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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 2416

Session of  
2006

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AND YOUNGBLOOD, JANUARY 31, 2006

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REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
JANUARY 31, 2006

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AN ACT

1 Providing for registration of onsite wastewater treatment system  
2 inspectors with the Department of State, for biennial  
3 registration, for duties of certifying organizations, for  
4 trainer selection, for municipal ordinances, for correction  
5 of unsatisfactory conditions and for enforcement.

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

8 Section 1. Short title.

9 This act shall be known and may be cited as the Rural  
10 Homeowner and Real Estate Buyer Protection Act.

11 Section 2. Purpose.

12 The purpose of this act is to require every individual  
13 offering for a fee to inspect existing onsite wastewater  
14 treatment systems for buyers or sellers in a real estate  
15 transaction to satisfy certain minimum qualifications, including  
16 prerequisite training, the passage of a comprehensive written  
17 examination and subsequent continuing education.

1 Section 3. Definitions.

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

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

9 "Certification exam." A written, time-limited, standardized  
10 examination administered in collaboration with an accredited  
11 college or university at the close of every certification  
12 training event.

13 "Certified onsite wastewater treatment system inspector" or  
14 "certified inspector." An individual who has completed a  
15 prescribed course of study and attained a passing score on a  
16 written examination.

17 "Certifying organization." An incorporated organization that  
18 offers courses of instruction dealing with onsite wastewater  
19 treatment systems, which course includes, but is not limited to,  
20 the location, identification and evaluation of existing onsite  
21 wastewater treatment systems.

22 "Class 1 unsatisfactory condition." Any of the following:

23 (1) The discharge of untreated or partially treated  
24 sewage to the surface of the ground.

25 (2) The discharge of untreated or partially treated  
26 sewage to the surface water of this Commonwealth.

27 (3) The discharge of untreated or partially treated  
28 sewage to the groundwater of this Commonwealth.

29 (4) A backup of untreated or partially treated sewage  
30 through the plumbing into a structure not caused by a

1 mechanical clog.

2 (5) The entry of untreated or partially treated sewage  
3 into a structure through the soil, the foundation or by any  
4 other means.

5 "Class 2 unsatisfactory condition." The term includes, but  
6 is not limited to:

7 (1) Zero inches of dry aggregate in a subsurface  
8 absorption area with gravity distribution.

9 (2) Zero inches of dry aggregate in a subsurface  
10 absorption area with pressure distribution.

11 (3) Less than five inches of dry aggregate in a  
12 subsurface sand filter absorption area with gravity  
13 distribution.

14 (4) Less than three inches of dry aggregate in a  
15 subsurface sand filter absorption area with pressure  
16 distribution.

17 (5) Any measurable liquid in the aggregate of an  
18 elevated sand mound with either pressure or gravity  
19 distribution.

20 (6) No clear space between the top of the standing  
21 liquid and the underside of a graveless chamber.

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

23 "Disinfection unit." A device that uses solid or liquid  
24 chlorine or ultraviolet light to disinfect effluent prior to its  
25 release to the environment through an absorption area.

26 "Dry aggregate." The depth of aggregate, measured vertically  
27 from the top of the aggregate, in which void spaces are not  
28 filled with liquid or sludge.

29 "Effluent filter." A device that removes particulates from  
30 liquid leaving a treatment tank prior to delivery to an

1 absorption area, and that may be the last component or assembly  
2 in a treatment tank or in a self-contained vessel following the  
3 treatment tank and preceding the absorption area.

4 "Impervious watertight vessel." A treatment tank, either  
5 septic or aerobic, in which sewage is broken down, either by  
6 bacterial, mechanical or other processes, and from which the  
7 liquid portion, effluent, is released for distribution to the  
8 soil, air or water.

9 "Inspection standards." A printed set of criteria that  
10 specify the conclusion to be reported to a client when a  
11 particular circumstance or characteristic is observed in an  
12 onsite wastewater treatment system under inspection and that are  
13 set by a committee of inspectors certified by a certifying  
14 organization.

