

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 417

Session of  
1987

INTRODUCED BY GEORGE, HASAY, LUCYK, WOZNIAK, SAURMAN, LaGROTTA,  
GODSHALL, HALUSKA, TRELLO, LLOYD, LIVENGOD, VEON, CAWLEY,  
BOWSER, FARGO, BELFANTI, D. W. SNYDER, SHOWERS, DeLUCA,  
CORRIGAN, CLYMER, STABACK, BURD AND MOWERY, FEBRUARY 24, 1987

REFERRED TO COMMITTEE ON CONSERVATION, FEBRUARY 24, 1987

AN ACT

1 Amending the act of January 24, 1966 (1965 P.L.1535, No.537),  
2 entitled, as amended, "An act providing for the planning and  
3 regulation of community sewage systems and individual sewage  
4 systems; requiring municipalities to submit plans for systems  
5 in their jurisdiction; authorizing grants; requiring permits  
6 for persons installing such systems; requiring disclosure  
7 statements in certain land sale contracts; authorizing the  
8 Department of Environmental Resources to adopt and administer  
9 rules, regulations, standards and procedures; creating an  
10 advisory committee; providing remedies and prescribing  
11 penalties," further requiring a single permit issuance and  
12 review process for individual sewage system applications and  
13 the revision of regulations by the Environmental Quality  
14 Board applicable to such systems.

15 The General Assembly of the Commonwealth of Pennsylvania  
16 hereby enacts as follows:

17 Section 1. Section 3(7) of the act of January 24, 1966 (1965  
18 P.L.1535, No.537), known as the Pennsylvania Sewage Facilities  
19 Act, amended July 22, 1974 (P.L.621, No.208), is amended and the  
20 section is amended by adding clauses to read:

21 Section 3. Declaration of Policy.--It is hereby declared to  
22 be the policy of the Commonwealth of Pennsylvania through this  
23 act:

1       \* \* \*

2       (7) To insure the rights of citizens on matters of sewage  
3 disposal as they may relate to this act, the act of June 22,  
4 1937 (P.L.1987, No.394), known as "The Clean Streams Law," and  
5 the Constitution of this Commonwealth.

6       (8) To provide for the delegation of primary responsibility  
7 for the permitting of individual sewage systems and alternate  
8 individual sewage systems to qualified local agencies under  
9 administrable and justiciable standards.

10      (9) To provide for the issuance of a single permit for  
11 individual sewage systems and alternate individual sewage  
12 systems from either the department or a qualified local agency.

13      Section 2. Section 5 of the act, amended July 22, 1974  
14 (P.L.621, No.208), is amended to read:

15      Section 5. Official Plans.--(a) Each municipality shall  
16 submit to the department an officially adopted plan for sewage  
17 services for areas within its jurisdiction within such  
18 reasonable period as the department may prescribe, and shall  
19 from time to time submit revisions of such plan as may be  
20 required by rules and regulations adopted hereunder or by order  
21 of the department: Provided, however, That a municipality may at  
22 any time initiate and submit to the department revisions of the  
23 said plan. Revisions shall conform to the requirements of  
24 subsection (d) of this section and the rules and regulations of  
25 the department.

26      (b) Any person who is a resident or property owner in a  
27 municipality may request the department to order the  
28 municipality to revise its official plan where said person can  
29 show that the official plan is inadequate to meet the resident's  
30 or property owner's sewage disposal needs. Such request may only

1 be made after a prior demand upon and refusal by the  
2 municipality to so revise its official plan. The request to the  
3 department shall contain a description of the area of the  
4 municipality in question and an enumeration of all reasons  
5 advanced by said person to show the official plan's inadequacy.  
6 Such person shall give notice to the municipality of the request  
7 to the department.

8 (c) The required plan or any revision thereof may be  
9 submitted jointly by two or more municipalities.

