system evaluation
449 and assessment program. Such resolution shall be addressed and
450 transmitted to the Secretary of State. Absent an interlocal
451 agreement or county charter provision to the contrary, a
452 municipality may elect to opt out of the requirements of this
453 section, by a 60 percent vote of the voting members of the
454 governing board, notwithstanding a contrary decision of the
455 governing body of a county. Any local government that has
456 properly opted out of this section but subsequently chooses to
457 adopt an evaluation and assessment program may do so only
458 pursuant to the requirements of this section and may not deviate
459 from such requirements.

460 (3) Any county or municipality that does not contain a
461 first magnitude spring may at any time develop and adopt by
462 local ordinance an onsite sewage treatment and disposal system
463 evaluation and assessment program, provided such program meets
464 and does not deviate from the requirements of this section.

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465 (4) Notwithstanding any other provision in this section, a
466 county or municipality that has adopted a program before July 1,
467 2011, may continue to enforce its current program without having
468 to meet the requirements of this section, provided such program
469 does not require an evaluation at the point of sale in a real
470 estate transaction.

471 (5) Any county or municipality may repeal an ordinance
472 adopted pursuant to this section only if the county or
473 municipality notifies the Secretary of State by letter of the
474 repeal. No county or municipality may adopt an onsite sewage
475 treatment and disposal system evaluation and assessment program
476 except pursuant to this section.

477 (6) The requirements for an onsite sewage treatment and
478 disposal system evaluation and assessment program are as
479 follows:

480 (a) Evaluations.—An evaluation of each onsite sewage
481 treatment and disposal system within all or part of the county's
482 or municipality's jurisdiction must take place once every 5
483 years to assess the fundamental operational condition of the
484 system and to identify system failures. The ordinance may not
485 mandate an evaluation at the point of sale in a real estate
486 transaction and may not require a soil examination. The location
487 of the system shall be identified. A tank and drainfield
488 evaluation and a written assessment of the overall condition of
489 the system pursuant to the assessment procedure prescribed in
490 subsection (7) are required.

491 (b) Qualified contractors.—Each evaluation required under
492 this subsection must be performed by a qualified contractor, who
493 may be a septic tank contractor or master septic tank contractor

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494 registered under part III of chapter 489, a professional
495 engineer having wastewater treatment system experience and
496 licensed under chapter 471, or an environmental health
497 professional certified under this chapter in the area of onsite
498 sewage treatment and disposal system evaluation. Evaluations and
499 pump-outs may also be performed by an authorized employee
500 working under the supervision of an individual listed in this
501 paragraph; however, all evaluation forms must be signed by a
502 qualified contractor in writing or by electronic signature.

503 (c) *Repair of systems.*—The local ordinance may not require
504 a repair, modification, or replacement of a system as a result
505 of an evaluation unless the evaluation identifies a system
506 failure. For purposes of this subsection, the term "system
507 failure" means a condition existing within an onsite sewage
508 treatment and disposal system which results in the discharge of
509 untreated or partially treated wastewater onto the ground
510 surface or into surface water or that results in the failure of
511 building plumbing to discharge properly and presents a sanitary
512 nuisance. A system is not in failure if the system does not have
513 a minimum separation distance between the drainfield and the
514 wettest season water table or if an obstruction in a sanitary
515 line or an effluent screen or filter prevents effluent from
516 flowing into a drainfield. If a system failure is identified and
517 several allowable remedial measures are available to resolve the
518 failure, the system owner may choose the least costly allowable
519 remedial measure to fix the system. There may be instances in
520 which a pump-out is sufficient to resolve a system failure.
521 Allowable remedial measures to resolve a system failure are
522 limited to what is necessary to resolve the failure and must

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523 meet, to the maximum extent practicable, the requirements of the
524 repair code in effect when the repair is made, subject to the
525 exceptions specified in s. 381.0065(4) (g). An engineer-designed
526 performance-based treatment system to reduce nutrients may not
527 be required as an alternative remediation measure to resolve the
528 failure of a conventional system.

529 (d) Exemptions.—

530 1. The local ordinance shall exempt from the evaluation
531 requirements any system that is required to obtain an operating
532 permit pursuant to state law or that is inspected by the
533 department pursuant to the annual permit inspection requirements
534 of chapter 513.

535 2. The local ordinance may provide for an exemption or an
536 extension of time to obtain an evaluation and assessment if
537 connection to a sewer system is available, connection to the
538 sewer system is imminent, and written arrangements for payment
539 of any utility assessments or connection fees have been made by
540 the system owner.

541 3. An onsite sewage treatment and disposal system serving a
542 residential dwelling unit on a lot with a ratio of one bedroom
543 per acre or greater is exempt from the requirements of this
544 section and may not be included in any onsite sewage treatment
545 and disposal system inspection program.

