

1 AN ACT relating to on-site sewage disposal systems.

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

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

4 (1) The cabinet shall regulate the construction, installation, or alteration of on-site
5 sewage disposal systems except for systems that have a surface discharge. The
6 cabinet shall create and maintain an electronic database for Kentucky on-site
7 wastewater systems information, which for each system shall include but not be
8 limited to permit application date, permit application status, system installation
9 date, system type, latitude and longitude of system, records of system plan and site
10 evaluations, inspection dates, and the condition of system at time of inspection. The
11 cabinet shall make data from this system available upon request.

12 (2) The Department for Public Health shall maintain a current list of approved and
13 experimental on-site wastewater treatment technologies and greywater technologies,
14 which the department shall make available, along with guidance and expertise, to
15 local health departments. Local health departments shall provide the list of
16 approved technologies to on-site wastewater professionals and permit applicants.
17 With respect to on-site sewage disposal systems that utilize greywater to reduce
18 total daily waste flows, the local health department shall inform the permit
19 applicant, at the time of making an application to construct an on-site sewage
20 disposal system that utilizes greywater to reduce daily waste flows, of the
21 opportunity to consult with the environmental health program evaluators in the
22 Division of Public Health Protection and Safety regarding the administrative
23 regulations, permit requirements, and permissible system designs for inclusion and
24 use of greywater.

25 (3) Site evaluations shall be completed by the local health department within fifteen
26 (15) working days of receipt of the application. If further information is required,
27 the local health department shall promptly notify the applicant and shall have an

1 additional ten (10) working days after that submittal of additional information in
2 which to evaluate and issue or deny the permit. It shall be the responsibility of the
3 property owner or owner's agent to protect and maintain the suitability of an
4 approved site and to notify the local health department for a reinspection if site
5 conditions substantively change. If a site previously determined to be suitable is
6 thereafter declared unsuitable by the local health department, remedial measures
7 shall be provided in writing to the property owner or owner's agent within fifteen
8 (15) working days.

9 (4) After the conclusion of the site evaluation, the local health department shall, upon
10 request, provide a list of all options that may be approved for the property, including
11 new and emerging technologies. It shall be the responsibility of the owner of
12 advanced treatment, alternative, experimental, or new and emerging technology
13 systems to contract with a management entity, certified system operator, or trained
14 system operator to develop and implement an approved operations and maintenance
15 plan specific to, and appropriate for, the approved system.

16 (5) No person, firm, or corporation shall construct, install, alter, or cause to be
17 constructed, installed, or altered, any on-site sewage disposal system subject to
18 regulation by the cabinet without having first obtained an on-site sewage disposal
19 permit from the local health department. In lieu of inspection and certification by
20 the local health department a licensed professional engineer in private practice
21 licensed by the Commonwealth of Kentucky may perform site evaluations and
22 approve system designs for an on-site sewage disposal system including those
23 systems that utilize greywater for reductions in daily waste flows for the person,
24 firm, or corporation and apply for the permit from the local health department. The
25 final systems installation inspection shall be performed by the local health
26 department as soon as practicable. All applicable provisions of KRS Chapter 322
27 shall govern the licensed professional engineer. A professional engineer shall not

1 perform site evaluations, approve system designs, or certify system installations of
2 an on-site sewage disposal system on property owned by himself, an employee, or a
3 partner of an engineering firm by which he is employed, or on property owned by
4 the engineering firm. Nothing in this section shall be construed to deny a farmstead
5 owner the right to obtain a permit. Except for farmstead owners on their own
6 property, the construction, installation, or alteration shall be performed only by a
7 person certified by the cabinet pursuant to KRS 211.357.

8 (6) A local health department that issues a permit for an on-site sewage disposal
9 system, including systems that utilize greywater to reduce total daily waste flows,
10 based on the site evaluation or system design of a licensed professional engineer in
11 private practice licensed by the Commonwealth of Kentucky shall not be held liable
12 for any defects or failures of the on-site sewage disposal system due to the site
13 evaluation or system design.

14 (7) No person, firm, or corporation shall use or continue to use or permit the use or
15 continued use of any on-site sewage disposal system, including those systems that
16 utilize greywater to reduce total daily waste flows, that is constructed, installed, or
17 altered under an on-site sewage disposal permit if the cabinet or local health
18 department through a duly authorized inspector, employee, agent, or licensed
19 professional engineer in private practice licensed by the Commonwealth of
20 Kentucky finds that the system was not constructed, installed, or altered in
21 conformance with the permit and regulations issued by the cabinet.

