

## CHAPTER 2024-143

### Committee Substitute for Committee Substitute for Senate Bill No. 1136

An act relating to the regulation of water resources; amending s. 373.323, F.S.; revising the qualification requirements a person must meet in order to take the water well contractor license examination; updating the reference to the Florida Building Code standards that a licensed water well contractor's work must meet; amending s. 373.333, F.S.; authorizing certain authorities who have been delegated enforcement powers by water management districts to apply disciplinary guidelines adopted by the districts; requiring that certain notices be delivered by certified, rather than registered, mail; making technical changes; amending s. 373.336, F.S.; prohibiting a person or business entity from advertising water well drilling or construction services in specified circumstances; amending s. 381.0065, F.S.; providing that the Department of Environmental Protection's variance review and advisory committee is not responsible for reviewing water well permitting; requiring the committee to consider certain requirements when making recommendations on variance requests for onsite sewage treatment and disposal system permits; making technical changes; providing an effective date.

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

Section 1. Subsections (3) and (10) of section 373.323, Florida Statutes, are amended to read:

373.323 Licensure of water well contractors; application, qualifications, and examinations; equipment identification.—

(3) An applicant who meets all of the following requirements is eligible ~~shall be entitled to take the water well contractor licensure examination:~~

- (a) Is at least 18 years of age.
- (b) Has at least 2 years of experience in constructing, repairing, or abandoning water wells permitted in this state. The applicant must demonstrate satisfactory proof of such experience ~~shall be demonstrated~~ by providing:

1. Evidence of the length of time he or she ~~the applicant~~ has been engaged in the business of the construction, repair, or abandonment of water wells as a major activity, as attested to by a letter from a water well contractor or a letter from a water well inspector employed by a governmental agency.

2. A list of at least 10 water wells permitted in this state which he or she ~~that the applicant~~ has constructed, repaired, or abandoned within the

preceding 5 years. Of these wells, at least seven must have been constructed, as defined in s. 373.303(2), by the applicant. The list must ~~shall~~ also include:

- a. The name and address of the owner or owners of each well.
  - b. The location, primary use, and approximate depth and diameter of each well that the applicant has constructed, repaired, or abandoned.
  - c. The approximate date the construction, repair, or abandonment of each well was completed.
- (c) Has completed the application form and remitted a nonrefundable application fee.

(10) Water well contractors licensed under this section may install, repair, and modify pumps and tanks in accordance with the Florida Building Code, Plumbing; Section 614-Wells ~~Section 612—Wells~~ Pumps And Tanks Used For Private Potable Water Systems. In addition, licensed water well contractors may install pumps, tanks, and water conditioning equipment for all water systems.

Section 2. Subsections (1) and (3) of section 373.333, Florida Statutes, are amended to read:

373.333 Disciplinary guidelines; adoption and enforcement; license suspension or revocation.—

(1) The department shall adopt by rule disciplinary guidelines applicable to each specific ground for disciplinary action which may be imposed by the water management districts, providing each water management district and representatives of the water well contracting industry with meaningful opportunity to participate in the development of the disciplinary guideline rules as they are drafted. The disciplinary guidelines must ~~shall~~ be adopted by each water management district. The guideline rules must ~~shall~~ be consistently applied by the water management districts, or by an authority to whom a water management district has delegated enforcement powers, and must do all of the following shall:

- (a) Specify a meaningful range of designated penalties based upon the severity and repetition of specific offenses.
- (b) Distinguish minor violations from those which endanger public health, safety, and welfare or contaminate the water resources.
- (c) Inform the public of likely penalties which may be imposed for proscribed conduct.

A specific finding of mitigating or aggravating circumstances shall allow a water management district to impose a penalty other than that provided in the guidelines. Disciplinary action may be taken by any water management district, regardless of where the contractor's license was issued.

(3) Such notice must ~~shall~~ be served in the manner required by law for the service of process upon a person in a civil action or by certified registered United States mail to the last known address of the person. The water management district shall send copies of such notice only to persons who have specifically requested such notice or to entities with which the water management district has formally agreed to provide such notice. Notice alleging a violation of a rule setting minimum standards for the location, construction, repair, or abandonment of wells must ~~shall~~ be accompanied by an order of the water management district requiring remedial action which, if taken within the time specified in such order, will effect compliance with ~~the requirements of this part and regulations issued hereunder.~~ Such order ~~is shall become~~ final unless a request for hearing as provided in chapter 120 is made within 30 days after ~~from~~ the date of service of such order. Upon compliance, notice must ~~shall~~ be served by the water management district in a timely manner upon each person and entity who received notice of a violation, stating that compliance with the order has been achieved.

