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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2462 Session of  
2018

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INTRODUCED BY MALONEY, MILLARD, ZIMMERMAN, WATSON, WHEELAND,  
GILLEN AND HEFFLEY, JUNE 5, 2018

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REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
JUNE 5, 2018

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AN ACT

1 Providing for registration of on-lot wastewater treatment system  
2 inspectors with the Department of State of the Commonwealth,  
3 for biennial registration and for duties of certifying  
4 organizations.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the On-Lot  
9 Disposal System (OLDS) Homeowner and Real Estate Buyer  
10 Protection Act.

11 Section 2. Purpose and application.

12 (a) Purpose.--The purpose of this act is to provide for  
13 training and certification for those individuals performing  
14 inspections for existing on-lot disposal systems for buyers or  
15 sellers in a real estate transaction, or for implementation of a  
16 municipal sewage management program, or to satisfy operation and  
17 maintenance permit conditions under current department  
18 regulations and guidelines and to satisfy certain minimum

1 qualifications, including prerequisite training, the passage of  
2 a comprehensive written examination, subsequent continuing  
3 education and for correction of unsatisfactory conditions.

4 (b) Application.--Nothing in this act shall be interpreted  
5 as legally requiring an on-lot disposal system inspection in a  
6 real estate transaction between private parties.

7 Section 3. Definitions.

8 The following words and phrases when used in this act shall  
9 have the meanings given to them in this section unless the  
10 context clearly indicates otherwise:

11 "Absorption area." A reserved portion of a property through  
12 which treatment tank effluent is intended to move as it enters  
13 the soil, air or water environment for final renovation or  
14 dispersal.

15 "Best performance practices." The process by which the  
16 performance of an on-lot system that has been found to be  
17 performing unsatisfactorily can be improved. The practices shall  
18 be at the discretion of a local agency or its representative.

19 "Certification exam." A written, time-limited, standardized  
20 examination administered in collaboration with an accredited  
21 college or university at the close of each certification  
22 training event.

23 "Certified inspector." An individual who has completed a  
24 course of study prescribed by the certifying organization and  
25 attained a passing score on a written examination.

26 "Certifying organization." An incorporated organization  
27 which has provided instruction dealing with OLDS, courses of  
28 which include location, identification and evaluation of  
29 existing OLDS that leads to a conclusion as defined in the  
30 inspection standards. The organization shall have at least 20

1 years of experience in providing the instructions.

2 "Department." The Department of State of the Commonwealth.

3 "Inspection standards." A printed or electronically  
4 transmitted set of criteria that has been tested for a minimum  
5 of 10 years, which specifies the conclusion to be reported to a  
6 client when a particular circumstance or characteristic is  
7 observed in an OLDS under inspection and that are set by a  
8 committee of industry-related professionals selected by a  
9 certifying organization.

10 "On-lot disposal system" or "OLDS." An individual or  
11 community sewage system which uses a system of piping, tanks or  
12 other facilities for collecting, treating and disposing of  
13 sewage into a soil absorption area as recognized by regulations  
14 promulgated by the act of January 24, 1966 (1965 P.L.1535,  
15 No.537), known as the Pennsylvania Sewage Facilities Act, and  
16 includes flow facilities as defined by those regulations.

17 "Sewage management program." A program authorized by the  
18 official action of a municipality for the administration,  
19 management and regulation for the disposal of sewage.

20 "Unsatisfactory condition." A condition that signals an OLDS  
21 or any of its components is deemed to be unsatisfactory per the  
22 inspection standards.

23 Section 4. Inspector training.

24 (a) General rule.--An OLDS inspector shall complete a  
25 comprehensive training program, including initial training that  
26 consists of a minimum of 15 hours of combined classroom and  
27 field training following a course of study administered by the  
28 certifying organization. In addition, an OLDS inspector shall  
29 complete a minimum of 15 hours of continuing education  
30 biannually as administered by the certifying organization. The

1 course curriculum shall include at a minimum:

2 (1) Methods of investigation that will enable the  
3 inspector to locate and identify existing OLDS.

4 (2) A description and explanation of the OLDS likely to  
5 be encountered servicing structures in this Commonwealth,  
6 including methods to determine the type of system located.

7 (3) An explanation of the hand and other tools used to  
8 locate and gather information on existing systems.

9 (4) An explanation of the published inspection  
10 standards, derivations of standards, the underlying concepts  
11 that support the specified conclusions and how to apply the  
12 standards.

13 (5) An overview of effective communication in English,  
14 including both report writing and verbal communication  
15 skills.

16 (6) Certain advanced technologies shall require  
17 additional specified training as prescribed by the certifying  
18 organization.

