

House Bill No. 1359

An act relating to hazard mitigation for coastal redevelopment; amending s. 161.085, F.S.; specifying entities that are authorized to install or authorize installation of rigid coastal armoring structures; authorizing the Department of Environmental Protection to revoke certain authority; authorizing the installation of certain structures as the core of a restored dune feature under specified conditions; amending s. 163.3178, F.S.; requiring the Division of Emergency Management to manage certain hurricane evacuation studies; requiring that such studies be performed in a specified manner; defining the term “coastal high-hazard area”; providing that the application of development policies shall be at the discretion of local government; authorizing local governments to amend comprehensive plans to increase residential densities for certain properties; providing criteria for certain comprehensive plan compliance; requiring local governments to adopt a certain level of service for out-of-county hurricane evacuation under certain circumstances; requiring local governments and developers to enter into certain agreements; providing a deadline for local governments to amend coastal management elements and future land use maps; amending 163.336, F.S., relating to the coastal resort area redevelopment pilot project; revising the requirements for placement of certain coastal redevelopment materials; authorizing the Department of Environmental Protection to consider certain information during certain permit review; deferring the expiration date of the pilot project; requiring the department and local governments to provide a specified analysis of certain projects and to provide a report to the Legislature by a certain date; amending s. 381.0065, F.S.; requiring the issuance of certain permits by the Department of Health to be contingent upon the receipt of certain permits issued by the Department of Environmental Protection; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (3) of section 161.085, Florida Statutes, is amended, and subsections (8) and (9) are added to that section, to read:

161.085 Rigid coastal armoring structures.—

(3) If erosion occurs as a result of a storm event which threatens private structures or public infrastructure and a permit has not been issued pursuant to subsection (2), unless the authority has been revoked by order of the department pursuant to subsection (8), an the agency, political subdivision, or municipality having jurisdiction over the impacted area may install or authorize installation of rigid coastal armoring structures for the protection of private structures or public infrastructure, or take other measures to relieve the threat to private structures or public infrastructure as long as the following items are considered and incorporated into such emergency measures:

- (a) Protection of the beach-dune system.
- (b) Siting and design criteria for the protective structure.
- (c) Impacts on adjacent properties.
- (d) Preservation of public beach access.
- (e) Protection of native coastal vegetation and nesting marine turtles and their hatchlings.

(8) If a political subdivision or municipality installs or authorizes installation of a rigid coastal armoring structure that does not comply with subsection (3), and if the department determines that the action harms or interferes with the protection of the beach-dune system, adversely impacts adjacent properties, interferes with public beach access, or harms native coastal vegetation or nesting marine turtles or their hatchlings, the department may revoke by order the authority of the political subdivision or municipality under subsection (3) to install or authorize the installation of rigid coastal armoring structures.

(9) The department, or an agency, political subdivision, or municipality described in subsection (3), may authorize sand-filled tubes or similar structures proposed as the core of a restored dune feature if the applicant meets the requirements of this section and:

(a) Demonstrates that the United States Fish and Wildlife Service has approved a habitat conservation plan that includes the shoreline where each structure will be placed;

(b) Provides reasonable assurance that adequate sand cover will be maintained over the structure such that the structure will not interact with the beach dune system as rigid coastal armoring or adversely affect marine turtle nesting and provides for a responsible entity to conduct such maintenance; and

(c) Provides reasonable assurance that each structure will be removed if the maintenance required by paragraph (b) proves to be not feasible.

Section 2. Paragraphs (d) and (h) of subsection (2) of section 163.3178, Florida Statutes, are amended, and subsection (9) is added to that section, to read:

163.3178 Coastal management.—

(2) Each coastal management element required by s. 163.3177(6)(g) shall be based on studies, surveys, and data; be consistent with coastal resource plans prepared and adopted pursuant to general or special law; and contain:

(d) A component which outlines principles for hazard mitigation and protection of human life against the effects of natural disaster, including population evacuation, which take into consideration the capability to safely evacuate the density of coastal population proposed in the future land use plan element in the event of an impending natural disaster. The Division of

Emergency Management shall manage the update of the regional hurricane evacuation studies, ensure such studies are done in a consistent manner, and ensure that the methodology used for modeling storm surge is that used by the National Hurricane Center.

