

## CHAPTER 117

## (HB 103)

AN ACT relating to the inspection and certification of on-site sewage disposal and declaring an emergency.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 211.350 is amended to read as follows:

- (1) The cabinet shall regulate the construction, installation, or alteration of on-site sewage disposal systems except for systems that have a surface discharge.
- (2) No person, firm, or corporation shall construct, install, alter, or cause to be constructed, installed, or altered, any on-site sewage disposal system subject to regulation by the cabinet without having first obtained an on-site sewage disposal permit from the local health department. ***In lieu of inspection and certification by the local health department a licensed professional engineer in private practice licensed by the Commonwealth of Kentucky may perform site evaluations and approve system designs for an on-site sewage disposal system for the person, firm, or corporation and apply for the permit from the local health department. The final systems installation inspection shall be performed by the local health department. All applicable provisions of KRS Chapter 322 shall govern the licensed professional engineer. A professional engineer shall not perform site evaluations, approve system designs, or certify system installations of an on-site sewage disposal system on property owned by himself, an employee, or a partner of an engineering firm by which he is employed, or on property owned by the engineering firm.*** Nothing in this section shall be construed to deny a farmstead owner the right to obtain a permit. Except for farmstead owners on their own property, the construction, installation, or alteration shall be performed only by a person certified by the cabinet pursuant to KRS 211.357.
- (3) ***A local health department that issues a permit for an on-site sewage disposal system based on the site evaluation or system design of a licensed professional engineer in private practice licensed by the Commonwealth of Kentucky shall not be held liable for any defects or failures of the on-site sewage disposal system due to the site evaluation or system design.***
- (4) No person, firm, or corporation shall use or continue to use or permit the use or continued use of any on-site sewage disposal system that is constructed, installed, or altered under an on-site sewage disposal permit if the cabinet or local health department through a duly authorized inspector, employee, ~~or~~ agent, ***or licensed professional engineer in private practice licensed by the Commonwealth of Kentucky*** finds that the system was not constructed, installed, or altered in conformance with the permit and regulations issued by the cabinet.
- (5)~~(4)~~ No certified electrical inspector acting under authority of KRS 227.491 shall issue the certificates of approval of temporary or permanent electrical wiring unless the inspector has in his or her possession a notice of release as described in paragraphs (a) and (b) of this subsection. The inspector shall record the number of the notice of release on the certificate of approval. The person requesting approval of electrical wiring shall be responsible for obtaining the release from the local health department and providing it to the electrical inspector. This requirement shall only apply to dwellings, mobile homes, manufactured

housing, buildings, or other structures that are constructed or installed after July 15, 1998. This requirement shall not apply to structures that do not have sewage waste fixtures or to those that are connected to a sewage waste disposal system approved by the Natural Resources and Environmental Protection Cabinet. Nothing in this section shall be construed to deny the continued use of any electrical service connected to wiring approved prior to July 15, 1998.

- (a) An initial notice of release to allow temporary electrical power for construction shall be issued to the property owner or owner's agent by the local health department upon the application for a site evaluation.
  - (b) A final notice of release to allow for permanent electrical power shall be issued to the property owner or owner's agent by the local health department upon approval of an on-site sewage disposal plan.
  - (c) This section shall not apply to any county that has adopted the Uniform State Building Code and has and enforces on-site sewage disposal permitting.
- ~~(6)~~~~(5)~~ All applications for on-site sewage disposal permits shall be accompanied by plans and specifications for the proposed system, including results of soils tests and other information as directed by the cabinet by regulation. ***If the site evaluation or approval of the system design is performed by a licensed professional engineer in private practice licensed by the Commonwealth of Kentucky, the application shall be accompanied by a statement by the engineer that he has met the requirements of the regulations issued by the Cabinet for site evaluation and system design.*** Any action to deny an application shall be subject to appeal, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.
- ~~(7)~~~~(6)~~ The cabinet shall fix a schedule of fees for the functions performed by the cabinet relating to the regulation of on-site sewage disposal systems. The fees shall be designed to fully cover the cost of the service performed but shall not exceed the cost of the service performed. Fees payable to the cabinet shall be paid into the State Treasury and credited to a trust and agency fund to be used by the cabinet in carrying out its responsibilities relating to the regulation of on-site sewage disposal systems. No part of the fund shall revert to the general fund of the Commonwealth.
- ~~(8)~~~~(7)~~ Any regulation relating to on-site sewage disposal that is in effect on July 15, 1992, shall remain in effect until altered by the secretary. The secretary may issue additional regulations necessary to carry out the purposes of this section.
- ~~(9)~~~~(8)~~ Nothing in this section shall authorize or allow the cabinet to inspect or take enforcement action against on-site sewage disposal systems installed on farmsteads prior to July 15, 1992, or modifications to those systems unless the actions are determined in writing by the cabinet, upon a written, verified complaint, to be necessary to prevent imminent harm or damage to the safety, life, or health of a person. In this instance, the cabinet shall deliver to the landowner a copy of the written determination and the verified complaint prior to the commencement of the inspection or enforcement action.

Section 2. Whereas the backlog of inspection and certification for on-site sewage disposal systems represents an intolerable burden to both homeowners and local health departments, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

**Approved March 19, 2001**