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2 88th General Assembly
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4

As Engrossed: S3/14/11

A Bill

SENATE BILL 913

5 By: Senator G. Baker
6

For An Act To Be Entitled

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

Subtitle

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

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

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

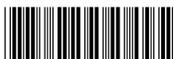
21 *14-236-102. Findings, policy, and intent.*

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

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

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

34 *(3) Community sewage systems are preferable for densely*
35 *developed portions of cities, towns, subdivisions, mobile home parks, and*
36 *other built up areas because the concentration of individual sewage disposal*



1 systems could increase the degree of contamination of local ground and
2 surface waters and could increase the exposure of the citizens of this state
3 to human excreta and other domestic wastes while community sewerage systems
4 permit the location of sewage treatment and disposal facilities in areas
5 remote from the population;

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

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

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

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

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

31 (3) Encourage the use of community sewage systems when
32 economically feasible wherever density of development or the lack of
33 acceptable soils makes the renovation of waste water and the return of the
34 renovated waste water to the hydrologic cycle by individual sewage disposal
35 systems impractical;

36 (4) Encourage research and development by institutions, agencies

1 of government, or persons to develop modifications to, or alternates for,
 2 septic tank systems which will be improvements to the systems, or which will
 3 make the systems applicable to soils not suitable for ~~normal underground~~
 4 subsurface sewage disposal; and

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

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

11
 12 14-236-103. Definitions.

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

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

19 ~~(2) "Department" means the Division of Environmental Health~~
 20 ~~Protection of the Department of Health;~~

21 ~~(3)~~(2) "Homeowner" means a person who owns and occupies a
 22 building as his or her home;

23 ~~(4)~~(3) "Industrial wastes" means liquid wastes resulting from
 24 the processes employed in industrial and commercial establishments;

25 ~~(5)~~(4) "Individual sewage disposal system" means a single system
 26 of treatment tanks, disposal facilities, or both, used for the treatment of
 27 no more than five thousand (5,000) gallons of domestic sewage per day,
 28 exclusive of industrial wastes, serving only a single dwelling dwellings,
 29 office building buildings, or an industrial plant or an institution;

30 ~~(6)~~(5) "Installer" means any person, firm, corporation,
 31 association, municipality, or governmental agency who for compensation
 32 constructs, installs, alters, or repairs individual sewage disposal systems
 33 for others;

34 ~~(7)~~(6) "Municipality" means a city, town, county, district, or
 35 other public body created by or ~~pursuant to~~ under state law, or any
 36 combination thereof acting cooperatively or jointly;

1 ~~(8)~~(7) "Person" means any institution, public or private
2 corporation, individual, partnership, or other entity;

3 ~~(9)~~(8) "Potable water" means water free from impurities in an
4 amount sufficient to cause disease or harmful physiological effects, with the
5 bacteriological and chemical quality conforming to applicable standards of
6 the State Board of Health;

7 ~~(10)~~(9) "Property owners association" means an association
8 created by and ~~pursuant to~~ under state law and organized for the purpose of
9 maintaining common facilities, including sewage disposal facilities in
10 unincorporated subdivisions;

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

14 ~~(12)~~(11) "Subdivision" means land divided or proposed to be
15 divided for predominantly residential purposes into such parcels as required
16 by local ordinances or, in the absence of local ordinances, the term
17 "subdivision" means any land which is divided or proposed to be divided by a
18 common owner or owners for predominantly residential purposes into three (3)
19 or more lots or parcels, any of which contain less than three (3) acres, or
20 into platted or unplatted units any of which contain less than three (3)
21 acres, as a part of a uniform plan of development;

22 ~~(13)~~(12) "Authorized agent" means the ~~sanitarian~~ environmental
23 health specialist assigned to the county or local area by the Division of
24 Environmental Health Protection of the Department of Health;

25 ~~(14)~~(13)(A) "~~Designated representative~~" "Onsite Wastewater
26 Designer I" means a person ~~designated by the authorized agent to make~~
27 ~~percolation tests, system designs, and inspections~~ licensed by the department
28 to perform soil tests, perform soil interpretation, and design individual
29 sewage disposal systems subject to the authorized agent's final approval.

