

1 INTERIM STUDY PROPOSAL 2011-152

2 State of Arkansas
3 88th General Assembly
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A Bill

SENATE BILL 913

5
6 By: Senator G. Baker

7 Filed with: Interim Senate Committee on Public Health, Welfare and Labor
8 pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

9
10 AN ACT TO AMEND VARIOUS PROVISIONS OF THE ARKANSAS
11 SEWAGE DISPOSAL SYSTEMS ACT; AND FOR OTHER PURPOSES.

Subtitle

12
13
14
15 AN ACT TO AMEND VARIOUS PROVISIONS OF THE
16 ARKANSAS SEWAGE DISPOSAL SYSTEMS.

17
18
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20
21 *SECTION 1. Arkansas Code §§ 14-236-102 – 14-236-104 are amended to*
22 *read as follows:*

23 *14-236-102. Findings, policy, and intent.*

24 *(a) The General Assembly finds and determines that:*

25 *(1) Safe and adequate sewage disposal promotes the health and*
26 *welfare of the citizens of this state by minimizing the exposure of the*
27 *citizens, farm animals, domestic animals, fish, and wildlife of this state to*
28 *human excreta and domestic wastes and thus minimizing the disease*
29 *transmission potential of human excreta and domestic wastes, by minimizing*
30 *the contamination of drinking water supplies and the hazards to recreational*
31 *areas of this state, and by minimizing the pollution of other ground and*
32 *surface waters of this state;*

33 *(2) Individual sewage disposal systems, when properly designed*
34 *and constructed in suitable soils, provide renovation of waste water and*
35 *inject the renovated waste water back into the hydrologic cycle;*

1 (3) Community sewage systems are preferable for densely
2 developed portions of cities, towns, subdivisions, mobile home parks, and
3 other built up areas because the concentration of individual sewage disposal
4 systems could increase the degree of contamination of local ground and
5 surface waters and could increase the exposure of the citizens of this state
6 to human excreta and other domestic wastes while community sewerage systems
7 permit the location of sewage treatment and disposal facilities in areas
8 remote from the population;

9 (4) In densely developed subdivisions located outside
10 incorporated areas, property owners associations have been formed for the
11 purpose of constructing and maintaining community sewage systems and that
12 authorization from the state granting jurisdiction over nonincorporated
13 community sewage systems is desirable to ~~insure~~ ensure that the property
14 owners associations shall qualify for state and federal assistance;

15 (5) In some areas of this state, the soil is not suitable for
16 ~~normal underground~~ subsurface sewage disposal, and that the improper and
17 unapproved construction or installation of individual septic systems has
18 created conditions throughout the state that are dangerous to the public
19 health of the citizens of Arkansas and has contributed to the devaluation of
20 properties.

21 (b) Therefore, it is the public policy of this state and the purpose
22 of this chapter to:

23 (1) Eliminate and prevent health hazards by regulating the
24 location, design, construction, installation, operation, and maintenance of
25 individual sewage disposal systems and the proper planning thereof, and to
26 authorize the charging and collection of fees for the issuance of permits for
27 the construction, installation, alteration, repair, extension, and operation
28 of individual sewage disposal systems, and for the tests, designs, and
29 inspections of the systems, and to prescribe penalties for violations;

30 (2) Require registration of all installers of individual sewage
31 disposal systems by the ~~Division of Sanitarian Services of the~~ Department of
32 Health, with the individual homeowner retaining all rights to install and
33 repair his system in accordance with the provisions of this chapter;

34 (3) Encourage the use of community sewage systems when
35 economically feasible wherever density of development or the lack of
36 acceptable soils makes the renovation of waste water and the return of the

1 renovated waste water to the hydrologic cycle by individual sewage disposal
2 systems impractical;

3 (4) Encourage research and development by institutions, agencies
4 of government, or persons to develop modifications to, or alternates for,
5 septic tank systems which will be improvements to the systems, or which will
6 make the systems applicable to soils not suitable for ~~normal underground~~
7 subsurface sewage disposal; and

8 (5) Permit the rules ~~and regulations~~ adopted pursuant to under
9 this chapter to be amended periodically to include ~~therein such~~ the proposed
10 modifications and alternates as are approved by the State Board of Health.

