

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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SENATE BILL 902

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

Sponsors: Senators Weinstein, Hartsell; Hoyle, Smith, and Soles.

Referred to: Agriculture/Environment/Natural Resources.

March 23, 2005

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

- 1 (1) A soil and site evaluation has been completed by an authorized agent
2 of the Department or local health department.
- 3 (2) The local health department receives a completed soil and site
4 evaluation that has been signed and sealed by (i) a licensed soil
5 scientist or (ii) a licensed soil scientist and a professional engineer in
6 compliance with rules adopted by the Commission pursuant to this
7 Article. Any complete application for an improvement permit that has
8 been evaluated by (i) a licensed soil scientist or (ii) a licensed soil
9 scientist and a professional engineer shall be deemed permitted if the
10 local health department does not approve or deny the improvement
11 permit within 10 calendar days after receipt of the application.
- 12 (a1) An improvement permit shall include:
- 13 (1) For permits that are valid without expiration, a plat or, for permits that
14 are valid for five years, a site ~~plan~~ plan drawn to scale.
- 15 (2) A description of the facility the proposed site is to ~~serve~~ serve and any
16 factors that would affect the wastewater load.
- 17 (3) The type and layout of the proposed wastewater system and its
18 location.
- 19 (4) The design wastewater flow and characteristics.
- 20 (5) ~~The conditions for any site modifications.~~ A detailed soil profile
21 description of at least two locations within the proposed disposal area.
22 The detailed soil profile descriptions shall include soil taxonomic
23 classifications, horizons, depth, texture, structure, soil wetness
24 conditions, restrictive horizons, matrix color, and redoximorphic
25 colors.
- 26 (5a) Any proposed landscape, site, drainage, or soil modifications.
- 27 (6) Any other information required by the rules of the Commission.
- 28 (a2) The improvement permit shall not be affected by change in ownership of the
29 site for the wastewater system provided both the site for the wastewater system and the
30 facility the system serves are unchanged and remain under the ownership or control of
31 the person owning the facility. No person shall commence or assist in the construction,
32 location, or relocation of a residence, place of business, or place of public assembly in
33 an area not served by an approved wastewater system unless an improvement permit
34 and an authorization for wastewater system construction are obtained from the local
35 health department. This requirement shall not apply to a manufactured residence
36 exhibited for sale or stored for later sale and intended to be located at another site after
37 sale.
- 38 (b) The local health department shall issue an authorization for wastewater
39 system construction authorizing work to proceed and the installation or repair of a
40 wastewater system when it has determined after a field investigation that the system can
41 be installed and operated in compliance with this Article and rules adopted pursuant to
42 this Article. This authorization for wastewater system construction shall be valid for a
43 period equal to the period of validity of the improvement permit, not to exceed five
44 years, and may be issued at the same time the improvement permit is issued. No person

1 shall commence or assist in the installation, construction, or repair of a wastewater
2 system unless an improvement permit and an authorization for wastewater system
3 construction have been obtained from the Department or the local health department.
4 No improvement permit or authorization for wastewater system construction shall be
5 required for maintenance of a wastewater system. The Department and the local health
6 department may impose conditions on the issuance of an improvement permit and an
7 authorization for wastewater system construction.

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

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

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

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

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

38 (h) A local health department shall not deny a complete application for an
39 improvement permit or authorization to construct that is submitted by (i) a licensed soil
40 scientist or (ii) a licensed soil scientist and a professional engineer unless the denial is
41 based on permit application review prepared by (i) a licensed soil scientist or (ii) a
42 licensed soil scientist and a professional engineer employed by or under contract with
43 the local health department. The Commission shall adopt rules that specify uniform
44 statewide procedures and allowable reasons for denial of an application prepared by (i)

1 a licensed soil scientist or (ii) a licensed soil scientist and a professional engineer,
2 establishes the necessary documentation that must be included in the application,
3 establishes the necessary documentation that must be included in the local health
4 department's written permit application review report, and specify the rights and
5 obligations of each party."

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

7 **"§ 130A-337. Inspection; operation permit required.**

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

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

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

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

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

39 **"§ 130A-338. Authorization for wastewater system construction required before**
40 **other permits to be issued.**

41 Where construction, location or relocation is proposed to be done upon a residence,
42 place of business or place of public assembly, no permit required for electrical,
43 plumbing, heating, air conditioning or other construction, location or relocation activity
44 under any provision of general or special law shall be issued until an authorization for

1 wastewater system construction has been issued or deemed permitted under
2 G.S. 130A-336 or authorization has been obtained under G.S. 130A-337(c)."

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

4 "**§ 130A-340. Review procedures and ~~appeals~~; violations.**

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

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

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

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

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