15 "Municipality." A borough, city, county, town, township or  
16 home rule municipality.

17 "Onsite wastewater treatment system" or "system." An  
18 assemblage of components that may include any of the following:

19 (1) Pipes to convey sewage or treatment tank effluent to  
20 or through the assemblage.

21 (2) An impervious watertight vessel.

22 (3) A distribution box that proportionately divides  
23 effluent among several pipes, tubes or spray devices in an  
24 absorption area to assure balanced, equal distribution of the  
25 effluent to every portion of the absorption area.

26 (4) Pumps to move liquid or solid material, or both, to  
27 or through the system.

28 (5) Pump or dosing tanks in which a pump or siphon is  
29 located.

30 (6) Absorption area.

1           (7)   Disinfection unit.

2           (8)   Effluent filter.

3       "Unsatisfactory condition."   A condition that signals an  
4   onsite wastewater treatment system or any of its components is  
5   not performing as intended.

6   Section 4.   Inspector training.

7       (a)   General rule.--An onsite wastewater treatment system  
8   inspector shall complete a comprehensive training program,  
9   including initial training that consists of no less than 24  
10   hours of combined classroom and field training following a  
11   course of study. The course curriculum shall include at a  
12   minimum:

13           (1)   Methods of investigation that will enable the  
14   inspector to locate and identify existing onsite wastewater  
15   treatment systems.

16           (2)   A description and explanation of the onsite  
17   wastewater treatment systems likely to be encountered  
18   servicing structures in this Commonwealth, including methods  
19   to determine the type of system located.

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

22           (4)   An explanation of the published inspection  
23   standards, their derivation, the underlying concepts that  
24   support the specified conclusions and how to apply the  
25   standards.

26           (5)   Effective communication, including both report  
27   writing and verbal communication skills.

28       (b)   Review of curriculum.--No less frequently than once  
29   every three years, a panel of certified inspectors, trainers,  
30   professors or researchers affiliated with the soil science or

1 agricultural engineering curricula from an accredited college or  
2 university and sewage enforcement officers shall review the  
3 curriculum and standards. Each certifying organization shall  
4 appoint the members of its review panel to the panel described  
5 in this subsection.

6 (c) Demonstration of proficiency.--

7 (1) At the conclusion of a training session, each  
8 trainee seeking certification or recertification must score  
9 at least 70% on a written examination. The examination shall  
10 test the skills taught in the respective courses.

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

14 (d) Inspector-in-training.--

15 (1) After completing the requisite training and passing  
16 the certification examination, an inspector must conduct no  
17 fewer than 20 septic system inspections under the supervision  
18 of a certified supervising inspector who shall, along with  
19 the inspector-in-training, sign each inspection report.

20 (2) After completing no fewer than 20 supervised  
21 inspections, the supervising certified inspector shall issue  
22 an inspector-in-training completion certificate to the  
23 inspector-in-training stating that the inspector-in-training  
24 has successfully performed the inspections.

25 (e) Liability of supervising certified inspectors.--

26 Supervising certified inspectors shall not be held liable for  
27 any inspection performed by the inspector-in-training for which  
28 the supervising inspector has not signed the inspection report  
29 nor for inspections performed by the inspector-in-training  
30 following the issuance of a completion certificate.

1 Section 5. Inspector registration.

2 (a) General rule.--An individual conducting or offering to  
3 conduct septic system inspections shall register his credentials  
4 with the department. The department shall maintain a list of  
5 such individuals who have submitted documentation of their  
6 credentials to the department.

7 (b) Inspectors-in-training.--An inspector-in-training shall  
8 register with the department by submitting the results of the  
9 certification examination and the name and contact information  
10 for the supervising inspector who shall supervise the in-  
11 training inspections.

12 (c) Initial registration.--

13 (1) When registering for the first time, an inspector  
14 who has not been previously certified by a certifying  
15 organization shall provide the following to the department:

16 (i) A certificate from a certifying organization  
17 that the inspector has completed the requisite training  
18 and achieved a passing score on the certification  
19 examination.

