

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

A Bill

ACT 287 OF 1997
SENATE BILL 262

4
5 By: Senator Bradford
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For An Act To Be Entitled

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9 "AN ACT TO AMEND THE WATER POLLUTION CONTROL FACILITIES
10 PROVISIONS CONTAINED IN TITLE 8, CHAPTER 5 OF THE ARKANSAS
11 CODE ANNOTATED, TO PREVENT WATER POLLUTION, AND TO ENSURE
12 RESPONSIBLE OPERATION OF AND TO REQUIRE FINANCIAL
13 ASSURANCE FOR WASTEWATER TREATMENT PLANTS ACROSS THE
14 STATE."

Subtitle

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16
17 "TO AMEND THE WATER POLLUTION CONTROL
18 FACILITIES PROVISIONS CONTAINED IN TITLE
19 8, CHAPTER 5 OF THE ARKANSAS CODE
20 ANNOTATED."
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Arkansas Code 8-5-702 (c) and (d) are amended to read as
25 follows:

26 "(c)(1) If the court finds that circumstances prevent the owner or
27 operator of a common sewage system from operating and maintaining the system
28 in compliance with the law, the Department of Pollution Control and Ecology
29 shall nominate two (2) ~~five (5)~~ possible receivers, of which the court may
30 appoint one (1) to operate the system subject to the continuing jurisdiction
31 of the court.

32 (2) Any such receiver appointed by the court may exercise any and all
33 legal powers and rights assigned by law to the original owner or operator of
34 the common sewage system, but is immune to any personal liability associated
35 with the operation of the common sewage system.

36 (3) Once a receiver is appointed by the court to operate the common

1 sewage system, the court may make available to the receiver funds pledged by
2 the common sewage system under the minimal financial assurance provision of
3 this subchapter, and, in addition, the receiver may assess rates as necessary
4 to operate and maintain the system. The receiver is explicitly authorized to
5 operate the common sewage system with the proceeds collected from the
6 facilities which are connected to such common sewage system. The receiver
7 shall receive a reasonable professional fee for this service, which shall be
8 determined by the court. The proceeds collected by the receiver shall be
9 maintained in an account at a national bank located within the State of
10 Arkansas. The receiver shall report to the court, from time to time, how the
11 proceeds have been collected and spent by the receiver.

12 (d)(1) If the court determines that the permitted or registered entity
13 cannot equitably satisfy the provisions of this subchapter or that no feasible
14 alternatives exist, the court shall so certify that determination to the
15 Department of Pollution Control and Ecology, which shall terminate the
16 entity's permit, and the court shall request a review by the Director of the
17 Arkansas Department of Health ~~State Health Officer~~ of the public health impact
18 of an order compelling the entity supplying potable water to the common sewage
19 system to cut off the flow of potable water.

20 (2)(A) If the Director of the Arkansas Department of Health ~~State Health~~
21 ~~Officer~~ determines that a greater health hazard exists from the malfunctioning
22 sewage system than the discontinuance of potable water service, then the
23 Director of the Arkansas Department of Health ~~State Health Officer~~ shall so
24 certify this determination to the court.

25 (B) The court shall then issue an order compelling the receiver to
26 notify all users of such system, including landowners and tenants, of the
27 Director of the Arkansas Department of Health's ~~State Health Officer's~~
28 determination.

29 Upon evidence of reasonable notice, the court shall then issue the order
30 to cut off the flow of potable water."

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32 SECTION 2. All provisions of this act of a general and permanent nature
33 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
34 Revision Commission shall incorporate the same in the code.

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36 SECTION 3. If any provision of this act or the application thereof to

1 any person or circumstances is held invalid, such invalidity shall not affect
2 other provisions or applications of the act which can be given effect without
3 the invalid provision or application, and to this end the provisions of this
4 act are declared to be severable.

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6 SECTION 4. The provisions of this act shall be in addition and
7 supplemental to all other laws of the state of Arkansas now in effect and
8 shall repeal only such laws or parts of laws as may be specifically in
9 conflict with this act.

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APPROVED:2-26-97

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