(h) Designation of coastal high-hazard coastal areas and the criteria for mitigation for a comprehensive plan amendment in a coastal high-hazard area as defined in subsection (9), which for uniformity and planning purposes herein, are defined as category 1 evacuation zones. The coastal high-hazard area is the area below the elevation of the category 1 storm surge line as established by a Sea, Lake and Overland Surges from Hurricanes (SLOSH) computerized storm surge model. However, Application of mitigation and the application of development and redevelopment policies, pursuant to s. 380.27(2), and any rules adopted thereunder, shall be at the discretion of local government.

(9)(a) Local governments may elect to comply with rules 9J-5.012(3)(b)(6) and 9J-5.012(3)(b)(7), Florida Administrative Code, through the process provided in this section. A proposed comprehensive plan amendment shall be found in compliance with state coastal high-hazard provisions pursuant to rules 9J-5.012(3)(b)(6) and 9J-5.012(3)(b)(7), Florida Administrative Code, if:

1. The adopted level of service for out-of-county hurricane evacuation is maintained for a category 5 storm event as measured on the Saffir-Simpson scale;

2. A 12-hour evacuation time to shelter is maintained for a category 5 storm event as measured on the Saffir-Simpson scale and shelter space reasonably expected to accommodate the residents of the development contemplated by a proposed comprehensive plan amendment is available; or

3. Appropriate mitigation is provided that will satisfy the provisions of subparagraph 1. or subparagraph 2. Appropriate mitigation shall include, without limitation, payment of money, contribution of land, and construction of hurricane shelters and transportation facilities. Required mitigation shall not exceed the amount required for a developer to accommodate impacts reasonably attributable to development. A local government and a developer shall enter into a binding agreement to memorialize the mitigation plan.

(b) For those local governments that have not established a level of service for out-of-county hurricane evacuation by July 1, 2008, but elect to comply with rules 9J-5.012(3)(b)(6) and 9J-5.012(3)(b)(7), Florida Administrative Code, by following the process in paragraph (a), the level of service shall be no greater than 16 hours for a category 5 storm event as measured on the Saffir-Simpson scale.

(c) This subsection shall become effective immediately and shall apply to all local governments. No later than July 1, 2008, local governments shall amend their future land use map and coastal management element to include the new definition of coastal high-hazard area and to depict the coastal high-hazard area on the future land use map.

Section 3. Subsections (2) and (3) of section 163.336, Florida Statutes, are amended to read:

163.336 Coastal resort area redevelopment pilot project.—

(2) PILOT PROJECT ADMINISTRATION.—

(a) To be eligible to participate in this pilot project, all or a portion of the area must be within:

1. The coastal building zone as defined in s. 161.54; and

2. A community redevelopment area, enterprise zone, brownfield area, empowerment zone, or other such economically deprived areas as designated by the county or municipality with jurisdiction over the area.

(b) Local governments are encouraged to use the full range of economic and tax incentives available to facilitate and promote redevelopment and revitalization within the pilot project areas.

(c) The Office of the Governor, Department of Environmental Protection, and the Department of Community Affairs are directed to provide technical assistance to expedite permitting for redevelopment projects and construction activities within the pilot project areas consistent with the principles, processes, and timeframes provided in s. 403.973.

