

CHAPTER 2022-105

Committee Substitute for Committee Substitute for Senate Bill No. 856

An act relating to private provider inspections of onsite sewage treatment and disposal systems; amending s. 381.0065, F.S.; authorizing private provider inspections of onsite sewage treatment and disposal systems under certain conditions; specifying requirements for private providers and onsite sewage treatment and disposal system owners and authorized contractors; authorizing the Department of Environmental Protection to audit the performance of a specified percentage of such inspections; providing audit conditions and construction; requiring the department to submit a report to the Legislature reviewing the use of private providers to perform onsite sewage treatment and disposal system inspections by a specified date; providing report requirements; requiring the department to adopt rules and to initiate rulemaking by a specified date; providing an effective date.

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

Section 1. Subsection (8) is added to section 381.0065, Florida Statutes, to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(8) PRIVATE PROVIDER INSPECTIONS.—

(a) Notwithstanding any other law, ordinance, or policy, the owner of an onsite sewage treatment and disposal system or a contractor upon the owner's written authorization may hire a private provider to perform an inspection that follows applicable regulatory requirements of the onsite sewage treatment and disposal system.

(b) An inspection of an onsite sewage treatment and disposal system required under this section may not be conducted by the private provider or authorized representative of the private provider that installed the onsite sewage treatment and disposal system.

(c) A private provider or an authorized representative of a private provider may perform onsite sewage treatment and disposal system inspections if they are:

1. An environmental health professional certified under s. 381.0101;
2. A master septic tank contractor registered under part III of chapter 489;

3. A professional engineer licensed under chapter 471 and have passed all parts of the Onsite Sewage Treatment and Disposal System Accelerated Certification Training; or

4. Working under the supervision of a licensed professional engineer and have passed all parts of the Onsite Sewage Treatment and Disposal System Accelerated Certification Training.

(d) An owner or authorized contractor using a private provider for an onsite sewage treatment and disposal system inspection must provide notice to the department at the time of permit application or by 2 p.m. local time, 2 business days before the first scheduled inspection by the department. The notice must include all of the following information:

1. For each private provider or authorized representative performing the inspection:

- a. Name and firm name, address, telephone number, and e-mail address.
- b. Professional license or certification number.
- c. Qualification statement or resume.

2. An acknowledgment from the owner in substantially the following form:

I HAVE ELECTED TO USE ONE OR MORE PRIVATE PROVIDERS TO PERFORM AN ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEM INSPECTION THAT IS THE SUBJECT OF THE ENCLOSED PERMIT APPLICATION. I UNDERSTAND THAT THE DEPARTMENT OF ENVIRONMENTAL PROTECTION MAY NOT PERFORM THE REQUIRED ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEM INSPECTION TO DETERMINE COMPLIANCE WITH THE APPLICABLE CODES, EXCEPT TO THE EXTENT AUTHORIZED BY LAW. INSTEAD, THE INSPECTION WILL BE PERFORMED BY THE LICENSED OR CERTIFIED PRIVATE PROVIDER IDENTIFIED IN THE APPLICATION. BY EXECUTING THIS FORM, I ACKNOWLEDGE THAT I HAVE MADE INQUIRY REGARDING THE COMPETENCE OF THE LICENSED OR CERTIFIED PRIVATE PROVIDER AND AM SATISFIED THAT MY INTERESTS ARE ADEQUATELY PROTECTED. I AGREE TO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE DEPARTMENT FROM ANY CLAIMS ARISING FROM MY USE OF THE LICENSED OR CERTIFIED PRIVATE PROVIDER IDENTIFIED IN THE APPLICATION TO PERFORM THE ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEM INSPECTION THAT IS THE SUBJECT OF THE ENCLOSED PERMIT APPLICATION. ADDITIONALLY, I UNDERSTAND THAT IN THE EVENT THE ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEM DOES NOT COMPLY WITH APPLICABLE RULES AND LAW, I WILL BE RESPONSIBLE FOR REMEDIATING THE SYSTEM IN ACCORDANCE WITH EXISTING LAW.

If an owner or authorized contractor makes any changes to the listed private provider or the service to be performed by the private provider, the owner or the authorized contractor must update the notice to reflect the change within 1 business day after the change. The change of an authorized representative identified in the permit application does not require a revision of the permit and the department may not charge a fee for making such change.

(e) The department may audit up to 25 percent of private providers each year to ensure the accurate performance of onsite sewage treatment and disposal system inspections. Work on an onsite sewage treatment and disposal system may proceed after inspection and approval by a private provider if the owner or authorized contractor has given notice of the inspection pursuant to paragraph (d) and, subsequent to such inspection and approval, such work may not be delayed for completion of an inspection audit by the department unless deficiencies are found in the audit.

(f) This subsection does not prevent the department from investigating complaints.

(g) By October 1, 2023, the department shall submit a report to the President of the Senate and the Speaker of the House of Representatives reviewing the use of private providers to perform onsite sewage treatment and disposal system inspections as authorized by this subsection. The report must include, at a minimum, the number of such inspections performed by private providers.

(h) The department shall adopt rules to implement this subsection and must initiate such rulemaking by August 31, 2022.

Section 2. This act shall take effect July 1, 2022.

Approved by the Governor May 12, 2022.

Filed in Office Secretary of State May 12, 2022.