19 (b) Review of curriculum.--At a frequency to be determined  
20 by the certifying organization a minimum of every three years,  
21 by a panel of certified inspectors, trainers, professors or  
22 researchers affiliated with soil science or specialized  
23 engineering curricula from an accredited college or university  
24 and sewage enforcement officers shall review the curriculum and  
25 standards. The certifying organization shall appoint the members  
26 of its review panel to the panel described in this subsection.

27 (c) Demonstration of proficiency.--

28 (1) At the conclusion of a training session, each  
29 trainee seeking certification or recertification must score  
30 at least 70% on a written examination. The examination shall

1 test the skills taught in the respective courses.

2 (2) The examination results shall be reviewed by an  
3 accredited college or university to assure the statistical  
4 validity of the questions and scores.

5 Section 5. Inspector registration.

6 (a) General rule.--An individual conducting or offering to  
7 conduct septic system inspections shall register the  
8 individual's credentials with the department. The department  
9 shall maintain a public list of such individuals who have  
10 complied with this section.

11 (b) Initial registration.--When registering, an inspector  
12 shall provide a certificate from a certifying organization that  
13 the inspector has completed the requisite training and achieved  
14 a passing score on the certification examination.

15 (c) Continuing education required for all certified  
16 individuals.--Prior to the expiration of an inspector's  
17 certification, and no less frequently than every two years, an  
18 inspector shall complete a minimum of 15 hours of continuing  
19 education which shall be approved by the certifying  
20 organization. At a minimum, the continuing education shall  
21 address the following subjects:

22 (1) A review of the inspection standards.

23 (2) A written examination with a passing score of 70%.

24 (3) Additional curriculum as required by the certifying  
25 organization.

26 Section 6. Biennial registration.

27 (a) General rule.--Every two years following initial  
28 registration, an inspector shall submit to the department a  
29 certificate from a certifying organization indicating that the  
30 inspector has completed the requisite continuing education

1 training and achieved a passing score on the posttraining  
2 examination. Registration shall be for a period of two years,  
3 ending on the last day of the month during which the department  
4 receives the appropriate documentation from inspectors and shall  
5 not be transferable. Only a natural person may become registered  
6 with the department. All inspections shall be performed by, and  
7 all inspection reports shall be signed by, a registered  
8 individual.

9 (b) Public access to list of registered inspectors.--The  
10 department shall maintain a list of all registered inspectors  
11 and make the list available to the public on the department's  
12 publicly accessible Internet website or in writing if so  
13 requested.

#### 14 Section 7. Certifying organizations.

15 (a) Duty to register.--A certifying organization shall  
16 register with the department identifying the location of the  
17 organization's principal place of business, the officers of the  
18 corporation and related contact information.

19 (b) Inspection standards to be filed.--A certifying  
20 organization shall file a copy of the inspection standards which  
21 form the basis for that organization's training curriculum and  
22 for the inspection reports issued by the inspectors that  
23 organization certifies.

24 (c) Complaint resolution.--A certifying organization shall  
25 establish and maintain a quasi-judicial body to hear complaints  
26 against individuals certified by the organization. The quasi-  
27 judicial body may require additional training and, if the  
28 severity of the circumstances warrants, revoke or suspend an  
29 inspector's certification.

30 (d) Regulatory oversight.--The department reserves the right

1 to assess the capability of a certifying organization based on  
2 the following criteria:

3 (1) Limiting assessment per certifying organization or  
4 certified trainer to once each two-year period unless the  
5 assessment is in response to a complaint filed to the  
6 department. Nothing in this section shall be construed as  
7 requiring a more frequent assessment for each certifying  
8 organization or certified trainer than is stated above.

9 (2) Verifying technical experience or background of the  
10 certifying organization.

11 (3) Observing a specific training session to evaluate  
12 curriculum quality.

13 (4) Assessing certified trainers based on observation of  
14 a specific training session.

15 (e) Performance reviews.--An individual may request a  
16 certifying organization to review the performance of an  
17 inspector that the organization has certified, and the request  
18 shall be the venue of first review for all complaints against an  
19 inspector.

20 Section 8. Trainer selection.

21 (a) Duty to certify trainers.--A certifying organization  
22 shall certify trainers and, at least once every three years,  
23 evaluate individuals who will train inspector candidates.

24 (b) Qualifications.--An inspector trainer candidate or  
25 subsequently certified trainer shall:

26 (1) Before entering a train-the-trainer course and while  
27 performing as a trainer, score at least 85% on the  
28 certification examination.

29 (2) Participate in a minimum six-hour train-the-trainer  
30 course presented by the certifying organization.

1 (3) Be a certified inspector before participating in a  
2 train-the-trainer course.

3 (4) Remain certified throughout the time during which  
4 performing as trainer.

5 (c) Train-the-trainer course.--A train-the-trainer course  
6 shall prepare the trainers to teach the organization's  
7 inspection standards and an overview of this act.