20 (ii) A completion certificate from a certified  
21 supervising inspector.

22 (2) When registering for the first time, an inspector  
23 who has been previously certified by a certifying  
24 organization shall submit the following to the department:

25 (i) A certificate from a certifying organization  
26 indicating that the individual has completed the  
27 organization's requisite training and achieved a passing  
28 score on the certification examination.

29 (ii) A notarized affidavit attesting that the  
30 inspector has performed more than 20 inspections in the

1 prior 12 months.

2 (d) Continuing education required for all certified  
3 individuals.--Prior to the expiration of an inspector's  
4 certification, but no less frequently than every two years, an  
5 inspector shall complete not less than 16 hours of continuing  
6 education which shall, at a minimum, address the following  
7 subjects:

8 (1) A review of the standards.

9 (2) Emerging onsite wastewater treatment systems  
10 technologies.

11 (3) Components of septic systems.

12 (4) Field exercises that include inspection procedures  
13 for emerging systems.

14 (5) A written examination with a passing score of 70%.

15 Section 6. Biennial registration.

16 (a) General rule.--Every two years following initial  
17 registration, an inspector shall submit to the department a  
18 certificate from a certifying organization indicating that the  
19 inspector has completed the requisite continuing education  
20 training and achieved a passing score on the posttraining  
21 examination. Registration shall be for a period of two years,  
22 ending on the last day of the month during which the department  
23 receives the appropriate documentation from inspectors and shall  
24 not be transferable. Only a natural person may become registered  
25 with the department. All inspections shall be performed by, and  
26 all inspection reports shall be signed by, a registered  
27 individual.

28 (b) Public access to list of registered inspectors.--The  
29 department shall maintain a list of all registered inspectors  
30 and make the list available to the public by means of the



1 Internet or in writing if so requested.

2 Section 7. Certifying organizations.

3 (a) Duty to register.--A certifying organization shall  
4 register with the department identifying the location of its  
5 principal place of business, the officers of the corporation and  
6 related contact information.

7 (b) Inspection standards to be filed.--A certifying  
8 organization shall file a copy of the inspection standards which  
9 form the basis for that organization's training curriculum and  
10 for the inspection reports issued by the inspectors that  
11 organization certifies.

12 (c) Membership organizations.--

13 (1) A certifying organization need not be a membership  
14 organization.

15 (2) A certifying organization that is a membership  
16 organization may establish a requirement for membership for  
17 certified individuals and may charge fees for membership.

18 (d) Complaint resolution.--A certifying organization shall  
19 establish and maintain a quasi-judicial body to hear complaints  
20 against individuals certified by the organization. The quasi-  
21 judicial body may require additional training and, if the  
22 severity of the circumstances warrants, revoke or suspend an  
23 inspector's certification.

24 (e) Communications to department.--Any action taken by a  
25 quasi-judicial body required by subsection (d) that results in a  
26 requirement of additional training, suspension or revocation  
27 shall be communicated to the department at the time the  
28 inspector is notified of the action.

29 (f) Performance reviews.--An individual may request a  
30 certifying organization to review the performance of an

1 inspector that that organization has certified, and the request  
2 shall be the venue of first review for all complaints against an  
3 inspector.

#### 4 Section 8. Trainer selection.

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

8 (b) Qualifications.--An inspector trainer candidate or  
9 subsequently certified trainer shall:

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

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

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

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

19 (c) Train-the-trainer course.--A train-the-trainer course  
20 shall prepare the trainers to teach the organization's standards  
21 and an overview of this act.

22 (d) Annual notice to department.--A certifying organization  
23 shall notify the department annually of the trainers currently  
24 certified to teach their curriculum.

#### 25 Section 9. Municipal ordinances.

26 (a) Prohibitions.--

27 (1) No municipality, for the purpose of zoning ordinance  
28 compliance or as a condition of the issuance of a certificate  
29 of occupancy or use, may enact or enforce any ordinance,  
30 policy or regulation that requires the inspection of an

existing septic system at the time of change of ownership or occupancy unless the change in use or occupancy can reasonably be expected to alter the characteristics of the sewage generated or the flows to the existing onsite wastewater treatment septic system under the act of January 24, 1966 (1965 P.L.1535, No.537), known as the Pennsylvania Sewage Facilities Act.