(d) The Department of Environmental Protection shall exempt construction activities within the pilot project area in locations seaward of a coastal construction control line and landward of existing armoring from certain siting and design criteria pursuant to s. 161.053. However, such exemption shall not be deemed to exempt property within the pilot project area from applicable local land development regulations, including but not limited to, setback, side lot line, and lot coverage requirements. Such exemption shall apply to construction and redevelopment of structures involving the coverage, excavation, and impervious surface criteria of s. 161.053, and related adopted rules, as follows:

1. This review by the department of applications for permits for coastal construction within the pilot project area must apply to construction and redevelopment of structures subject to the coverage, excavation, and impervious surface criteria of s. 161.053, and related adopted rules. It is the intent of these provisions that the pilot project area be enabled to redevelop in a manner which meets the economic needs of the area while preserving public safety and existing resources, including natural resources.

2. The criteria for review under s. 161.053 are applicable within the pilot project area, except that the structures within the pilot project area shall not be subject to specific shore parallel coverage requirements and are allowed to exceed the 50 percent impervious surface requirement. In no case shall stormwater discharge be allowed onto, or seaward of, the frontal dune. Structures are also not bound by the restrictions on excavation unless the construction will adversely affect the integrity of the existing seawall or rigid coastal armoring structure or stability of the existing beach and dune

system. It is specifically contemplated that underground structures, including garages, will be permitted. All beach-compatible material excavated under this subparagraph must be maintained on site seaward of the coastal construction control line. However, during the permit review process under s. 161.053, the department may favorably consider authorized sand placement on adjacent properties if the permittee has demonstrated every reasonable effort to effectively use all beach-quality material on site to enhance the beach and dune system and has prepared a comprehensive plan for beach and dune nourishment for the adjoining area.

3. The review criteria in subparagraph 2. will apply to all construction within the pilot project area lying seaward of the coastal construction control line and landward of an existing viable seawall or rigid coastal armoring structure, if such construction is fronted by a seawall or rigid coastal armoring structure extending at least 1,000 feet without any interruptions other than beach access points. For purposes of this section, a viable seawall or rigid coastal armoring structure is a structure that has not deteriorated, dilapidated, or been damaged to such a degree that it no longer provides adequate protection to the upland property when considering the following criteria, including, but not limited to:

a. The top must be at or above the still water level, including setup, for the design storm of 30-year return storm plus the breaking wave calculated at its highest achievable level based on the maximum eroded beach profile and highest surge level combination, and must be high enough to preclude runoff overtopping;

b. The armoring must be stable under the design storm of 30-year return storm including maximum localized scour, with adequate penetration; and

c. The armoring must have sufficient continuity or return walls to prevent flooding under the design storm of 30-year return storm from impacting the proposed construction.

4. Where there exists a continuous line of rigid coastal armoring structure on either side of unarmored property and the adjacent line of rigid coastal armoring structures are having an adverse effect on or threaten the unarmored property, and the gap does not exceed 100 feet, the department may grant the necessary permits under s. 161.085 to close the gap.

5. Structures approved pursuant to this section shall not cause flooding of or result in adverse impacts to existing upland structures or properties and shall comply with all other requirements of s. 161.053 and its implementing rules.

6. Where there exists a continuous line of viable rigid coastal armoring structure on either side of a nonviable rigid coastal armoring structure, the department shall grant the necessary permits under s. 161.085 to replace such nonviable rigid coastal armoring structure with a viable rigid coastal armoring structure as defined in this section. This shall not apply to rigid coastal armoring structures constructed after May 1, 1998, unless such structures have been permitted pursuant to s. 161.085(2).

(3) PILOT PROJECT EXPIRATION.—The authorization for the pilot project and the provisions of this section expire December 31, ~~2014~~ 2006. The department and affected local governments shall provide for an independent analysis of the economic value and environmental impact of the pilot project and provide a report to the Speaker of the House of Representatives and the President of the Senate on or before February 1, 2008 ~~The Legislature shall review these requirements before their scheduled expiration.~~

