

1 State of Arkansas

2 80th General Assembly

3 Regular Session, 1995

4 By: Representative Goodwin

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## For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE § 14-236-106 TO STANDARDIZE  
9 ENFORCEMENT PROCEDURES AND PENALTIES BETWEEN SECTIONS OF  
10 THE STATE\_S PUBLIC HEALTH CODE BY ADDING CIVIL PENALTY  
11 AUTHORITY TO THE ARKANSAS SEWAGE DISPOSAL SYSTEMS ACT; AND  
12 FOR OTHER PURPOSES."

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### Subtitle

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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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22 SECTION 1. Arkansas Code Annotated § 14-236-106 is amended to read as  
23 follows:

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"14-236-106. Penalties.

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26 (a)(1) A person who shall willingly and knowingly violate the  
27 provisions of this chapter shall be liable to the party aggrieved or damaged  
28 by that violation for the cost of suit, including a reasonable attorney's  
29 fee, actual damages, and additional punitive damages equal to twenty-five  
30 percent (25%) of the damages proven by the aggrieved party, to be taxed by  
31 the court where the suit is heard on an original action, by appeal, or  
32 otherwise, and recovered by a suit at law in any court of competent  
33 jurisdiction. However, the party aggrieved or damaged thereby must give  
34 twenty (20) days' written notice of any violation of this chapter to the  
35 violator.

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(2) Approval by the Division of Environmental Health Protection

1 of the Department of Health or its authorized agent of a requested variation  
2 from the rules and regulations adopted pursuant to this chapter shall not be  
3 construed as a violation of this chapter.

4 (b) The Division of Environmental Health Protection of the Department  
5 of Health or its authorized agent is authorized to require the property owner  
6 to take the necessary action to correct the malfunctioning individual sewage  
7 disposal system within thirty (30) working days of being notified. Failure  
8 to take corrective action shall constitute a violation of this chapter.

9 (c)(1) Any person, firm, corporation, or association who violates any  
10 of the provisions of this chapter or any rules and regulations promulgated  
11 under the authority of this chapter shall, upon conviction, be deemed guilty  
12 of a misdemeanor and shall be punished by a fine of not less than one hundred  
13 dollars (\$100) nor more than one thousand dollars (\$1,000).

14 (2) Every firm, person, or corporation who violates any of the  
15 provisions of this act or rules or regulations or order issued or promulgated  
16 by the State Board of Health, or who violates any condition of a license,  
17 permit, certificate, or any other type of registration issued by the board  
18 may be assessed a civil penalty by the board. The penalty shall not exceed  
19 one thousand dollars (\$1,000) for each violation. Each day of a continuing  
20 violation may be deemed a separate violation for purposes of penalty  
21 assessments.

22 (3) All fines collected under subsection (c)(1) shall be  
23 deposited in the State Treasury and credited to the Public Health Fund to be  
24 used to defray costs of administering this section.

25 (4) Subject to such rules and regulations as may be implemented  
26 by the Chief Fiscal Officer of the State, the disbursing officer for the  
27 Department of Health is authorized to transfer all unexpended funds relative  
28 to fines collected under this subsection, as certified by the Chief Fiscal  
29 Officer of the State, to be carried forward and made available for  
30 expenditures for the same purpose for any following fiscal year."

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

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

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7           SECTION 4. All laws and parts of laws in conflict with this act are  
8 hereby repealed.

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