

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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SENATE DRS35153-SY-6 (3/16)

Short Title: Enhance On-Site Wastewater System Approvals. (Public)

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Sponsors: Senators Weinstein, and Hartsell.

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Referred to:

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A BILL TO BE ENTITLED

AN ACT TO AMEND THE PROCESS FOR THE ISSUANCE OF AN IMPROVEMENT PERMIT FOR AN ON-SITE SUBSURFACE WASTEWATER SYSTEM BY REQUIRING THE COMPLETION OF A SOIL AND SITE EVALUATION PRIOR TO THE ISSUANCE OF AN IMPROVEMENT PERMIT; TO AUTHORIZE LOCAL HEALTH DEPARTMENTS, AUTHORIZED AGENTS OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, LICENSED SOIL SCIENTISTS, AND PROFESSIONAL ENGINEERS TO COMPLETE SOIL AND SITE EVALUATIONS; AND TO MAKE OTHER CHANGES.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 130A-334 reads as rewritten:

"§ 130A-334. **Definitions.**

The following definitions shall apply throughout this Article:

...

(7c) 'Professional engineer' has the same meaning as in G.S. 89C-3(8).

...

(13b) 'Licensed soil scientist' has the same meaning as in G.S. 89F-3(3).

...."

**SECTION 2.** G.S. 130A-336 reads as rewritten:

"§ 130A-336. **Improvement permit and authorization for wastewater system construction required.**

(a) Any proposed site for a residence, place of business, or place of public assembly in an area not served by an approved wastewater system shall be evaluated by either (i) the local health department, (ii) a licensed soil scientist, or (iii) a professional engineer in accordance with rules adopted pursuant to this Article. An improvement permit shall be issued in compliance with the rules adopted pursuant to this Article. The

1 local health department shall issue an improvement permit after one of the following  
2 has occurred:

3 (1) A soil and site evaluation has been completed by an authorized agent  
4 of the Department or local health department.

5 (2) The local health department receives a completed soil and site  
6 evaluation that has been signed and sealed by (i) a licensed soil  
7 scientist or (ii) a licensed soil scientist and a professional engineer in  
8 compliance with rules adopted by the Commission pursuant to this  
9 Article. Any complete application for an improvement permit that has  
10 been evaluated by (i) a licensed soil scientist or (ii) a licensed soil  
11 scientist and a professional engineer shall be deemed permitted if the  
12 local health department does not approve or deny the improvement  
13 permit within 10 calendar days after receipt of the application.

14 (a1) An improvement permit shall include:

15 (1) For permits that are valid without expiration, a plat or, for permits that  
16 are valid for five years, a site ~~plan~~ plan drawn to scale.

17 (2) A description of the facility the proposed site is to ~~serve~~ serve and any  
18 factors that would affect the wastewater load.

19 (3) The type and layout of the proposed wastewater system and its  
20 location.

21 (4) The design wastewater flow and characteristics.

22 (5) ~~The conditions for any site modifications.~~ A detailed soil profile  
23 description of at least two locations within the proposed disposal area.  
24 The detailed soil profile descriptions shall include soil taxonomic  
25 classifications, horizons, depth, texture, structure, soil wetness  
26 conditions, restrictive horizons, matrix color, and redoximorphic  
27 colors.

28 (5a) Any proposed landscape, site, drainage, or soil modifications.

29 (6) Any other information required by the rules of the Commission.

30 (a2) The improvement permit shall not be affected by change in ownership of the  
31 site for the wastewater system provided both the site for the wastewater system and the  
32 facility the system serves are unchanged and remain under the ownership or control of  
33 the person owning the facility. No person shall commence or assist in the construction,  
34 location, or relocation of a residence, place of business, or place of public assembly in  
35 an area not served by an approved wastewater system unless an improvement permit  
36 and an authorization for wastewater system construction are obtained from the local  
37 health department. This requirement shall not apply to a manufactured residence  
38 exhibited for sale or stored for later sale and intended to be located at another site after  
39 sale.