Section 4. Subsection (4) of section 381.0065, Florida Statutes, is amended to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not construct, repair, modify, abandon, or operate an onsite sewage treatment and disposal system without first obtaining a permit approved by the department. The department may issue permits to carry out this section, but shall not make the issuance of such permits contingent upon prior approval by the Department of Environmental Protection, except that the issuance of a permit for work seaward of the coastal construction control line established under s. 161.053 shall be contingent upon receipt of any required coastal construction control line permit from the Department of Environmental Protection. A construction permit is valid for 18 months from the issuance date and may be extended by the department for one 90-day period under rules adopted by the department. A repair permit is valid for 90 days from the date of issuance. An operating permit must be obtained prior to the use of any aerobic treatment unit or if the establishment generates commercial waste. Buildings or establishments that use an aerobic treatment unit or generate commercial waste shall be inspected by the department at least annually to assure compliance with the terms of the operating permit. The operating permit for a commercial wastewater system is valid for 1 year from the date of issuance and must be renewed annually. The operating permit for an aerobic treatment unit is valid for 2 years from the date of issuance and must be renewed every 2 years. If all information pertaining to the siting, location, and installation conditions or repair of an onsite sewage treatment and disposal system remains the same, a construction or repair permit for the onsite sewage treatment and disposal system may be transferred to another person, if the transferee files, within 60 days after the transfer of ownership, an amended application providing all corrected information and proof of ownership of the property. There is no fee associated with the processing of this supplemental information. A person may not contract to construct, modify, alter, repair, service, abandon, or maintain any portion of an onsite sewage treatment and disposal system without being registered under part III of chapter 489. A property owner who personally performs construction, maintenance, or repairs to a system serving his or her own owner-occupied single-family residence is exempt from registration requirements for performing such construction, maintenance, or repairs on that residence, but is subject to all permitting requirements. A municipality or political subdivision of the state may not issue a building or plumbing permit for any building that requires the use of an onsite sewage treatment and disposal system unless the owner or builder has received a construction

permit for such system from the department. A building or structure may not be occupied and a municipality, political subdivision, or any state or federal agency may not authorize occupancy until the department approves the final installation of the onsite sewage treatment and disposal system. A municipality or political subdivision of the state may not approve any change in occupancy or tenancy of a building that uses an onsite sewage treatment and disposal system until the department has reviewed the use of the system with the proposed change, approved the change, and amended the operating permit.

(a) Subdivisions and lots in which each lot has a minimum area of at least one-half acre and either a minimum dimension of 100 feet or a mean of at least 100 feet of the side bordering the street and the distance formed by a line parallel to the side bordering the street drawn between the two most distant points of the remainder of the lot may be developed with a water system regulated under s. 381.0062 and onsite sewage treatment and disposal systems, provided the projected daily sewage flow does not exceed an average of 1,500 gallons per acre per day, and provided satisfactory drinking water can be obtained and all distance and setback, soil condition, water table elevation, and other related requirements of this section and rules adopted under this section can be met.

(b) Subdivisions and lots using a public water system as defined in s. 403.852 may use onsite sewage treatment and disposal systems, provided there are no more than four lots per acre, provided the projected daily sewage flow does not exceed an average of 2,500 gallons per acre per day, and provided that all distance and setback, soil condition, water table elevation, and other related requirements that are generally applicable to the use of onsite sewage treatment and disposal systems are met.

(c) Notwithstanding the provisions of paragraphs (a) and (b), for subdivisions platted of record on or before October 1, 1991, when a developer or other appropriate entity has previously made or makes provisions, including financial assurances or other commitments, acceptable to the Department of Health, that a central water system will be installed by a regulated public utility based on a density formula, private potable wells may be used with onsite sewage treatment and disposal systems until the agreed-upon densities are reached. The department may consider assurances filed with the Department of Business and Professional Regulation under chapter 498 in determining the adequacy of the financial assurance required by this paragraph. In a subdivision regulated by this paragraph, the average daily sewage flow may not exceed 2,500 gallons per acre per day. This section does not affect the validity of existing prior agreements. After October 1, 1991, the exception provided under this paragraph is not available to a developer or other appropriate entity.