546 (7) The following procedures shall be used for conducting
547 evaluations:

548 (a) Tank evaluation.—The tank evaluation shall assess the
549 apparent structural condition and watertightness of the tank and
550 shall estimate the size of the tank. The evaluation must include
551 a pump-out. However, an ordinance may not require a pump-out if

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552 there is documentation indicating that a tank pump-out or a
553 permitted new installation, repair, or modification of the
554 system has occurred within the previous 5 years, identifying the
555 capacity of the tank, and indicating that the condition of the
556 tank is structurally sound and watertight. Visual inspection of
557 the tank must be made when the tank is empty to detect cracks,
558 leaks, or other defects. Baffles or tees must be checked to
559 ensure that they are intact and secure. The evaluation shall
560 note the presence and condition of outlet devices, effluent
561 filters, and compartment walls; any structural defect in the
562 tank; the condition and fit of the tank lid, including manholes;
563 whether surface water can infiltrate the tank; and whether the
564 tank was pumped out. If the tank, in the opinion of the
565 qualified contractor, is in danger of being damaged by leaving
566 the tank empty after inspection, the tank shall be refilled
567 before concluding the inspection. Broken or damaged lids or
568 manholes shall be replaced without obtaining a repair permit.

569 (b) Drainfield evaluation.—The drainfield evaluation must
570 include a determination of the approximate size and location of
571 the drainfield. The evaluation shall state whether there is any
572 sewage or effluent visible on the ground or discharging to a
573 ditch or other water body and the location of any downspout or
574 other source of water near or in the vicinity of the drainfield.

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

578 1. An assessment of dosing tank integrity, including the
579 approximate volume and the type of material used in the tank's
580 construction;

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

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

584 4. Whether the system has a high-water alarm, and if so
585 whether the alarm is audio or visual or both, the location and
586 operational condition of the alarm, and whether the electrical
587 connections to the alarm appear satisfactory.

588
589 If the homeowner does not request this information, the
590 qualified contractor and its employee are not liable for any
591 damages directly relating from a failure of the system's pumps,
592 siphons, or alarms. This exclusion of liability must be stated
593 on the front cover of the report required under paragraph (d).

594 (d) Assessment procedure.—All evaluation procedures used by
595 a qualified contractor shall be documented in the environmental
596 health database of the Department of Health. The qualified
597 contractor shall provide a copy of a written, signed evaluation
598 report to the property owner upon completion of the evaluation
599 and to the county health department within 30 days after the
600 evaluation. The report shall contain the name and license number
601 of the company providing the report. A copy of the evaluation
602 report shall be retained by the local county health department
603 for a minimum of 5 years and until a subsequent inspection
604 report is filed. The front cover of the report must identify any
605 system failure and include a clear and conspicuous notice to the
606 owner that the owner has a right to have any remediation of the
607 failure performed by a qualified contractor other than the
608 contractor performing the evaluation. The report must further
609 identify any crack, leak, improper fit, or other defect in the

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610 tank, manhole, or lid, and any other damaged or missing
611 component; any sewage or effluent visible on the ground or
612 discharging to a ditch or other surface water body; any
613 downspout, stormwater, or other source of water directed onto or
614 toward the system; and any other maintenance need or condition
615 of the system at the time of the evaluation which, in the
616 opinion of the qualified contractor, would possibly interfere
617 with or restrict any future repair or modification to the
618 existing system. The report shall conclude with an overall
619 assessment of the fundamental operational condition of the
620 system.

621 (8) The county health department shall administer any
622 evaluation program on behalf of a county, or a municipality
623 within the county, that has adopted an evaluation program
624 pursuant to this section. In order to administer the evaluation
625 program, the county or municipality, in consultation with the
626 county health department, may develop a reasonable fee schedule
627 to be used solely to pay for the costs of administering the
628 evaluation program. Such a fee schedule shall be identified in
629 the ordinance that adopts the evaluation program. When arriving
630 at a reasonable fee schedule, the estimated annual revenues to
631 be derived from fees may not exceed reasonable estimated annual
632 costs of the program. Fees shall be assessed to the system owner
633 during an inspection and separately identified on the invoice of
634 the qualified contractor. Fees shall be remitted by the
635 qualified contractor to the county health department. The county
636 health department's administrative responsibilities include the
637 following:

638 (a) Providing a notice to the system owner at least 60 days

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639 before the system is due for an evaluation. The notice may
640 include information on the proper maintenance of onsite sewage
641 treatment and disposal systems.

642 (b) In consultation with the Department of Health,
643 providing uniform disciplinary procedures and penalties for
644 qualified contractors who do not comply with the requirements of
645 the adopted ordinance, including, but not limited to, failure to
646 provide the evaluation report as required in this subsection to
647 the system owner and the county health department. Only the
648 county health department may assess penalties against system
649 owners for failure to comply with the adopted ordinance,
650 consistent with existing requirements of law.