22 (8) No certified electrical inspector acting under authority of KRS 227.491 shall issue
23 the certificates of approval of temporary or permanent electrical wiring unless the
24 inspector has in his or her possession a notice of release as described in paragraphs
25 (a) and (b) of this subsection. The inspector shall record the number of the notice of
26 release on the certificate of approval. The person requesting approval of electrical
27 wiring shall be responsible for obtaining the release from the local health

1 department and providing it to the electrical inspector. This requirement shall only
2 apply to dwellings, mobile homes, manufactured housing, buildings, or other
3 structures that are constructed or installed after July 15, 1998. This requirement
4 shall not apply to structures that do not have sewage waste fixtures or to those that
5 are connected to a sewage waste disposal system approved by the Energy and
6 Environment Cabinet. Nothing in this section shall be construed to deny the
7 continued use of any electrical service connected to wiring approved prior to July
8 15, 1998.

9 (a) An initial notice of release to allow temporary electrical power for
10 construction shall be issued to the property owner or owner's agent by the
11 local health department upon the application for a site evaluation.

12 (b) A final notice of release to allow for permanent electrical power shall be
13 issued to the property owner or owner's agent by the local health department
14 upon approval of an on-site sewage disposal plan.

15 (c) This section shall not apply to any county that has adopted the Uniform State
16 Building Code and has and enforces on-site sewage disposal permitting.

17 (9) All applications for on-site sewage disposal permits shall be accompanied by plans
18 and specifications for the proposed system, including results of soils tests and other
19 information as directed by the cabinet by regulation. If the site evaluation or
20 approval of the system design is performed by a licensed professional engineer in
21 private practice licensed by the Commonwealth of Kentucky, the application shall
22 be accompanied by a statement by the engineer that he has met the requirements of
23 the regulations issued by the cabinet for site evaluation and system design. Any
24 action to deny an application shall be subject to appeal, and upon appeal an
25 administrative hearing shall be conducted in accordance with KRS Chapter 13B.

26 (10) The cabinet shall fix a schedule of fees for the functions performed by the cabinet
27 relating to the regulation of on-site sewage disposal systems. The fees shall be

1 designed to fully cover the cost of the service performed but shall not exceed the
2 cost of the service performed. Fees payable to the cabinet shall be paid into the
3 State Treasury and credited to a trust and agency fund to be used by the cabinet in
4 carrying out its responsibilities relating to the regulation of on-site sewage disposal
5 systems. No part of the fund shall revert to the general fund of the Commonwealth.

6 (11) **The Cabinet for Health and Family Services, through the Department of Public**
7 **Health, shall:**

8 **(a) Notify all property owners with on-site sewage disposal systems of the need**
9 **to have their tanks pumped and inspected. Notifications shall:**

10 **1. Occur at least once every two (2) years;**

11 **2. Be mailed to the property address;**

12 **3. Include information about pumping and inspection of on-site sewage**
13 **disposal system tanks; and**

14 **4. Include a link to the cabinet's Web site for further information**
15 **concerning on-site sewage system maintenance;**

16 **(b) Conduct an information campaign at least once every two (2) years to**
17 **increase public awareness of on-site sewage disposal systems, and shall**
18 **utilize social media and public service announcements to distribute the**
19 **information;**

20 **(c) Collaborate with any state or local agency that may have information**
21 **regarding the location of on-site sewage disposal systems in order to update**
22 **its databases; and**

23 **(d) Promulgate an administrative regulation that outlines a policy for local**
24 **health departments to maintain a current list of properties that are serviced**
25 **by on-site sewage disposal systems.**

26 **(12)** Any regulation relating to on-site sewage disposal that is in effect on July 15, 1992,
27 shall remain in effect until altered by the secretary, except that administrative

1 regulations that govern total daily waste flows shall be updated in accordance with
2 KRS 211.351. The secretary may issue additional regulations necessary to carry out
3 the purposes of this section.

4 ~~(13)~~[(12)] Nothing in this section shall authorize or allow the cabinet to inspect or take
5 enforcement action against on-site sewage disposal systems installed on farmsteads
6 prior to July 15, 1992, or modifications to those systems unless the actions are
7 determined in writing by the cabinet, upon a written, verified complaint, to be
8 necessary to prevent imminent harm or damage to the safety, life, or health of a
9 person. In this instance, the cabinet shall deliver to the landowner a copy of the
10 written determination and the verified complaint prior to the commencement of the
11 inspection or enforcement action.

12 ~~(14)~~[(13)] As used in this section:

- 13 (a) "Blackwater" means wastewater containing liquid or solid waste generated
14 through use of a urinal, water closet, garbage disposal, or similar sanitary
15 fixture; and
- 16 (b) "Greywater" means wastewater generated by hygiene activities, including but
17 not limited to wastewater from laundry, lavatory sinks, and showers, but shall
18 exclude kitchen sinks and food preparation sinks. "Greywater" does not
19 include blackwater.