

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

BILL: SB 1172

INTRODUCER: Senator Brandes

SUBJECT: Sanitary Sewer Laterals

DATE: March 25, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Rogers	EN	Favorable
2.			JU	
3.			RC	

I. Summary:

SB 1172 defines the term “sanitary sewer lateral” to mean a privately owned pipeline connecting a property to the main sewer line and which is maintained and repaired by the property owner.

The bill encourages counties and municipalities to establish an evaluation and rehabilitation program for sanitary sewer laterals on residential and commercial properties within the county or municipality’s jurisdiction to identify and reduce extraneous flow from leaking sanitary sewer laterals. The program would include inspection, options for repair, and a publicly accessible database of properties where a defective, damaged, or deteriorated sanitary sewer lateral has been identified.

The bill requires a seller of real property to disclose to a prospective purchaser, before executing a contract for sale, any defects in the property’s sanitary sewer lateral which are known to the seller.

II. Present Situation:

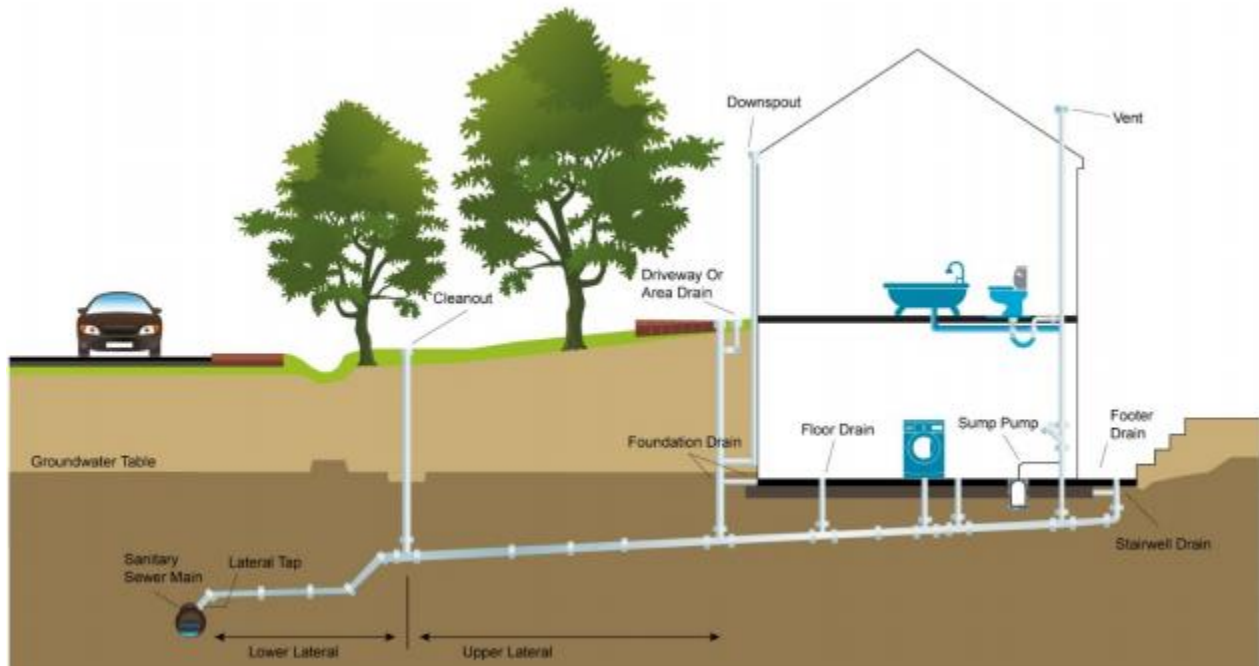
Sanitary Sewer Laterals

A sanitary sewer lateral is the portion of the sewer network which connects a private property to the public sewer system,¹ conveying wastewater from homes and businesses to wastewater treatment plants.² Typically, in Florida, the property owner is responsible for all maintenance,

¹ U.S. Environmental Protection Agency, *Private Sewer Laterals* (Jun. 2014), available at <https://www3.epa.gov/region1/sso/pdfs/PrivateSewerLaterals.pdf> (last visited Mar. 17, 2019).

² Water Environment Federation, *Sanitary Sewers* (May 2011), available at <https://www.wef.org/globalassets/assets-wef/3---resources/topics/a-n/collection-systems/technical-resources/ss-fact-sheet-with-wider-margins-1.pdf> (last visited Mar. 19, 2019).

operation, cleaning, repair, and reconstruction of a sanitary sewer lateral on the person's private property. The diagram below shows an example of a sanitary sewer lateral configuration.³



Sanitary sewer laterals are often in poor condition and defects can occur due to aging systems, structural failure, lack of maintenance, or poor construction and design practices.⁴ Problems in sanitary sewer laterals can have a significant impact on the performance of the sewer system and treatment plant and can account for half of the infiltration and inflow to sanitary sewers.⁵ Cracked or broken laterals can allow groundwater and infiltrating rainwater to enter into the sewer system which, at high levels, can cause problems at the treatment facility or overload the sewers and cause sanitary sewer overflows.⁶

The Florida Building Code requires that every building in which plumbing fixtures are installed and premises having drainage piping be connected to a publicly owned or investor-owned sewage system, where available, or an approved onsite sewage treatment and disposal system in accordance with the standards for Onsite Sewage Treatment and Disposal Systems found in Chapter 64E-6, Florida Administrative Code.⁷ A building that has plumbing fixtures installed and is intended for human habitation, occupancy, or use on premises abutting on a street, alley or easement in which there is a public sewer is required to have a separate connection with the sewer.⁸

³ Water Environment Federation, *Sanitary Sewer Rehabilitation Fact Sheet*, available at <https://www.wef.org/globalassets/assets-wef/direct-download-library/public/03---resources/wsec-2017-fs-009---csc---sewer-rehabilitation---final---9.27.17.pdf> (last visited Mar. 19, 2019).