11 (c) Furthermore, it is the intent of this chapter to aid and assist
12 the citizens of this state in obtaining safe and adequate individual sewage
13 disposal systems.

14
15 14-236-103. Definitions.

16 As used in this chapter, ~~unless the context otherwise requires:~~

17 (1) "Community sewage system" means any system, whether publicly
18 or privately owned, serving two (2) or more individual lots, for the
19 collection and disposal of sewage or industrial wastes of a liquid nature,
20 including various devices for the treatment of the sewage or industrial
21 wastes;

22 ~~(2) "Department" means the Division of Environmental Health~~
23 ~~Protection of the Department of Health;~~

24 ~~(3)~~(2) "Homeowner" means a person who owns and occupies a
25 building as his or her home;

26 ~~(4)~~(3) "Industrial wastes" means liquid wastes resulting from
27 the processes employed in industrial and commercial establishments;

28 ~~(5)~~(4) "Individual sewage disposal system" means a single system
29 of treatment tanks, disposal facilities, or both, used for the treatment of
30 no more than five thousand (5,000) gallons of domestic sewage per day,
31 exclusive of industrial wastes, serving only a single dwelling dwellings,
32 office building buildings, or an industrial plant or an institution;

33 ~~(6)~~(5) "Installer" means any person, firm, corporation,
34 association, municipality, or governmental agency who for compensation
35 constructs, installs, alters, or repairs individual sewage disposal systems
36 for others;

1 ~~(7)~~(6) "Municipality" means a city, town, county, district, or
 2 other public body created by or ~~pursuant to~~ under state law, or any
 3 combination thereof acting cooperatively or jointly;

4 ~~(8)~~(7) "Person" means any institution, public or private
 5 corporation, individual, partnership, or other entity;

6 ~~(9)~~(8) "Potable water" means water free from impurities in an
 7 amount sufficient to cause disease or harmful physiological effects, with the
 8 bacteriological and chemical quality conforming to applicable standards of
 9 the State Board of Health;

10 ~~(10)~~(9) "Property owners association" means an association
 11 created by and ~~pursuant to~~ under state law and organized for the purpose of
 12 maintaining common facilities, including sewage disposal facilities in
 13 unincorporated subdivisions;

14 ~~(11)~~(10) "Domestic sewage" means all wastes discharging from
 15 sanitary conveniences and plumbing fixtures of a domestic nature, exclusive
 16 of industrial and commercial wastes;

17 ~~(12)~~(11) "Subdivision" means land divided or proposed to be
 18 divided for predominantly residential purposes into such parcels as required
 19 by local ordinances or, in the absence of local ordinances, the term
 20 "subdivision" means any land which is divided or proposed to be divided by a
 21 common owner or owners for predominantly residential purposes into three (3)
 22 or more lots or parcels, any of which contain less than three (3) acres, or
 23 into platted or unplatted units any of which contain less than three (3)
 24 acres, as a part of a uniform plan of development;

25 ~~(13)~~(12) "Authorized agent" means the ~~sanitarian~~ environmental
 26 health specialist assigned to the county or local area by the Division of
 27 Environmental Health Protection of the Department of Health;

28 ~~(14)~~(13)(A) "~~Designated representative~~" "Onsite Wastewater
 29 Designer I" means a person ~~designated by the authorized agent to make~~
 30 ~~percolation tests, system designs, and inspections~~ licensed by the department
 31 to perform soil tests, perform soil interpretation, and design individual
 32 sewage disposal systems subject to the authorized agent's final approval.