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

(b) Mandatory inspection program permitted.--When implementing a sewage or septic system management program, a municipality may establish a mandatory inspection program provided that all inspectors are qualified and registered under the provisions of this act. The costs of the inspections shall be borne by the landowner and performed by an inspector registered under this act. The report resulting from the inspections shall be provided to both the municipality and the landowner.

(c) Sewage enforcement officers.--The inspector conducting inspections under a municipal sewage or septic system management program may be the municipal or local agency sewage enforcement officer provided he is also registered under this act.

#### Section 10. Correcting unsatisfactory conditions.

(a) Duty to report and repair.--

(1) When, during an inspection conducted under this act, a class 1 or class 2 unsatisfactory condition is observed, the condition shall be reported to the inspector's customer in writing.

1           (2) A class 1 unsatisfactory condition shall be  
2       repaired, subject to permitting under the act of January 24,  
3       1966 (1965 P.L.1535, No.537), known as the Pennsylvania  
4       Sewage Facilities Act, when the condition is verified by the  
5       local agency sewage enforcement officer.

6           (3) A class 2 unsatisfactory condition may, at the  
7       option of the landowner or a potential buyer, be repaired,  
8       subject to permitting under the Pennsylvania Sewage  
9       Facilities Act when the condition is verified by the local  
10      agency sewage enforcement officer.

11      (b) Corrective measures.--When considering corrective  
12      measures for class 1 or class 2 unsatisfactory conditions which  
13      have been discovered during an inspection, the efforts of the  
14      local agency or the department shall not be restricted by 25 Pa.  
15      Code Ch. 73 (relating to standards for onlot sewage treatment  
16      facilities). It shall be the policy of the Department of  
17      Environmental Protection and local agencies administering 25 Pa.  
18      Code Ch. 73 to first consider all individual onlot and community  
19      onlot sewage systems described in that chapter, excluding  
20      holding tanks, in the correction of existing unsatisfactory  
21      conditions and, when the systems cannot be constructed in  
22      accordance with that chapter, to provide the best technical  
23      guidance possible in attempting to repair, replace or enable the  
24      system to perform to the maximum potential of the soils in which  
25      it is installed in order to diminish, to the greatest extent  
26      possible, the system's negative environmental or health impacts.

27      (c) Best technical guidance.--In attempting to resolve any  
28      unsatisfactory condition, the local agency administering the  
29      Pennsylvania Sewage Facilities Act shall issue a permit for a  
30      system employing the best technical guidance available. A best

1 technical guidance repair permit for unsatisfactory systems  
2 shall not be labeled, categorized or permitted as an  
3 experimental system when it is the landowner's intent to seek  
4 resolution to an unsatisfactory condition and abate, diminish or  
5 prevent a violation of the Pennsylvania Sewage Facilities Act.

6 Section 11. Enforcement.

7 (a) Failure to register.--Every individual offering to or  
8 performing the inspection of an existing onsite wastewater  
9 treatment system who is not registered with the Department of  
10 State as required by this act commits a violation of this act.

11 (b) Cause of action.--Any party aggrieved by the actions of  
12 an individual in violation of this act may initiate an action in  
13 the magisterial district in which the inspection was or was to  
14 be performed, for damages of not less than \$1,000 nor more than  
15 \$10,000 resulting from any misrepresentation by the unregistered  
16 individual.

17 (c) Public list of violators.--The Department of State shall  
18 maintain and make available to the public a list of individuals  
19 who, in a court of record, were found to be in violation of this  
20 act.

21 Section 12. Effective date.

22 This act shall take effect as follows:

23 (1) Sections 5(c) and 11 shall take effect in 12 months.

24 (2) This section shall take effect immediately.

25 (3) The remainder of this act shall take effect in 60  
26 days.