(d) Paragraphs (a) and (b) do not apply to any proposed residential subdivision with more than 50 lots or to any proposed commercial subdivision with more than 5 lots where a publicly owned or investor-owned sewerage system is available. It is the intent of this paragraph not to allow development of additional proposed subdivisions in order to evade the requirements of this paragraph.

(e) Onsite sewage treatment and disposal systems must not be placed closer than:

1. Seventy-five feet from a private potable well.
2. Two hundred feet from a public potable well serving a residential or nonresidential establishment having a total sewage flow of greater than 2,000 gallons per day.
3. One hundred feet from a public potable well serving a residential or nonresidential establishment having a total sewage flow of less than or equal to 2,000 gallons per day.
4. Fifty feet from any nonpotable well.
5. Ten feet from any storm sewer pipe, to the maximum extent possible, but in no instance shall the setback be less than 5 feet.
6. Seventy-five feet from the mean high-water line of a tidally influenced surface water body.
7. Seventy-five feet from the mean annual flood line of a permanent nontidal surface water body.
8. Fifteen feet from the design high-water line of retention areas, detention areas, or swales designed to contain standing or flowing water for less than 72 hours after a rainfall or the design high-water level of normally dry drainage ditches or normally dry individual lot stormwater retention areas.

(f) Except as provided under paragraphs (e) and (t), no limitations shall be imposed by rule, relating to the distance between an onsite disposal system and any area that either permanently or temporarily has visible surface water.

(g) All provisions of this section and rules adopted under this section relating to soil condition, water table elevation, distance, and other setback requirements must be equally applied to all lots, with the following exceptions:

1. Any residential lot that was platted and recorded on or after January 1, 1972, or that is part of a residential subdivision that was approved by the appropriate permitting agency on or after January 1, 1972, and that was eligible for an onsite sewage treatment and disposal system construction permit on the date of such platting and recording or approval shall be eligible for an onsite sewage treatment and disposal system construction permit, regardless of when the application for a permit is made. If rules in effect at the time the permit application is filed cannot be met, residential lots platted and recorded or approved on or after January 1, 1972, shall, to the maximum extent possible, comply with the rules in effect at the time the permit application is filed. At a minimum, however, those residential lots platted and recorded or approved on or after January 1, 1972, but before January 1, 1983, shall comply with those rules in effect on January 1, 1983, and those residential lots platted and recorded or approved on or after

January 1, 1983, shall comply with those rules in effect at the time of such platting and recording or approval. In determining the maximum extent of compliance with current rules that is possible, the department shall allow structures and appurtenances thereto which were authorized at the time such lots were platted and recorded or approved.

2. Lots platted before 1972 are subject to a 50-foot minimum surface water setback and are not subject to lot size requirements. The projected daily flow for onsite sewage treatment and disposal systems for lots platted before 1972 may not exceed:

a. Two thousand five hundred gallons per acre per day for lots served by public water systems as defined in s. 403.852.

b. One thousand five hundred gallons per acre per day for lots served by water systems regulated under s. 381.0062.

(h)1. The department may grant variances in hardship cases which may be less restrictive than the provisions specified in this section. If a variance is granted and the onsite sewage treatment and disposal system construction permit has been issued, the variance may be transferred with the system construction permit, if the transferee files, within 60 days after the transfer of ownership, an amended construction permit application providing all corrected information and proof of ownership of the property and if the same variance would have been required for the new owner of the property as was originally granted to the original applicant for the variance. There is no fee associated with the processing of this supplemental information. A variance may not be granted under this section until the department is satisfied that:

a. The hardship was not caused intentionally by the action of the applicant;

b. No reasonable alternative, taking into consideration factors such as cost, exists for the treatment of the sewage; and

c. The discharge from the onsite sewage treatment and disposal system will not adversely affect the health of the applicant or the public or significantly degrade the groundwater or surface waters.