33 ~~(B) Designated representatives shall be registered~~
 34 ~~professional engineers, registered land surveyors, licensed master plumbers,~~
 35 ~~registered sanitarians, or other similarly qualified individuals holding~~
 36 ~~current certificates from the State of Arkansas, and shall demonstrate to the~~

1 ~~satisfaction of the authorized agent prior to their designation as a~~
 2 ~~designated representative their competency to make percolation tests,~~
 3 ~~designs, and final inspections for individual sewage disposal systems in~~
 4 ~~accordance with the rules and regulations promulgated pursuant to this~~
 5 ~~chapter~~ An Onsite Wastewater Designer shall be a registered professional soil
 6 classifier, a registered professional engineer, a registered professional
 7 land surveyor, or a registered sanitarian;

8 ~~(15)~~(14) ~~“Alternate and experimental system”~~ “Experimental
 9 system” means a nonstandard individual sewage disposal system or treatment
 10 system which is classified as experimental in order to evaluate its potential
 11 effectiveness;

12 ~~(16)~~(15) ~~“Septic tank manufacturer”~~ means a person, firm,
 13 corporation, or association who manufactures septic tanks, package treatment
 14 plants, or other components for individual sewage disposal or treatment
 15 systems; ~~and~~

16 ~~(17)~~(16) ~~“Certified maintenance person”~~ means an individual
 17 registered by the Department of Health to conduct assessments under this
 18 chapter; ~~and~~

19 (17) “Onsite Wastewater Designer II” means a person licensed by
 20 the department to perform presite soil interpretations, design individual
 21 sewage disposal systems and perform final inspections.

22
 23 14-236-104. Certain individual systems excepted from chapter.

24 (a)(1) ~~No~~ An individual sewage disposal system in existence on July 1,
 25 1977, nor any individual sewage disposal system installed after July 1, 1977,
 26 in a subdivision, ~~wherein~~ in which individual lots have been developed or
 27 sold for use with individual sewage disposal systems, for which a plat has
 28 been filed of record ~~prior to~~ before July 1, 1977, shall not be required to
 29 conform to more stringent specifications and requirements as to design,
 30 construction, density of improvements, lot size, and installation than those
 31 standards contained in any applicable, duly adopted, and published regulation
 32 in effect at the time of the platting of record of the subdivision.

33 (2) ~~No~~ An individual sewage disposal system to be installed on a
 34 residential lot for which the ~~Division of Environmental Health Protection of~~
 35 ~~the~~ Department of Health or its authorized agent has issued a construction
 36 permit on or before July 1, 1977, shall not be required to conform to the

1 design, construction, and installation provisions of this chapter, or any
2 ~~rules and regulations adopted pursuant thereto~~ adopted under this chapter.

3 (3) In a subdivision for which a master plan has been approved
4 by the Department of Health or the Arkansas Department of Environmental
5 Quality ~~prior to~~ before July 1, 1977, or for which the Department of Health
6 or the Arkansas Department of Environmental Quality has otherwise previously
7 issued its written approval for the installation of individual sewage
8 disposal systems and where individual lots have been developed or sold in
9 reliance upon the prior written approval, individual sewage disposal systems
10 shall not be required to conform to more stringent specifications as to
11 design, construction, and installation than those standards in effect at the
12 time of or referred to in the prior written approval.

13 (b) However, any individual sewage disposal system which is determined
14 by the ~~Division of Environmental Health Protection of the~~ Department of
15 Health to be a health hazard or ~~which~~ that constitutes a nuisance due to odor
16 or unsightly appearance ~~must~~ shall conform with the provisions of this
17 chapter and applicable rules ~~and regulations~~ within a reasonable time after
18 notification that the determination has been made.

19 (c)(1) The requirements of this chapter shall not apply to any
20 individual sewage disposal system or alternate and experimental system ~~which~~
21 that is situated on a tract of land ten (10) acres or larger, in which the
22 field line or sewage disposal line is no closer than two hundred feet (200')
23 to the property line.

24 (2) A person who requests an exemption under this subsection
25 shall provide sufficient documentation to the Department of Health.

26
27 SECTION 2. Arkansas Code §§ 14-236-106 – 14-236-108 are amended to
28 read as follows:

29 14-236-106. Penalties.