40 (b) The local health department shall issue an authorization for wastewater  
41 system construction authorizing work to proceed and the installation or repair of a  
42 wastewater system when it has determined after a field investigation that the system can  
43 be installed and operated in compliance with this Article and rules adopted pursuant to  
44 this Article. This authorization for wastewater system construction shall be valid for a

1 period equal to the period of validity of the improvement permit, not to exceed five  
2 years, and may be issued at the same time the improvement permit is issued. No person  
3 shall commence or assist in the installation, construction, or repair of a wastewater  
4 system unless an improvement permit and an authorization for wastewater system  
5 construction have been obtained from the Department or the local health department.  
6 No improvement permit or authorization for wastewater system construction shall be  
7 required for maintenance of a wastewater system. The Department and the local health  
8 department may impose conditions on the issuance of an improvement permit and an  
9 authorization for wastewater system construction.

10 (c) Unless the Commission otherwise provides by rule, plans, and specifications  
11 for all wastewater systems designed for the collection, treatment, and disposal of  
12 industrial process wastewater shall be reviewed and approved by the Department prior  
13 to the issuance of an authorization for wastewater system construction by the local  
14 health department.

15 (d) If a local health department repeatedly fails to issue or deny improvement  
16 permits for conventional septic tank systems within ~~60~~20 calendar days of receiving  
17 completed applications for the permits, then the Department of Environment and  
18 Natural Resources may withhold public health funding from that local health  
19 department.

20 (e) When a local health department issues an improvement permit or  
21 authorization to construct based upon work performed by a licensed soil scientist, the  
22 improvement permit or authorization to construct shall bear a statement that reads: "The  
23 soil, site, and system evaluation and documentation necessary to issue this \_\_\_\_\_  
24 (improvement permit or authorization to construct) was performed by \_\_\_\_\_ (name  
25 of licensed soil scientist), a licensed soil scientist, license number \_\_\_\_\_ (license  
26 number)."

27 (f) When a local health department issues an improvement permit or  
28 authorization to construct based upon work performed by a licensed soil scientist and a  
29 professional engineer, the improvement permit or authorization to construct shall bear a  
30 statement that reads: "The soil, site, and system evaluation and documentation necessary  
31 to issue this \_\_\_\_\_ (improvement permit or authorization to construct) was performed  
32 by \_\_\_\_\_ (name of licensed soil scientist), a licensed soil scientist, license number  
33 \_\_\_\_\_ (license number), and by \_\_\_\_\_ (name of professional engineer), a  
34 professional engineer, license number \_\_\_\_\_ (license number)."

35 (g) When a local health department denies an application for an improvement  
36 permit or authorization to construct prepared by (i) a licensed soil scientist or (ii) a  
37 licensed soil scientist and a professional engineer, the denial shall include a written  
38 report that specifically identifies the provisions of this Article or rules adopted pursuant  
39 to this Article on which the denial is based.

40 (h) A local health department shall not deny a complete application for an  
41 improvement permit or authorization to construct that is submitted by (i) a licensed soil  
42 scientist or (ii) a licensed soil scientist and a professional engineer unless the denial is  
43 based on permit application review prepared by (i) a licensed soil scientist or (ii) a  
44 licensed soil scientist and a professional engineer employed by or under contract with

1 the local health department. The Commission shall adopt rules that specify uniform  
2 statewide procedures and allowable reasons for denial of an application prepared by (i)  
3 a licensed soil scientist or (ii) a licensed soil scientist and a professional engineer,  
4 establishes the necessary documentation that must be included in the application,  
5 establishes the necessary documentation that must be included in the local health  
6 department's written permit application review report, and specify the rights and  
7 obligations of each party."

8 **SECTION 3.** G.S. 130A-337 reads as rewritten:

9 **"§ 130A-337. Inspection; operation permit required.**

10 (a) No system of wastewater collection, treatment and disposal shall be covered  
11 or placed into use by any person until an inspection by (i) the local health department,  
12 (ii) a licensed soil scientist, or (iii) a licensed soil scientist and professional engineer has  
13 determined that the system has been installed or repaired in accordance with any  
14 conditions of the improvement permit, the rules, and this Article.