Where soil conditions, water table elevation, and setback provisions are determined by the department to be satisfactory, special consideration must be given to those lots platted before 1972.

2. The department shall appoint and staff a variance review and advisory committee, which shall meet monthly to recommend agency action on variance requests. The committee shall make its recommendations on variance requests at the meeting in which the application is scheduled for consideration, except for an extraordinary change in circumstances, the receipt of new information that raises new issues, or when the applicant requests an extension. The committee shall consider the criteria in subparagraph 1. in its recommended agency action on variance requests and shall also strive to

allow property owners the full use of their land where possible. The committee consists of the following:

- a. The Division Director for Environmental Health of the department or his or her designee.
- b. A representative from the county health departments.
- c. A representative from the home building industry recommended by the Florida Home Builders Association.
- d. A representative from the septic tank industry recommended by the Florida Onsite Wastewater Association.
- e. A representative from the Department of Environmental Protection.
- f. A representative from the real estate industry who is also a developer in this state who develops lots using onsite sewage treatment and disposal systems, recommended by the Florida Association of Realtors.
- g. A representative from the engineering profession recommended by the Florida Engineering Society.

Members shall be appointed for a term of 3 years, with such appointments being staggered so that the terms of no more than two members expire in any one year. Members shall serve without remuneration, but if requested, shall be reimbursed for per diem and travel expenses as provided in s. 112.061.

(i) A construction permit may not be issued for an onsite sewage treatment and disposal system in any area zoned or used for industrial or manufacturing purposes, or its equivalent, where a publicly owned or investor-owned sewage treatment system is available, or where a likelihood exists that the system will receive toxic, hazardous, or industrial waste. An existing onsite sewage treatment and disposal system may be repaired if a publicly owned or investor-owned sewerage system is not available within 500 feet of the building sewer stub-out and if system construction and operation standards can be met. This paragraph does not require publicly owned or investor-owned sewerage treatment systems to accept anything other than domestic wastewater.

1. A building located in an area zoned or used for industrial or manufacturing purposes, or its equivalent, when such building is served by an onsite sewage treatment and disposal system, must not be occupied until the owner or tenant has obtained written approval from the department. The department shall not grant approval when the proposed use of the system is to dispose of toxic, hazardous, or industrial wastewater or toxic or hazardous chemicals.

2. Each person who owns or operates a business or facility in an area zoned or used for industrial or manufacturing purposes, or its equivalent, or who owns or operates a business that has the potential to generate toxic, hazardous, or industrial wastewater or toxic or hazardous chemicals, and

uses an onsite sewage treatment and disposal system that is installed on or after July 5, 1989, must obtain an annual system operating permit from the department. A person who owns or operates a business that uses an onsite sewage treatment and disposal system that was installed and approved before July 5, 1989, need not obtain a system operating permit. However, upon change of ownership or tenancy, the new owner or operator must notify the department of the change, and the new owner or operator must obtain an annual system operating permit, regardless of the date that the system was installed or approved.

3. The department shall periodically review and evaluate the continued use of onsite sewage treatment and disposal systems in areas zoned or used for industrial or manufacturing purposes, or its equivalent, and may require the collection and analyses of samples from within and around such systems. If the department finds that toxic or hazardous chemicals or toxic, hazardous, or industrial wastewater have been or are being disposed of through an onsite sewage treatment and disposal system, the department shall initiate enforcement actions against the owner or tenant to ensure adequate cleanup, treatment, and disposal.

(j) An onsite sewage treatment and disposal system for a single-family residence that is designed by a professional engineer registered in the state and certified by such engineer as complying with performance criteria adopted by the department must be approved by the department subject to the following:

1. The performance criteria applicable to engineer-designed systems must be limited to those necessary to ensure that such systems do not adversely affect the public health or significantly degrade the groundwater or surface water. Such performance criteria shall include consideration of the quality of system effluent, the proposed total sewage flow per acre, wastewater treatment capabilities of the natural or replaced soil, water quality classification of the potential surface-water-receiving body, and the structural and maintenance viability of the system for the treatment of domestic wastewater. However, performance criteria shall address only the performance of a system and not a system's design.