651 (9) (a) A county or municipality that adopts an onsite
652 sewage treatment and disposal system evaluation and assessment
653 program pursuant to this section shall notify the Secretary of
654 Environmental Protection, the Department of Health, and the
655 applicable county health department upon the adoption of its
656 ordinance establishing the program.

657 (b) Upon receipt of the notice under paragraph (a), the
658 Department of Environmental Protection shall, within existing
659 resources, notify the county or municipality of the potential
660 use of, and access to, program funds under the Clean Water State
661 Revolving Fund or s. 319 of the Clean Water Act, provide
662 guidance in the application process to receive such moneys, and
663 provide advice and technical assistance to the county or
664 municipality on how to establish a low-interest revolving loan
665 program or how to model a revolving loan program after the low-
666 interest loan program of the Clean Water State Revolving Fund.
667 This paragraph does not obligate the Department of Environmental

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668 Protection to provide any county or municipality with money to
669 fund such programs.

670 (c) The Department of Health may not adopt any rule that
671 alters the provisions of this section.

672 (d) The Department of Health must allow county health
673 departments and qualified contractors access to the
674 environmental health database to track relevant information and
675 assimilate data from assessment and evaluation reports of the
676 overall condition of onsite sewage treatment and disposal
677 systems. The environmental health database must be used by
678 contractors to report each service and evaluation event and by a
679 county health department to notify owners of onsite sewage
680 treatment and disposal systems when evaluations are due. Data
681 and information must be recorded and updated as service and
682 evaluations are conducted and reported.

683 (10) This section does not:

684 (a) Limit county and municipal home rule authority to act
685 outside the scope of the evaluation and assessment program set
686 forth in this section;

687 (b) Repeal or affect any other law relating to the subject
688 matter of onsite sewage treatment and disposal systems; or

689 (c) Prohibit a county or municipality from:

690 1. Enforcing existing ordinances or adopting new ordinances
691 relating to onsite sewage treatment facilities to address public
692 health and safety if such ordinances do not repeal, suspend, or
693 alter the requirements or limitations of this section.

694 2. Adopting local environmental and pollution abatement
695 ordinances for water quality improvement as provided for by law
696 if such ordinances do not repeal, suspend, or alter the

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697 requirements or limitations of this section.

698 3. Exercising its independent and existing authority to
699 meet the requirements of s. 381.0065.

700 Section 3. Section 381.00656, Florida Statutes, is
701 repealed.

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

704 381.0066 Onsite sewage treatment and disposal systems;
705 fees.—

706 (2) The minimum fees in the following fee schedule apply
707 until changed by rule by the department within the following
708 limits:

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

713 ~~(b) A 5-year evaluation report submitted pursuant to s.~~
714 ~~381.0065(5): a fee not less than \$15, or more than \$30. At least~~
715 ~~\$1 and no more than \$5 collected pursuant to this paragraph~~
716 ~~shall be used to fund a grant program established under s.~~
717 ~~381.00656.~~

718 ~~(b)-(e)~~ Site evaluation, site reevaluation, evaluation of a
719 system previously in use, or a per annum septage disposal site
720 evaluation: a fee of not less than \$40, or more than \$115.

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

724 ~~(d)-(e)~~ Annual operating permit for systems located in areas
725 zoned for industrial manufacturing or equivalent uses or where

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726 the system is expected to receive wastewater which is not
727 domestic in nature: a fee of not less than \$150, or more than
728 \$300.

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

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

734 (g)~~(h)~~ Application for variance: a fee of not less than
735 \$150, or more than \$300.

736 (h)~~(i)~~ Annual operating permit for waterless, incinerating,
737 or organic waste composting toilets: a fee of not less than \$15
738 ~~\$50~~, or more than \$30 ~~\$150~~.

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

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

746 (k)~~(l)~~ Research: An additional \$5 fee shall be added to
747 each new system construction permit issued to be used to fund
748 onsite sewage treatment and disposal system research,
749 demonstration, and training projects. Five dollars from any
750 repair permit fee collected under this section shall be used for
751 funding the hands-on training centers described in s.
752 381.0065(3)(j).

753 (l)~~(m)~~ Annual operating permit, including annual inspection
754 and any required sampling and laboratory analysis of effluent,

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755 for an engineer-designed performance-based system: a fee of not
756 less than \$150, or more than \$300.

757

758 ~~On or before January 1, 2011, the Surgeon General, after~~
759 ~~consultation with the Revenue Estimating Conference, shall~~
760 ~~determine a revenue neutral fee schedule for services provided~~
761 ~~pursuant to s. 381.0065(5) within the parameters set in~~
762 ~~paragraph (b). Such determination is not subject to the~~
763 ~~provisions of chapter 120.~~ The funds collected pursuant to this
764 subsection must be deposited in a trust fund administered by the
765 department, to be used for the purposes stated in this section
766 and ss. 381.0065 and 381.00655.

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