⁴ *Id.*

⁵ *Id.*

⁶ U.S. Environmental Protection Agency, *Private Sewer Laterals* (Jun. 2014), available at <https://www3.epa.gov/region1/sso/pdfs/PrivateSewerLaterals.pdf> (last visited Mar. 17, 2019).

⁷ Ch. 7, s. 701.2, Florida Building Code – Plumbing, 6th edition (Jul. 2017).

⁸ Ch. 7, s. 701.3, Florida Building Code – Plumbing, 6th edition (Jul. 2017).

There are no statewide requirements for inspections of sanitary sewer laterals. However, some local ordinances address the subject. The cities of Orlando and Tarpon Springs require property owners be responsible for the maintenance, operation, and repair of sanitary sewer laterals.⁹ Orlando retains the right to inspect sanitary sewer laterals and discontinue sewer service to a property where the plumbing is not properly maintained.¹⁰ Tarpon Springs is authorized to take enforcement action if necessary to stop a sanitary sewer overflow.¹¹

The City of Gulfport established a Private Sewer Lateral Replacement Rebate Program to encourage replacement of sanitary sewer laterals.¹² The program provides grants of up to 50% of the cost, up to \$3,500, to property owners in Gulfport for replacement of sanitary sewer laterals.

Required Disclosures for a Contract for Sale

Florida law requires sellers to disclose certain information as part of a sale to a buyer before the closing, including:

- A sinkhole claim;¹³
- The potential for coastal erosion;¹⁴
- Mandatory membership in a homeowner's association;¹⁵
- Radon gas having been found in buildings in Florida;¹⁶
- That the buyer should not rely on the seller's current property taxes;¹⁷ and
- Whether subsurface rights have been or will be severed or retained.¹⁸

However, a seller is not required to disclose certain information to a buyer under Florida law. For example, a seller does not have to disclose the fact that a property was or was suspected to have been the site of a homicide, suicide, or death, or that an occupant of the home was infected or diagnosed with HIV.¹⁹

Florida tort law requires a seller to disclose material defects to a buyer upon sale of a residence if:

- The seller has knowledge of facts about material defects;
- The facts are not readily observable by and are unknown to the buyer;
- The facts materially affect the value of the property; and
- The buyer has been damaged by the breach of the duty to disclose.²⁰

⁹ Ch. 30.02, s. 4.2(k), City of Orlando Code of Ordinances; Chapter 20, Article IX, s. 20-110(d), City of Tarpon Springs Code of Ordinances.

¹⁰ Ch. 30.02, s. 4.2(k), City of Orlando Code of Ordinances.

¹¹ Chapter 20, Article IX, s. 20-110(d), City of Tarpon Springs Code of Ordinances.

¹² Resolution No. 2018-30, City of Gulfport (adopted Apr. 3, 2018), available at <https://mygulfport.us/wp-content/uploads/2018/04/2018-30-Signed-Resolution.pdf> (last visited Mar. 20, 2019).

¹³ Section 627.7073(2)(c), F.S.

¹⁴ Section 161.57(2), F.S.

¹⁵ Section 720.401(1), F.S.

¹⁶ Section 404.056(5), F.S.

¹⁷ Section 689.261, F.S.

¹⁸ Section 689.29, F.S.

¹⁹ Section 689.25, F.S.

²⁰ *Johnson v. Davis*, 480 So. 2d 625 (Fla. 1985).

In Florida, sellers can use the “Seller’s Property Disclosure Form”²¹ created by the Florida Association of Realtors, but there is no statutory obligation requiring that the form be completed. Additionally, a seller is not required to retain a home inspector to discover problems that the seller may not be aware of.

III. Effect of Proposed Changes:

The bill includes a series of whereas clauses that provide background information on sanitary sewer laterals.

The bill defines the term “sanitary sewer lateral” to mean a privately owned pipeline connecting a property to the main sewer line and which is maintained and repaired by the property owner.

The bill encourages counties and municipalities to establish, by July 1, 2021, an evaluation and rehabilitation program for sanitary sewer laterals on residential and commercial properties within the county or municipality’s jurisdiction to identify and reduce extraneous flow from leaking sanitary sewer laterals. The program would have to, at minimum:

- Establish a system to identify defective, damaged, or deteriorated sanitary sewer laterals on residential and commercial properties within the jurisdiction of a county or a municipality;
- Consider economical methods for a property owner to repair or replace a defective, damaged, or deteriorated sanitary sewer lateral; and
- Establish and maintain a publicly accessible database to store information on properties where a defective, damaged, or deteriorated sanitary sewer lateral has been identified. The database must include, but is not limited to, the address of the property, the names of any persons notified by the county or municipality of the faulty sanitary sewer lateral, and the date and method of such notification.

The bill requires a seller of real property to disclose to a prospective purchaser, before executing a contract for sale, any defects in the property’s sanitary sewer lateral which are known to the seller.

The bill takes effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

²¹ Florida Realtors, *Seller’s Property Disclosure – Residential* (2016), available at <http://www.unlimitedmls.com/forms/Property-Disclosure-Form.pdf> (last visited Mar. 17, 2019).

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 689.301 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.