30 (a)(1)(A) A person who shall willingly and knowingly violate ~~the~~
31 ~~provisions of this chapter shall be~~ is liable to the party aggrieved or
32 damaged by that violation for the cost of suit, including a reasonable
33 attorney's fee, actual damages, and additional punitive damages equal to
34 twenty-five percent (25%) of the damages proven by the aggrieved party, to be
35 taxed by the court where the suit is heard on an original action, by appeal,

1 or otherwise, and recovered by a suit at law in any court of competent
2 jurisdiction.

3 (B) However, the party aggrieved or damaged ~~thereby must~~
4 by a violation of this chapter shall give twenty (20) days' written notice of
5 any violation of this chapter to the violator.

6 (2) Approval by the ~~Division of Environmental Health Protection~~
7 ~~of the~~ Department of Health or its authorized agent of a requested variation
8 from the rules ~~and regulations~~ adopted ~~pursuant to~~ under this chapter shall
9 not be construed as a violation of this chapter.

10 (b) ~~The Division of Environmental Health Protection of the Department~~
11 ~~of Health~~ department or its authorized agent is authorized to require the
12 property owner to take the necessary action to correct the malfunctioning
13 individual sewage disposal system within thirty (30) working days of being
14 notified. Failure to take corrective action shall constitute a violation of
15 this chapter.

16 (c)(1) Any person, firm, corporation, or association ~~who~~ that violates
17 any of the provisions of this chapter or any rules ~~and regulations~~
18 ~~promulgated~~ adopted under the authority of this chapter ~~shall~~, upon
19 conviction, shall be deemed guilty of a misdemeanor and shall be punished by
20 a fine of not less than one hundred dollars (\$100) nor more than one thousand
21 dollars (\$1,000).

22 (2)(A) Every firm, person, or corporation who violates any of
23 the provisions of this chapter or rules, ~~regulations~~, or orders issued or
24 ~~promulgated~~ adopted by the State Board of Health or who violates any
25 condition of a license, permit, certificate, or any other type of
26 registration issued by the board may be assessed a civil penalty ~~by the~~
27 ~~board~~.

28 (B)(i) The penalty shall not exceed one thousand dollars
29 (\$1,000) for each violation.

30 (ii) Each day of a continuing violation may be
31 deemed a separate violation for purposes of penalty assessments.

32 (3) All fines collected under subdivision (c)(1) of this section
33 shall be deposited in the State Treasury and credited to the Public Health
34 Fund to be used to defray costs of administering this chapter.

35 (4) Subject to ~~such~~ rules ~~and regulations~~ as may be implemented
36 by the Chief Fiscal Officer of the State, the disbursing officer for the

1 Department of Health is authorized to transfer all unexpended funds relative
 2 to fines collected under this section, as certified by the Chief Fiscal
 3 Officer of the State, to be carried forward and made available for
 4 expenditures for the same purpose for any following fiscal year.

5
 6 14-236-107. ~~Division of Sanitarian Services~~ Environmental Health
 7 Protection – Powers and duties.

8 (a) ~~The Division of Sanitarian Services of the Department of Health or~~
 9 ~~its authorized agents shall have general supervision and authority over the~~
 10 ~~location, design, construction, installation, and operation of individual~~
 11 ~~sewage disposal systems,~~ and shall be responsible for the administration of
 12 this chapter and of the rules ~~and regulations~~ adopted ~~pursuant to~~ under this
 13 chapter.