30 ~~(B) Designated representatives shall be registered~~
31 ~~professional engineers, registered land surveyors, licensed master plumbers,~~
32 ~~registered sanitarians, or other similarly qualified individuals holding~~
33 ~~current certificates from the State of Arkansas, and shall demonstrate to the~~
34 ~~satisfaction of the authorized agent prior to their designation as a~~
35 ~~designated representative their competency to make percolation tests,~~
36 ~~designs, and final inspections for individual sewage disposal systems in~~

1 ~~accordance with the rules and regulations promulgated pursuant to this~~
 2 ~~chapter~~ An Onsite Wastewater Designer shall be a registered professional soil
 3 classifier, a registered professional engineer, a registered professional
 4 land surveyor, or a registered sanitarian;

5 ~~(15)~~(14) ~~"Alternate and experimental system"~~ "Experimental
 6 system" means a nonstandard individual sewage disposal system or treatment
 7 system which is classified as experimental in order to evaluate its potential
 8 effectiveness;

9 ~~(16)~~(15) ~~"Septic tank manufacturer"~~ means a person, firm,
 10 corporation, or association who manufactures septic tanks, package treatment
 11 plants, or other components for individual sewage disposal or treatment
 12 systems; ~~and~~

13 ~~(17)~~(16) ~~"Certified maintenance person"~~ means an individual
 14 registered by the Department of Health to conduct assessments under this
 15 chapter; ~~and~~

16 (17) "Onsite Wastewater Designer II" means a person licensed by
 17 the department to perform presite soil interpretations, design individual
 18 sewage disposal systems and perform final inspections.

19
 20 14-236-104. Certain individual systems excepted from chapter.

21 (a)(1) ~~No~~ An individual sewage disposal system in existence on July 1,
 22 1977, nor any individual sewage disposal system installed after July 1, 1977,
 23 in a subdivision, ~~wherein~~ in which individual lots have been developed or
 24 sold for use with individual sewage disposal systems, for which a plat has
 25 been filed of record ~~prior to~~ before July 1, 1977, shall not be required to
 26 conform to more stringent specifications and requirements as to design,
 27 construction, density of improvements, lot size, and installation than those
 28 standards contained in any applicable, duly adopted, and published regulation
 29 in effect at the time of the platting of record of the subdivision.

30 (2) ~~No~~ An individual sewage disposal system to be installed on a
 31 residential lot for which the ~~Division of Environmental Health Protection of~~
 32 ~~the~~ Department of Health or its authorized agent has issued a construction
 33 permit on or before July 1, 1977, shall not be required to conform to the
 34 design, construction, and installation provisions of this chapter, or any
 35 rules ~~and regulations adopted pursuant thereto~~ adopted under this chapter.

36 (3) In a subdivision for which a master plan has been approved

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

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

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

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

23
 24 SECTION 2. Arkansas Code §§ 14-236-106 – 14-236-108 are amended to
 25 read as follows:

26 14-236-106. Penalties.

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

35 (B) However, the party aggrieved or damaged ~~thereby must~~
 36 by a violation of this chapter shall give twenty (20) days' written notice of

1 any violation of this chapter to the violator.

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

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

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

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

24 (B)(i) The penalty shall not exceed one thousand dollars
25 (\$1,000) for each violation.

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

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

31 (4) Subject to ~~such~~ rules ~~and regulations~~ as may be implemented
32 by the Chief Fiscal Officer of the State, the disbursing officer for the
33 Department of Health is authorized to transfer all unexpended funds relative
34 to fines collected under this section, as certified by the Chief Fiscal
35 Officer of the State, to be carried forward and made available for
36 expenditures for the same purpose for any following fiscal year.

1
2 14-236-107. *Division of ~~Sanitarian Services~~ Environmental Health*
3 *Protection – Powers and duties.*

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

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

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

32 (2) *Include a provision in all rules ~~and regulations~~ adopted or*
33 *amended under this chapter to encourage studies and alternate submissions by*
34 *~~engineers, sanitarians, institutions, agencies, and other persons~~ designers*
35 *of economically feasible ~~alternate~~ systems for ~~underground~~ subsurface and*
36 *above ground individual sewage disposal systems for use in soils not suitable*

1 ~~for normal underground~~ subsurface sewage disposal;

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

6 (A) Justify variation in field size or in other standard
7 requirements;

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

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

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

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

25 (6) Delegate to any Onsite Wastewater Designer II any of its
26 authority under this chapter in the administration of the rules adopted under
27 this chapter; and

28 ~~(6)(7)~~ Issue permits, and other documents, including the
29 establishment and collection of permit fees and of procedures and forms for
30 the submission, review, approval, and rejection of application for permits
31 required under this chapter.

32
33 14-236-108. Division of ~~Sanitarian Services~~ Environmental Health
34 Protection – Nonliability.

35 The Division of ~~Sanitarian Services~~ Environmental Health Protection of
36 the Department of Health and its authorized agents, when performing their

1 duties as prescribed by established policies and procedures, are exempt from
2 any liability for damages or claims resulting from its approval or
3 disapproval of the installation or operation of any individual sewage
4 disposal system.

5
6 SECTION 3. Arkansas Code §§ 14-236-110 – 14-236-115 are amended to
7 read as follows:

8 14-236-110. Construction, alteration, repair prohibited.