2. The technical review and advisory panel shall assist the department in the development of performance criteria applicable to engineer-designed systems.

3. A person electing to utilize an engineer-designed system shall, upon completion of the system design, submit such design, certified by a registered professional engineer, to the county health department. The county health department may utilize an outside consultant to review the engineer-designed system, with the actual cost of such review to be borne by the applicant. Within 5 working days after receiving an engineer-designed system permit application, the county health department shall request additional information if the application is not complete. Within 15 working days after receiving a complete application for an engineer-designed system, the county health department either shall issue the permit or, if it determines that the system does not comply with the performance criteria, shall notify

the applicant of that determination and refer the application to the department for a determination as to whether the system should be approved, disapproved, or approved with modification. The department engineer's determination shall prevail over the action of the county health department. The applicant shall be notified in writing of the department's determination and of the applicant's rights to pursue a variance or seek review under the provisions of chapter 120.

4. The owner of an engineer-designed performance-based system must maintain a current maintenance service agreement with a maintenance entity permitted by the department. The maintenance entity shall obtain a biennial system operating permit from the department for each system under service contract. The department shall inspect the system at least annually, or on such periodic basis as the fee collected permits, and may collect system-effluent samples if appropriate to determine compliance with the performance criteria. The fee for the biennial operating permit shall be collected beginning with the second year of system operation. The maintenance entity shall inspect each system at least twice each year and shall report quarterly to the department on the number of systems inspected and serviced.

5. If an engineer-designed system fails to properly function or fails to meet performance standards, the system shall be re-engineered, if necessary, to bring the system into compliance with the provisions of this section.

(k) An innovative system may be approved in conjunction with an engineer-designed site-specific system which is certified by the engineer to meet the performance-based criteria adopted by the department.

(l) For the Florida Keys, the department shall adopt a special rule for the construction, installation, modification, operation, repair, maintenance, and performance of onsite sewage treatment and disposal systems which considers the unique soil conditions and which considers water table elevations, densities, and setback requirements. On lots where a setback distance of 75 feet from surface waters, saltmarsh, and buttonwood association habitat areas cannot be met, an injection well, approved and permitted by the department, may be used for disposal of effluent from onsite sewage treatment and disposal systems.

(m) No product sold in the state for use in onsite sewage treatment and disposal systems may contain any substance in concentrations or amounts that would interfere with or prevent the successful operation of such system, or that would cause discharges from such systems to violate applicable water quality standards. The department shall publish criteria for products known or expected to meet the conditions of this paragraph. In the event a product does not meet such criteria, such product may be sold if the manufacturer satisfactorily demonstrates to the department that the conditions of this paragraph are met.

(n) Evaluations for determining the seasonal high-water table elevations or the suitability of soils for the use of a new onsite sewage treatment and disposal system shall be performed by department personnel, professional engineers registered in the state, or such other persons with expertise, as

defined by rule, in making such evaluations. Evaluations for determining mean annual flood lines shall be performed by those persons identified in paragraph (2)(i). The department shall accept evaluations submitted by professional engineers and such other persons as meet the expertise established by this section or by rule unless the department has a reasonable scientific basis for questioning the accuracy or completeness of the evaluation.

(o) The department shall appoint a research review and advisory committee, which shall meet at least semiannually. The committee shall advise the department on directions for new research, review and rank proposals for research contracts, and review draft research reports and make comments. The committee is comprised of:

1. A representative of the Division of Environmental Health of the Department of Health.
2. A representative from the septic tank industry.
3. A representative from the home building industry.
4. A representative from an environmental interest group.
5. A representative from the State University System, from a department knowledgeable about onsite sewage treatment and disposal systems.
6. A professional engineer registered in this state who has work experience in onsite sewage treatment and disposal systems.
7. A representative from the real estate profession.
8. A representative from the restaurant industry.
9. A consumer.

