

CHAPTER 98-420

House Bill No. 4475

An act relating to wastewater treatment systems; amending s. 381.0064, F.S.; authorizing the Department of Health to establish certain continuing education requirements by rule; amending s. 381.0065, F.S.; revising guidelines and procedures for granting variances for onsite sewage treatment and disposal systems; revising membership of the department's variance review and advisory committee; providing system criteria for use in conjunction with structural gutters; providing system criteria for use in certain floodways; amending s. 381.0068, F.S., revising duties and procedures of the department's technical review and advisory panel; amending s. 489.551, F.S.; authorizing certain plumbers to qualify as master septic tank contractors; amending 489.554, F.S.; authorizing the department to prescribe by rule the method of approval of certain continuing education courses, including minimum annual registration renewal requirements; amending s. 489.555, F.S.; revising the guidelines regarding the certification of septic tank contractor partnerships and corporations; providing an effective date.

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

Section 1. Section 381.0064, Florida Statutes, is amended to read:

381.0064 Continuing education courses for persons installing or servicing septic tanks.—

(1) The Department of Health shall establish a program for conduct continuing education which meets the purposes of ss. 381.0101 and 489.554 courses for pumpout operators, environmental health specialists, and master plumbers who install septic tanks or service septic tanks. The course of study required must consist of at least two 6-classroom-hour courses of instruction a year regarding the public health and environmental effects of onsite sewage treatment and disposal systems and any other matters the department determines desirable for the safe installation and use of onsite sewage treatment and disposal systems. The department may charge a fee to cover the cost of such program course of study; however, such fee must take into account any moneys collected under s. 381.0066 and appropriated to the department for the purpose of this section.

(2) The department shall by rule establish criteria for the approval of continuing education courses and providers, including requirements relating to the content of courses and standards for approval of providers, and may by rule establish criteria for accepting alternative nonclassroom continuing education on an hour-for-hour basis. also approve other continuing education courses for pumpout operators, environmental health specialists, and master plumbers who install septic tanks or service septic tanks, which courses meet the purposes of this section and consist of at least two 6-classroom-hour courses of instruction a year.

(3) Septic tank contractors and master septic tank contractors registered under part III of chapter 489 shall meet the continuing education requirements set forth in s. 489.554.

Section 2. Paragraph (g) of subsection (4) of section 381.0065, Florida Statutes, is amended and paragraphs (r) and (s) are added to that subsection to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(4) PERMITS; INSTALLATION; AND 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. A construction permit is valid for 18 months from the issuance date 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 from the date of issuance. An operating permit is valid for 1 year from the date of issuance and must be renewed annually. 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. There is no fee 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.

(g)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. There is no fee 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. No reasonable alternative, taking into consideration factors such as cost, exists 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. The committee board consists of the following:

a. The Division Director for Environmental Health of the department or his or her designee.

b. A representative from the county health departments.

c. A representative from the home building industry recommended by the Florida Home Builders Association.

d. A representative from the septic tank industry recommended by the Florida Septic Tank Association.

e. A representative from the Department of Environmental Protection.

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.

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

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 may be reimbursed for per diem and travel expenses as provided in s. 112.061.

(r) In the siting of onsite sewage treatment and disposal systems, including drainfields, shoulders, and slopes, guttering shall not be required on single-family residential dwelling units for systems located greater than 5 feet from the roof drip line of the house. If guttering is used on residential dwelling units, the downspouts shall be directed away from the drainfield.

(s) Notwithstanding the provisions of subparagraph (f)1. of this subsection, onsite sewage treatment and disposal systems located in floodways of

the Suwannee and Aucilla Rivers must adhere to the following requirements:

1. The absorption surface of the drainfield shall not be subject to flooding based on 10-year flood elevations. Provided, however, for lots or parcels created by the subdivision of land in accordance with applicable local government regulations prior to January 17, 1990, if an applicant cannot construct a drainfield system with the absorption surface of the drainfield at an elevation equal to or above 10-year flood elevation, the department shall issue a permit for an onsite sewage treatment and disposal system within the 10-year floodplain of rivers, streams and other bodies of flowing water if all of the following criteria are met:

a. The lot is at least one-half acre in size;

b. The bottom of the drainfield is at least 36 inches above the 2-year flood elevation; and

c. The applicant installs either: a waterless, incinerating, or organic waste composting toilet and a graywater system and drainfield in accordance with department rules; an aerobic treatment unit and drainfield in accordance with department rules; a system approved by the State Health Office that is capable of reducing effluent nitrate by at least 50 percent; or a system approved by the county health department pursuant to department rule other than a system using alternative drainfield materials. USDA Soil Conservation Service soil maps, State of Florida Water Management District data, and Federal Emergency Management Agency Flood Insurance maps are resources that shall be used to identify floor prone areas.