14 (b) In order to assure the effective and efficient administration of
 15 ~~the provisions and purposes of this chapter, the Division of Sanitarian~~
 16 ~~Services of the Department of Health is authorized to~~ department may:

17 (1) ~~After review by the House and Senate Interim Committees on~~
 18 ~~Public Health, Welfare, and Labor or appropriate subcommittees thereof~~ Senate
 19 Committee on Public Health, Welfare, and Labor and the House Committee on
 20 Public Health, Welfare, and Labor or by subcommittees of the Senate and House
 21 committees, respectively, adopt, and from time to time amend, rules ~~and~~
 22 ~~regulations~~ governing the review and approval of subdivisions proposing to
 23 utilize individual sewage disposal systems as the means of sewage disposal
 24 for part or all of the lots in the subdivision and the location, design,
 25 construction, installation, and operation of individual sewage disposal
 26 systems proposed for or located in subdivisions or in platted or unplatted
 27 lots or tracts of land ~~pursuant to~~ under the procedures provided in the
 28 Arkansas Administrative Procedure Act, § 25-15-201 et seq., in order that the
 29 wastes from the systems will not pollute any potable water supply, or source
 30 of water used for public or domestic supply purposes, or for recreational
 31 purposes, or other waters of this state, and will not give rise to a public
 32 health hazard by being accessible to insects, rodents, or other possible
 33 carriers which may come into contact with food or potable water, or by being
 34 accessible to human beings, and will not constitute a nuisance due to odor or
 35 unsightly appearance;

1 (2) Include a provision in all rules ~~and regulations~~ adopted or
 2 amended under this chapter to encourage studies and alternate submissions by
 3 ~~engineers, sanitarians, institutions, agencies, and other persons~~ designers
 4 of economically feasible ~~alternate~~ systems for ~~underground~~ subsurface and
 5 above ground individual sewage disposal systems for use in soils not suitable
 6 for ~~normal underground~~ subsurface sewage disposal;

7 (3) Include in rules ~~and regulations~~ adopted ~~pursuant to~~ under
 8 this chapter, definitions and detailed descriptions of good management
 9 practices and procedures ~~which~~ that, when utilized in the construction of
 10 septic systems, will:

11 (A) Justify variation in field size or in other standard
 12 requirements;

13 (B) Promote the use of good management practices or
 14 procedures in the construction of septic systems by adopting under the rules
 15 ~~and regulations promulgated~~ adopted under this chapter standard permissible
 16 reductions in field size ~~which~~ that may be applied when the management
 17 practices or procedures are utilized in the construction of a septic system;

18 (C) Require the utilization of one (1) or more specific
 19 management practices or procedures as a condition of approval of standard
 20 septic systems where, in the opinion of the authorized agent, unusual site
 21 conditions or problems require the additional management practices or
 22 procedures to ensure the proper operation of an otherwise standard septic
 23 system;

24 (4) Enforce ~~the provisions of~~ this chapter and any rules ~~and~~
 25 ~~regulations~~ adopted ~~pursuant thereto~~ under this chapter;

26 (5) Delegate, at its discretion, to any municipality or, in the
 27 case of an unincorporated subdivision, the property owners association, any
 28 of its authority under this chapter in the administration of the rules ~~and~~
 29 ~~regulations~~ adopted ~~pursuant to~~ under this chapter;

30 (6) Delegate to any Onsite Wastewater Designer II any of its
 31 authority under this chapter in the administration of the rules adopted under
 32 this chapter; and

33 ~~(6)(7)~~ Issue permits, and other documents, including the
 34 establishment and collection of permit fees and of procedures and forms for
 35 the submission, review, approval, and rejection of application for permits
 36 required under this chapter.

1
2 14-236-108. *Division of ~~Sanitarian Services~~ Environmental Health*
3 *Protection – Nonliability.*

4 *The Division of ~~Sanitarian Services~~ Environmental Health Protection of*
5 *the Department of Health and its authorized agents, when performing their*
6 *duties as prescribed by established policies and procedures, are exempt from*
7 *any liability for damages or claims resulting from its approval or*
8 *disapproval of the installation or operation of any individual sewage*
9 *disposal system.*

10
11 SECTION 3. *Arkansas Code §§ 14-236-110 – 14-236-115 are amended to*
12 *read as follows:*