15 (b) Upon ~~determining~~ a determination by (i) the local health department, (ii) a  
16 licensed soil scientist, or (iii) a licensed soil scientist and professional engineer that the  
17 system is properly installed or repaired and that the system is capable of being operated  
18 in accordance with the conditions of the improvement permit, the rules, this Article and  
19 any conditions to be imposed in the operation permit, as applicable, the local health  
20 department shall issue an operation permit authorizing the residence, place of business  
21 or place of public assembly to be occupied and for the system to be placed into use or  
22 reuse. If the determination is completed by (i) a licensed soil scientist or (ii) a licensed  
23 soil scientist and a professional engineer, the licensed soil scientist or the licensed soil  
24 scientist and professional engineer shall submit a statement of certification to the local  
25 health department, and the local health department shall issue the operations permit or  
26 deny the permit application within 10 business days of its receipt or the operation permit  
27 shall be deemed permitted.

28 (c) Upon determination that an existing wastewater system has a valid operation  
29 permit and is operating properly in a manufactured home park, the local health  
30 department shall issue authorization in writing for a manufactured home to be connected  
31 to the existing system and to be occupied. Notwithstanding G.S. 130A-336, an  
32 improvement permit is not required for the connection of a manufactured home to an  
33 existing system with a valid operation permit in a manufactured home park.

34 (d) No person shall occupy a residence, place of business or place of public  
35 assembly, or place a wastewater system into use or reuse for a residence, place of  
36 business or place of public assembly until an operation permit has been issued or  
37 deemed permitted pursuant to certification of (i) a licensed soil scientist or (ii) a  
38 licensed soil scientist and a professional engineer, or authorization has been obtained  
39 pursuant to G.S. 130A-337(c)."

40 **SECTION 4.** G.S. 130A-338 reads as rewritten:

41 **"§ 130A-338. Authorization for wastewater system construction required before**  
42 **other permits to be issued.**

43 Where construction, location or relocation is proposed to be done upon a residence,  
44 place of business or place of public assembly, no permit required for electrical,

1 plumbing, heating, air conditioning or other construction, location or relocation activity  
2 under any provision of general or special law shall be issued until an authorization for  
3 wastewater system construction has been issued or deemed permitted under  
4 G.S. 130A-336 or authorization has been obtained under G.S. 130A-337(c)."

5 **SECTION 5.** G.S. 130A-340 reads as rewritten:

6 "**§ 130A-340. Review procedures and ~~appeals~~; violations.**

7 (a) The Department, upon request by an applicant for an improvement permit,  
8 shall provide a technical review of any scientific data and system design submitted by  
9 the applicant. The data and system design shall be evaluated by professional peers of  
10 those who prepared the data and system design. The results of the technical review shall  
11 be available prior to a decision by the local health department and shall not affect an  
12 applicant's right to a contested hearing under Chapter 150B of the General Statutes.

13 (b) Any person may file a complaint before the Commission if the person  
14 believes that any person has violated this Article, rules adopted pursuant to this Article,  
15 the terms or conditions of any permit issued pursuant to this Article, has failed to take  
16 all reasonable steps to ensure the competence of services rendered by any person  
17 pursuant to a permit issued pursuant to this Article, or has materially misrepresented his  
18 or her professional credentials.

19 (c) The Commission may assess a civil penalty of not more than ten thousand  
20 dollars (\$10,000) against any person if the Commission finds that the person has  
21 violated this Article, rules adopted pursuant to this Article, the terms or conditions of  
22 any permit issued pursuant to this Article, has failed to take all reasonable steps to  
23 ensure the competence of services rendered by any person pursuant to a permit issued  
24 pursuant to this Article, or has materially misrepresented his or her professional  
25 credentials. A civil penalty assessed under this subsection for misrepresentation of  
26 professional credentials is in addition to any penalty assessed or imposed pursuant  
27 Chapter 89C or Chapter 89F of the General Statutes."

28 **SECTION 6.** The Commission for Health Services shall adopt rules to  
29 implement the provisions of this act on or before 1 July 2006.

30 **SECTION 7.** Sections 1 through 5 of this act become effective 1 July 2006,  
31 except that G.S. 130A-336(a1), as amended by Section 2 of this act, becomes effective 1  
32 January 2006. Sections 6 and 7 of this act are effective when it becomes law.