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2 88th General Assembly  
3 Regular Session, 2011  
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)~~ (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~~ 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.

*/s/G. Baker*

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