13 14-236-110. *Construction, alteration, repair prohibited.*

14 ~~No~~ A *person shall not construct, alter, repair, or extend or cause to*
15 *be constructed, altered, repaired, or extended any individual sewage disposal*
16 *system contrary to ~~the provisions of~~ this chapter and other applicable rules*
17 *~~and regulations.~~*

18
19 14-236-111. *Review of proposals and inspections.*

20 (a)(1)(A) *The ~~Division of Environmental Health Protection of the~~*
21 *Department of Health or its authorized agent ~~is authorized and directed to~~*
22 *shall review proposals for individual sewage disposal systems and to make*
23 *inspections of individual sewage disposal systems as may be necessary to*
24 *determine substantial compliance with this chapter and ~~regulations adopted~~*
25 *~~hereunder~~ rules adopted under this chapter.*

26 (B) *The systems shall not be used unless a permit for*
27 *operation has been approved by the ~~division~~ department or its authorized*
28 *agent.*

29 (2) *In the event that an authorized agent has not been*
30 *designated for a county or municipality or locality, applications for*
31 *individual sewage disposal systems shall be made to the ~~division~~ department.*

32 (3) *The ~~division~~ department or its authorized agent shall either*
33 *approve or disapprove the individual sewage disposal system design submitted*
34 *by an Onsite Wastewater Designer I, and, if disapproved, the system shall not*
35 *be installed until all deficiencies are corrected and the design approved by*

1 ~~the Division of Environmental Health Protection of the Department of Health~~
2 ~~department~~ or its authorized agent.

3 (4) The department or its authorized agent shall either approve
4 or disapprove the individual sewage disposal system design submitted by an
5 Onsite Wastewater Designer I, and if disapproved, the system shall not be
6 installed until all deficiencies are corrected and the design approved by the
7 department or its authorized agent.

8 (5) An Onsite Wastewater Designer II may perform presite soil
9 interpretations, design a system, and have the system installed without prior
10 issuance of a permit, if a permit is subsequently obtained within five (5)
11 working days after the system installation and inspection.

12 ~~(b) It shall be the duty of the installer to notify the division, its~~
13 ~~authorized agent, or his or her designated representative when the~~
14 ~~installation is to occur and it shall be the duty of the~~ The owner or
15 occupant of the property ~~to~~ shall give the ~~division~~ department, its
16 authorized agent, or his or her designated representative designer free
17 access to the property at reasonable times for the purpose of making such
18 inspections as are necessary.

19 (c) Within five (5) working days, the installer shall certify to the
20 ~~division~~ department that the system has been installed ~~pursuant to~~ under the
21 approved permit.

22 (d) Any person aggrieved by the disapproval of an individual sewage
23 disposal system shall be afforded review as provided in the Arkansas
24 Administrative Procedure Act, § 25-15-201 et seq.

25
26 14-236-112. Permit and registration required – Exception.

27 (a) ~~It shall be~~ is unlawful for any person, firm, corporation,
28 association, municipality, or governmental agency to construct, alter,
29 repair, extend, or operate an individual sewage disposal system or alternate
30 and experimental system installed after July 1, 1977, unless a valid permit
31 has been issued by the ~~Division of Sanitarian Services of the Department of~~
32 ~~Health or its authorized agent for the specific construction, alteration,~~
33 repair, extension, or operation proposed, except that emergency repairs may
34 be undertaken without prior issuance of a permit, provided a permit is
35 subsequently obtained within ten (10) working days after the repairs are
36 made.

1 (b) ~~It shall be~~ is unlawful for any person, firm, corporation, or
 2 association to begin construction, alteration, repair, or extension of any
 3 individual sewage disposal system or alternate and experimental system, owned
 4 by any other person, firm, corporation, association, municipality, or
 5 governmental agency until the owner first obtains a valid permit issued by
 6 ~~the Division of Sanitarian Services of the Department of Health~~ department or
 7 its authorized agent.

8 (c) ~~It shall be~~ is unlawful for a septic tank manufacturer to operate
 9 a business in the State of Arkansas or to do business in the State of
 10 Arkansas unless he holds a valid registration issued by the ~~Department of~~
 11 ~~Health~~ department.