Members shall be appointed for a term of 3 years, with the appointments being staggered so that the terms of no more than four members expire in any one year. Members shall serve without remuneration, but are entitled to reimbursement for per diem and travel expenses as provided in s. 112.061.

(p) An application for an onsite sewage treatment and disposal system permit shall be completed in full, signed by the owner or the owner's authorized representative, or by a contractor licensed under chapter 489, and shall be accompanied by all required exhibits and fees. No specific documentation of property ownership shall be required as a prerequisite to the review of an application or the issuance of a permit. The issuance of a permit does not constitute determination by the department of property ownership.

(q) The department may not require any form of subdivision analysis of property by an owner, developer, or subdivider prior to submission of an application for an onsite sewage treatment and disposal system.

(r) Nothing in this section limits the power of a municipality or county to enforce other laws for the protection of the public health and safety.

(s) In the siting of onsite sewage treatment and disposal systems, including drainfields, shoulders, and slopes, guttering shall not be required on single-family residential dwelling units for systems located greater than 5 feet from the roof drip line of the house. If guttering is used on residential dwelling units, the downspouts shall be directed away from the drainfield.

(t) Notwithstanding the provisions of subparagraph (g)1., onsite sewage treatment and disposal systems located in floodways of the Suwannee and Aucilla Rivers must adhere to the following requirements:

1. The absorption surface of the drainfield shall not be subject to flooding based on 10-year flood elevations. Provided, however, for lots or parcels created by the subdivision of land in accordance with applicable local government regulations prior to January 17, 1990, if an applicant cannot construct a drainfield system with the absorption surface of the drainfield at an elevation equal to or above 10-year flood elevation, the department shall issue a permit for an onsite sewage treatment and disposal system within the 10-year floodplain of rivers, streams, and other bodies of flowing water if all of the following criteria are met:

a. The lot is at least one-half acre in size;

b. The bottom of the drainfield is at least 36 inches above the 2-year flood elevation; and

c. The applicant installs either: a waterless, incinerating, or organic waste composting toilet and a graywater system and drainfield in accordance with department rules; an aerobic treatment unit and drainfield in accordance with department rules; a system approved by the State Health Office that is capable of reducing effluent nitrate by at least 50 percent; or a system approved by the county health department pursuant to department rule other than a system using alternative drainfield materials. The United States Department of Agriculture Soil Conservation Service soil maps, State of Florida Water Management District data, and Federal Emergency Management Agency Flood Insurance maps are resources that shall be used to identify flood-prone areas.

2. The use of fill or mounding to elevate a drainfield system out of the 10-year floodplain of rivers, streams, or other bodies of flowing water shall not be permitted if such a system lies within a regulatory floodway of the Suwannee and Aucilla Rivers. In cases where the 10-year flood elevation does not coincide with the boundaries of the regulatory floodway, the regulatory floodway will be considered for the purposes of this subsection to extend at a minimum to the 10-year flood elevation.

(u) The owner of an aerobic treatment unit system shall maintain a current maintenance service agreement with an aerobic treatment unit maintenance entity permitted by the department. The maintenance entity shall obtain a system operating permit from the department for each aerobic treatment unit under service contract. The maintenance entity shall inspect each aerobic treatment unit system at least twice each year and shall report quarterly to the department on the number of aerobic treatment unit systems inspected and serviced. The owner shall allow the department to in-

spect during reasonable hours each aerobic treatment unit system at least annually, and such inspection may include collection and analysis of system-effluent samples for performance criteria established by rule of the department.

(v) The department may require the submission of detailed system construction plans that are prepared by a professional engineer registered in this state. The department shall establish by rule criteria for determining when such a submission is required.

Section 5. This act shall take effect upon becoming a law.

Approved by the Governor June 1, 2006.

Filed in Office Secretary of State June 1, 2006.