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

13
14 14-236-111. Review of proposals and inspections.

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

21 (B) The systems shall not be used unless a permit for
22 operation has been approved by the ~~division~~ department or its authorized
23 agent.

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

27 (3) The ~~division~~ department or its authorized agent shall either
28 approve or disapprove the individual sewage disposal system design submitted
29 by an Onsite Wastewater Designer I, and, if disapproved, the system shall not
30 be installed until all deficiencies are corrected and the design approved by
31 the ~~Division of Environmental Health Protection of the Department of Health~~
32 department or its authorized agent.

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

1 department or its authorized agent.

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

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

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

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

19
20 14-236-112. Permit and registration required – Exception.

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

31 (b) ~~It shall be~~ is ~~unlawful for any person, firm, corporation, or~~
32 ~~association to begin construction, alteration, repair, or extension of any~~
33 ~~individual sewage disposal system or alternate and experimental system, owned~~
34 ~~by any other person, firm, corporation, association, municipality, or~~
35 ~~governmental agency until the owner first obtains a valid permit issued by~~
36 ~~the Division of Sanitarian Services of the Department of Health~~ department ~~or~~

1 *its authorized agent.*

2 *(c) It ~~shall be~~ is unlawful for a septic tank manufacturer to operate*
3 *a business in the State of Arkansas or to do business in the State of*
4 *Arkansas unless he holds a valid registration issued by the ~~Department of~~*
5 *~~Health~~ department.*

6
7 *14-236-113. Applications for permits, etc. – Refusal.*

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

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

21
22 *14-236-114. Notification by installer required.*

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

30
31 *14-236-115. Registration of installers.*

32 *(a) Each installer who operates within the State of Arkansas,*
33 *regardless of the location of his or her home office, ~~must~~ shall become*
34 *registered by the ~~Division of Sanitarian Services of the~~ Department of*
35 *Health.*

36 *(b) The registration ~~will~~ shall be issued by the ~~Division of~~*

1 ~~Sanitarian Services of the Department of Health~~ department or its authorized
2 agent upon application on proper forms and compliance with the provisions of
3 this chapter and ~~regulations~~ rules adopted ~~pursuant to~~ under this chapter.

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

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

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

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

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

16
17 SECTION 3. Arkansas Code § 14-236-116(f) and (g), concerning permits
18 and registration fees for the Arkansas Sewage Disposal Systems Act, are
19 amended to read as follows:

20 (f)(1) The fee for the issuance of a review certificate under ~~the~~
21 ~~provisions of~~ this chapter to the person developing a subdivision shall be a
22 minimum of one hundred dollars (\$100) for one (1) lot and twenty-five dollars
23 (\$25.00) for each following lot, with a maximum of one thousand five hundred
24 dollars (\$1,500).

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

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

30 (1) Five dollars (\$5.00) of each permit fee collected for
31 permits issued under subsection (a) of this section shall be credited to a
32 special fund to be known as the "Individual Sewage Disposal Systems
33 Improvement Fund" that is established on the books of the Treasurer of State,
34 with such moneys to be used by the ~~Division of Environmental Health~~
35 ~~Protection of the Department of Health~~ department, and in the manner
36 recommended by the Individual Sewage Disposal Systems Advisory Committee, for

1 the implementation of the utilization and application of alternate and
2 experimental individual sewage disposal systems, as set forth in this
3 chapter;

4 (2) The remainder of the fees collected for permits issued under
5 the provisions of subsection (a) of this section and all of the net fees
6 collected under the provisions of subsections (b)-(f) of this section shall
7 be credited to the Public Health Fund, and the moneys shall be used only for
8 the operation of the Onsite Wastewater Program of the ~~Division of~~
9 ~~Environmental Health Protection of the~~ Department of Health; and

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

17
18 SECTION 4. Arkansas Code § 14-236-118 and 14-236-119 are amended to
19 read as follows:

20 14-236-118. Fees for tests, designs, and inspections.

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

25
26 14-236-119. Registration of a certified maintenance person.

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

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

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

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

36 (2) The certified maintenance person may appeal the revocation

1 of the registration under the Administrative Procedure Act, § 25-15-201 et
2 seq.

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

5 (f) A certified maintenance person is subject to the penalties under §
6 14-236-106 for a violation of this chapter.

7

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

10 14-236-120. Onsite Wastewater Designer II – Requirements.

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

15 (b) An Onsite Wastewater Designer II shall:

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

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

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

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

24 (1) Professional soil classifier;

25 (2) Professional engineer;

26 (3) Professional land surveyor; or

27 (4) Professional registered sanitarian.

28

29 14-236-121. Onsite Wastewater Designers – Soil classifiers –
30 Relicensure.

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

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

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/s/G. Baker