12
 13 14-236-113. Applications for permits, etc. – Refusal.

14 (a) All applications for permits, licenses, or review certificates
 15 shall be made on a form which includes such information as may be required by
 16 ~~the Division of Sanitarian Services of the Department of Health or its~~
 17 authorized agent to establish compliance with ~~the provisions of~~ this chapter,
 18 and any ~~regulations adopted hereunder~~ rules adopted under this chapter.

19 (b) Except as provided in § 14-236-104(a) and (b), a permit for the
 20 construction, alteration, repair, extension, or operation of an individual
 21 sewage disposal system or alternate and experimental system shall be refused
 22 where community sewerage systems are reasonably available or economically
 23 feasible, or in instances where the issuance of ~~such a~~ a permit is in conflict
 24 with other applicable laws ~~and regulations~~ or rules, or ~~where~~ when the
 25 issuance of the permit is in conflict with the public policy declared by this
 26 chapter.

27
 28 14-236-114. Notification by installer required.

29 It ~~shall be~~ is unlawful for any installer to begin construction,
 30 alteration, repair, or extension of any individual sewage disposal system or
 31 alternate and experimental system, owned by any other person, firm,
 32 corporation, association, municipality, or governmental agency, until the
 33 installer first notifies the authorized agent and the Onsite Wastewater
 34 Designer II, if applicable, within three (3) days of the date he plans to
 35 begin work on the system.

36

1 14-236-115. Registration of installers.

2 (a) Each installer who operates within the State of Arkansas,
3 regardless of the location of his or her home office, ~~must~~ shall become
4 registered by the ~~Division of Sanitarian Services of the Department of~~
5 ~~Health.~~

6 (b) The registration ~~will~~ shall be issued by the ~~Division of~~
7 ~~Sanitarian Services of the Department of Health~~ department or its authorized
8 agent upon application on proper forms and compliance with the provisions of
9 this chapter and ~~regulations~~ rules adopted ~~pursuant to~~ under this chapter.

10 (c) The registration shall be renewable on January 1 of each year.

11 (d)(1) The installer's registration may be revoked without advance
12 notice whenever any provision of this chapter is violated.

13 (2) The installer may appeal the revocation as provided for in
14 the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

15 (e) Each installer ~~must~~ shall furnish proof of current registration
16 upon request by an authorized representative of the ~~Division of Sanitarian~~
17 ~~Services of the Department of Health~~ department.

18 (f) Failure of an installer to register with the ~~Division of~~
19 ~~Sanitarian Services of the Department of Health~~ department as an installer in
20 the State of Arkansas shall subject the installer to the penalties of
21 ~~subsection (e) of § 14-236-106(c).~~

22
23 SECTION 3. Arkansas Code § 14-236-116(f) and (g), concerning permits
24 and registration fees for the Arkansas Sewage Disposal Systems Act, are
25 amended to read as follows:

26 (f)(1) The fee for the issuance of a review certificate under ~~the~~
27 ~~provisions of~~ this chapter to the person developing a subdivision shall be a
28 minimum of one hundred dollars (\$100) for one (1) lot and twenty-five dollars
29 (\$25.00) for each following lot, with a maximum of one thousand five hundred
30 dollars (\$1,500).

31 (2) A subdivision composed of at least six (6) lots shall be
32 evaluated by a professional soil classifier to determine the suitability of
33 the lots to utilize individual sewage disposal systems.