Section 3. Subsections (1) and (3) of section 373.336, Florida Statutes, are amended to read:

373.336 Unlawful acts; penalties.—

(1) It is unlawful for any person or business entity, as applicable, to do any of the following:

(a) Practice water well contracting without an active license issued pursuant to this part.

(b) Construct, repair, or abandon a water well, or operate drilling equipment for such purpose, unless employed by or under the supervision of a licensed water well contractor or exempt under s. 373.326.

(c) Give false or forged evidence to obtain a license.

(d) Present as his or her own the license of another.

(e) Use or attempt to use a license to practice water well contracting which license has been suspended, revoked, or placed on inactive status.

(f) Engage in willful or repeated violation of this part or of any department rule or regulation or water management district or state agency rule or regulation relating to water wells which endangers the public health, safety, and welfare.

(g) Advertise water well drilling or construction services if the business entity is not owned by a licensed water well contractor or does not employ a full-time water well contractor.

(3) A ~~Any~~ person who violates ~~any provision of this part or a~~ regulation or an order issued hereunder commits ~~shall, upon conviction, be guilty of a~~ misdemeanor of the second degree, punishable as provided in s. 775.082 or s.

775.083. Continuing violation after an order or a conviction constitutes shall constitute a separate violation for each day so continued.

Section 4. Paragraph (h) of subsection (4) of section 381.0065, Florida Statutes, is amended to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(4) PERMITS; INSTALLATION; CONDITIONS.—A person may not construct, repair, modify, abandon, or operate an onsite sewage treatment and disposal system without first obtaining a permit approved by the department. The department may issue permits to carry out this section, except that the issuance of a permit for work seaward of the coastal construction control line established under s. 161.053 shall be contingent upon receipt of any required coastal construction control line permit from the department. A construction permit is valid for 18 months after the date of issuance and may be extended by the department for one 90-day period under rules adopted by the department. A repair permit is valid for 90 days after the date of issuance. An operating permit must be obtained before the use of any aerobic treatment unit or if the establishment generates commercial waste. Buildings or establishments that use an aerobic treatment unit or generate commercial waste shall be inspected by the department at least annually to assure compliance with the terms of the operating permit. The operating permit for a commercial wastewater system is valid for 1 year after the date of issuance and must be renewed annually. The operating permit for an aerobic treatment unit is valid for 2 years after the date of issuance and must be renewed every 2 years. If all information pertaining to the siting, location, and installation conditions or repair of an onsite sewage treatment and disposal system remains the same, a construction or repair permit for the onsite sewage treatment and disposal system may be transferred to another person, if the transferee files, within 60 days after the transfer of ownership, an amended application providing all corrected information and proof of ownership of the property. A fee is not associated with the processing of this supplemental information. A person may not contract to construct, modify, alter, repair, service, abandon, or maintain any portion of an onsite sewage treatment and disposal system without being registered under part III of chapter 489. A property owner who personally performs construction, maintenance, or repairs to a system serving his or her own owner-occupied single-family residence is exempt from registration requirements for performing such construction, maintenance, or repairs on that residence, but is subject to all permitting requirements. A municipality or political subdivision of the state may not issue a building or plumbing permit for any building that requires the use of an onsite sewage treatment and disposal system unless the owner or builder has received a construction permit for such system from the department. A building or structure may not be occupied and a municipality, political subdivision, or any state or federal agency may not authorize occupancy until the department approves the final installation of the onsite sewage treatment and disposal system. A municipality or political subdivision of the state may not approve any change in occupancy or tenancy of a building that

uses an onsite sewage treatment and disposal system until the department has reviewed the use of the system with the proposed change, approved the change, and amended the operating permit.

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

- a. The hardship was not caused intentionally by the action of the applicant;
- b. A reasonable alternative, taking into consideration factors such as cost, does not exist for the treatment of the sewage; and
- c. The discharge from the onsite sewage treatment and disposal system will not adversely affect the health of the applicant or the public or significantly degrade the groundwater or surface waters.

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

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

a. The committee is composed ~~consists~~ of the following:

(I)~~a.~~ The Secretary of Environmental Protection or his or her designee.

(II)~~b.~~ A representative from the county health departments.

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

(IV)d. A representative from the septic tank industry recommended by the Florida Onsite Wastewater Association.

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

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

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

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

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

Section 5. This act shall take effect July 1, 2024.

Approved by the Governor May 6, 2024.

Filed in Office Secretary of State May 6, 2024.