2. The use of fill or mounding to elevate a drainfield system out of the 10-year floodplain of rivers, streams, or other bodies of flowing water shall not be permitted if such a system lies within a regulatory floodway of the Suwannee and Aucilla Rivers. In cases where the 10-year flood elevation does not coincide with the boundaries of the regulatory floodway, the regulatory floodway will be considered for the purposes of this subsection to extend at a minimum to the 10-year flood elevation.

Section 3. Section 381.0068, Florida Statutes, is amended to read:

381.0068 Technical review and advisory panel.—

(1) The Department of Health shall, by July 1, 1996, establish and staff a technical review and advisory panel to assist the department with rule adoption.

(2) ~~The primary purpose of the panel is to assist enhance the department's the department in rulemaking and decisionmaking~~ by drawing on the expertise of representatives from several groups that are affected by have an interest in onsite sewage treatment and disposal systems. The panel may also review and comment on any legislation or any existing or proposed state policy or issue related to onsite sewer treatment and disposal systems. If requested by the panel, the chair will advise any affected person or member of the Legislature of the panel's position on the legislation or any existing

or proposed state policy or issue. The chair may also take such other action as is appropriate to allow the panel to function. At a minimum, the ~~technical review and advisory~~ panel shall consist of a soil scientist; a professional engineer registered in this state who is recommended by the Florida Engineering Society and who has work experience in onsite sewage treatment and disposal systems; two representatives from the home-building industry recommended by the Florida Home Builders Association, including one who is a developer in this state who develops lots using onsite sewage treatment and disposal systems; a representative from the county health departments who has experience permitting and inspecting the installation of onsite sewage treatment and disposal systems in this state; a representative from the real estate industry who is recommended by the Florida Association of Realtors; a consumer representative with a science background; two representatives of the septic tank industry recommended by the Florida Septic Tank Association, including one who is a manufacturer of onsite sewage treatment and disposal systems; and a representative from the environmental health profession who is recommended by the Florida Environmental Health Association and who is not employed by a county health department. Members are to be appointed for a term of 2 years. The panel may also, as needed, be expanded to include ad hoc, nonvoting representatives who have topic-specific expertise. All rules proposed by the department which relate to onsite sewage treatment and disposal systems must be presented to the panel for review and comment prior to adoption. The panel's position on proposed rules shall be made a part of the rulemaking record that is maintained by the agency. The panel shall select a chair, who shall serve for a period of 1 year and who shall direct, coordinate, and execute the duties of the panel. The panel shall also solicit input from the department's variance review and advisory committee before submitting any comments to the department concerning proposed rules. The panel's comments must include any dissenting points of view concerning proposed rules. The panel shall hold meetings as it determines necessary to conduct its business, except that the chair, a quorum of the voting members of the panel, or the department may call meetings. The department shall keep minutes of all meetings of the panel. Panel members shall serve without remuneration, but if requested, shall ~~may~~ be reimbursed for per diem and travel expenses as provided in s. 112.061.

Section 4. Subsection (2) of section 489.551, Florida Statutes, is amended to read:

489.551 Definitions.—As used in this part:

(2) “Master septic tank contractor” means a septic tank contractor whose services are unlimited in the septic tank trade who has had at least 3 years’ experience as a Florida-registered septic tank contractor or a plumbing contractor certified under part 1 of this chapter who has provided septic tank contracting services for at least 3 years and who has the experience, knowledge, and skills to install, maintain, repair, close repairs of, and alter all types of onsite sewage treatment and disposal systems, to design onsite sewage treatment and disposal systems, where not prohibited by law, to perform and submit soil evaluations, when determined to meet site-evaluation expertise established by rule, and to use materials and items

used in the installation and maintenance of all types of onsite sewage treatment and disposal systems.

Section 5. Section 489.554, Florida Statutes, is amended to read:

489.554 Registration renewal.—The department shall prescribe by rule the method for approval of continuing education courses and for renewal of annual registration. At a minimum, annual renewal,~~which~~ shall include continuing education requirements of not less than 6 classroom hours annually for septic tank contractors and not less than 12 classroom hours annually for master septic tank contractors. The 12 classroom hours of continuing education required for master septic tank contractors may include the 6 classroom hours required for septic tank contractors, but at a minimum must include 6 classroom hours of approved master septic tank contractor coursework.

Section 6. Subsection (5) is added to section 489.555, Florida Statutes, to read:

489.555 Certification of partnerships and corporations.—

(5) When a certificate of authorization has been revoked, any person authorized by law to provide septic tank contracting services may not use the name or fictitious name of the entity whose certificate was revoked, or any other identifiers for the entity, including telephone numbers, advertisements, or logos.

Section 7. This act shall take effect upon becoming a law.

Became a law without the Governor's approval June 17, 1998.

Filed in Office Secretary of State June 11, 1998.