34 (g) Permit and regulation fees collected under this chapter shall be
35 deposited in the State Treasury as follows:

1 (1) Five dollars (\$5.00) of each permit fee collected for
 2 permits issued under subsection (a) of this section shall be credited to a
 3 special fund to be known as the "Individual Sewage Disposal Systems
 4 Improvement Fund" that is established on the books of the Treasurer of State,
 5 with such moneys to be used by the ~~Division of Environmental Health~~
 6 ~~Protection of the Department of Health~~ department, and in the manner
 7 recommended by the Individual Sewage Disposal Systems Advisory Committee, for
 8 the implementation of the utilization and application of alternate and
 9 experimental individual sewage disposal systems, as set forth in this
 10 chapter;

11 (2) The remainder of the fees collected for permits issued under
 12 the provisions of subsection (a) of this section and all of the net fees
 13 collected under the provisions of subsections (b)-(f) of this section shall
 14 be credited to the Public Health Fund, and the moneys shall be used only for
 15 the operation of the Onsite Wastewater Program of the ~~Division of~~
 16 ~~Environmental Health Protection of the~~ Department of Health; and

17 (3) Subject to ~~such rules and regulations as may be implemented~~
 18 by the Chief Fiscal Officer of the State, the disbursing officer for the
 19 ~~Department of Health is hereby authorized to~~ department may transfer all
 20 unexpended funds relative to the funds outlined in subdivision (g)(2) of this
 21 section that pertain to fees collected, as certified by the Chief Fiscal
 22 Officer of the State, to be carried forward and made available for
 23 expenditures for the same purpose for any following fiscal year.

24
 25 SECTION 4. Arkansas Code § 14-236-118 and 14-236-119 are amended to
 26 read as follows:

27 14-236-118. Fees for tests, designs, and inspections.

28 ~~Designated representatives~~ An Onsite Wastewater Designer may charge
 29 reasonable fees for ~~percolation~~ soil tests, system designs, and final
 30 inspections where the fees are based on generally accepted wage rates for
 31 work of the type and on generally accepted charges for equipment and mileage.

32
 33 14-236-119. Registration of a certified maintenance person.

34 (a) Each certified maintenance person who operates within the State of
 35 Arkansas shall be registered by the ~~Division of Environmental Health~~
 36 ~~Protection of the~~ Department of Health.

1 (b) The registration shall be issued by the ~~division~~ department or its
 2 authorized agent upon compliance with this chapter and rules ~~and regulations~~
 3 adopted under this chapter.

4 (c) The registration shall be renewed on January 1 of each year.

5 (d)(1) If a violation of this chapter occurs, a certified maintenance
 6 person's registration may be revoked without notice by the division.

7 (2) The certified maintenance person may appeal the revocation
 8 of the registration under the Administrative Procedure Act, § 25-15-201 et
 9 seq.

10 (e) Upon request by an authorized representative of the division, a
 11 certified maintenance person shall provide proof of registration.

12 (f) A certified maintenance person is subject to the penalties under §
 13 14-236-106 for a violation of this chapter.

14
 15 SECTION 5. Arkansas Code Title 14, Chapter 236, is amended to add two
 16 additional sections to read as follows:

17 14-236-120. Onsite Wastewater Designer II – Requirements.

18 (a) An Onsite Wastewater Designer II shall demonstrate to the
 19 satisfaction of the Department of Health his or her competence by
 20 satisfactorily completing an objective test to determine design and soils
 21 knowledge.

22 (b) An Onsite Wastewater Designer II shall:

23 (1) Be licensed by the department for a minimum of five (5)
 24 years;

25 (2) Submit a minimum of thirty (30) permits during the twelve
 26 (12) month period before applying for an Onsite Wastewater Designer II
 27 license; and

28 (3) Hold an installer license, hold a Wastewater II license from
 29 the Department of Environmental Quality and

30 (c) A Onsite Wastewater Designer II shall demonstrate shall be a:

31 (1) Professional soil classifier;

32 (2) Professional engineer;

33 (3) Professional land surveyor; or

34 (4) Professional registered sanitarian.

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14-236-121. Onsite Wastewater Designers – Soil classifiers – Relicensure.

(a) After July 1, 2014, all new applicants for onsite wastewater designer licenses shall be professional soil classifiers.

(b) A person licensed under this chapter whose license has lapsed and who has ceased activities as a licensee for less than five (5) years may apply for relicensure.

/s/G. Baker

Referred by the Arkansas Senate
Prepared by: MGF/VJF