8 (d) Annual notice to department.--A certifying organization  
9 shall notify the department annually of the trainers currently  
10 certified to teach the curriculum.

11 Section 9. Municipal ordinances.

12 (a) Prohibitions.--

13 (1) No municipality, for the purpose of zoning ordinance  
14 compliance or as a condition of the issuance of a certificate  
15 of occupancy or use, may enact or enforce an ordinance,  
16 policy or regulation that requires the inspection of an  
17 existing septic system at the time of change of ownership or  
18 occupancy unless the change in use or occupancy can  
19 reasonably be expected to alter the characteristics of the  
20 sewage generated or the flows to the existing OLDS under the  
21 act of January 24, 1966 (1965 P.L.1535, No.537), known as the  
22 Pennsylvania Sewage Facilities Act.

23 (2) No municipality may require that an inspection  
24 report resulting from an inspection performed voluntarily by  
25 a homeowner or prospective buyer be given to the  
26 municipality.

27 (b) Mandatory inspection program permitted.--When  
28 implementing a sewage management program, a municipality may  
29 establish a mandatory inspection program provided that all  
30 inspectors are qualified and registered under the provisions of



1 this act. The costs of the inspections shall be borne by the  
2 landowner and performed by an inspector registered under this  
3 act. The municipality shall specify that the sewage management  
4 program requires all OLDS to be inspected. The report resulting  
5 from the inspections shall be provided to both the municipality  
6 and the landowner.

7 (c) Sewage enforcement officers.--The inspector conducting  
8 inspections under a municipal sewage management program may be  
9 the municipal or local agency sewage enforcement officer if the  
10 officer is registered under this act.

11 Section 10. Correcting unsatisfactory conditions.

12 (a) Duty to report and repair.--When, during an inspection  
13 conducted under this act, an unsatisfactory condition is  
14 observed, the condition shall be reported to the inspector's  
15 customer in writing.

16 (b) Corrective measures.--When considering corrective  
17 measures for an unsatisfactory condition which has been  
18 discovered during an inspection, it shall be the policy of the  
19 Department of Environmental Protection and local agencies  
20 administering the act of January 24, 1966 (1965 P.L.1535,  
21 No.537), known as the Pennsylvania Sewage Facilities Act, to  
22 first consider all Conventional and Alternate OLDS as recognized  
23 by regulations promulgated by the Pennsylvania Sewage Facilities  
24 Act in the correction of existing unsatisfactory conditions and,  
25 when the systems cannot be constructed in accordance with  
26 existing regulations, to employ the best performance practices  
27 possible in attempting to repair, replace or enable the system  
28 to perform to its reasonable maximum potential in order to  
29 diminish, to the greatest extent possible, the system's negative  
30 environmental or health impacts.

1 (c) Requirement to issue or replace permit.--A permit to  
2 improve the performance of an OLDS shall be issued by the local  
3 agency at the request of the system owner.

4 Section 11. Enforcement.

5 (a) Failure to register.--Every individual offering to or  
6 performing the inspection of an existing on-lot wastewater  
7 treatment system who is not registered with the department as  
8 required by this act commits a violation of this act.

9 (b) Cause of action.--A party aggrieved by the actions of an  
10 individual in violation of this act may initiate an action in  
11 the magisterial district in which the inspection was or was to  
12 be performed for damages of not less than \$1,000 nor more than  
13 \$10,000 resulting from a misrepresentation by the unregistered  
14 individual.

15 (c) Public list of violators.--The department shall maintain  
16 and make available to the public on its publicly accessible  
17 Internet website a list of individuals who, after due  
18 administrative process, were found by the department to be in  
19 violation of this act. The list shall identify each section of  
20 the act the individual has violated. Although the department is  
21 expected to update the list each time an enforcement action is  
22 taken, there shall be an annual review to remove those  
23 individuals from the list whose violation of this act occurred  
24 at least three years prior to the annual review.

25 (d) Appeals.--An individual who, after due administrative  
26 process is found by the department to be in violation of this  
27 act, may appeal this decision in Commonwealth Court. If the  
28 violation is appealed, the public record cited in subsection (c)  
29 shall insert the words "UNDER APPEAL" after the citation of the  
30 specific section of this act having been violated.

1 (e) Suspension.--If a certified trainer or certifying  
2 organization is found to be in violation of this act, the  
3 department may suspend the certified trainer's or certified  
4 organization's registration for a period not exceeding three  
5 months if there has been due administrative process and right to  
6 appeal in Commonwealth Court.

7 Section 12. Effective date.

8 This act shall take effect as follows:

9 (1) This section shall take effect immediately.

10 (2) Sections 5(c) and 11 shall take effect in 12 months.

11 (3) The remainder of this act shall take effect in 60  
12 days.