10 (d) Every official plan and plan revision shall:

11 (1) Delineate areas in which community sewage systems are  
12 now in existence, areas experiencing problems with sewage  
13 disposal including a description of said problems, areas where  
14 community sewage systems are planned to be available within a  
15 ten year period, areas where community sewage systems are not  
16 planned to be available within a ten year period and all  
17 subdivisions existing or approved.

18 (2) Provide for the orderly extension of community  
19 interceptor sewers in a manner consistent with the comprehensive  
20 plans and needs of the whole area, provided that this section  
21 shall not be construed to limit the development of such  
22 community facilities at an accelerated rate different than that  
23 set forth in the official plan;

24 (3) Provide for adequate sewage treatment facilities which  
25 will prevent the discharge of untreated or inadequately treated  
26 sewage or other waste into any waters or otherwise provide for  
27 the safe and sanitary treatment of sewage or other waste;

28 (4) Take into consideration all aspects of planning, zoning,  
29 population estimates, engineering and economics so as to  
30 delineate with all practicable precision those portions of the

1 area which community systems may reasonably be expected to serve  
2 within ten years, after ten years, and any areas in which the  
3 provision of such services is not reasonably foreseeable;

4 (5) Take into consideration any existing State plan  
5 affecting the development, use and protection of water and other  
6 natural resources;

7 (6) Establish procedures for delineating and acquiring, on a  
8 time schedule consistent with that established in clause (4) of  
9 this subsection, necessary rights-of-way or easements for  
10 community sewage systems;

11 (7) Set forth a time schedule and proposed methods of  
12 financing the construction and operation of the planned  
13 community sewage systems, together with the estimated cost  
14 thereof;

15 (8) Be reviewed by appropriate official planning agencies  
16 within a municipality, including a planning agency with areawide  
17 jurisdiction if one exists, in accordance with the act of July  
18 31, 1968 (P.L.805, No.247), known as the "Pennsylvania  
19 Municipalities Planning Code," as amended, for consistency with  
20 programs of planning for the area, and all such reviews shall be  
21 transmitted to the department with the proposed plans; and

22 (9) Designate municipal responsibility for implementation of  
23 the plan[.] and issuance of permits for individual sewage  
24 systems and alternate individual sewage systems by the  
25 municipality or the department under this act and the act of  
26 June 22, 1937 (P.L.1987, No.394), known as "The Clean Streams  
27 Law."

28 (10) Incorporate standard terms for the construction,  
29 operation and maintenance of individual sewage systems and  
30 alternate individual sewage systems for all lands within its

1 jurisdiction for which a community sewage system is not  
2 currently available.

3 (e) The department is hereby authorized to approve or  
4 disapprove official plans for sewage systems submitted in  
5 accordance with this act within one year of date of submission  
6 and revisions of official plans within such lesser time as the  
7 regulations shall stipulate.

8 (f) The department is authorized to provide technical  
9 assistance to counties, municipalities and authorities in  
10 coordinating official plans for sewage systems required by this  
11 act, including revisions of such plans.

12 (g) For purposes of this act, the department is authorized  
13 to cooperate with appropriate private organizations.

14 (h) Upon receipt of a request pursuant to subsection (b) of  
15 this section concerning local permitting of individual sewage  
16 systems or alternate individual sewage systems, the department  
17 shall examine the official plan of the appropriate local agency  
18 or agencies. Within thirty days of receipt, the department shall  
19 issue its written report and recommendation to the governing  
20 body of the appropriate local agency identifying any specific  
21 deficiencies in the official plan and suggesting specific  
22 amendments or revisions thereto. In the event the department  
23 determines that deficiencies in the official plan or  
24 implementation thereof by the local agency impairs local agency  
25 permitting with respect to such individual request, the  
26 department shall, in addition to any action authorized in  
27 subsection (b) of this subsection afford the applicant the  
28 opportunity to secure a permit under this act and "The Clean  
29 Streams Law," from the department with the same force and effect  
30 as if issued by the local agency.

1       Section 3.   Section 7 of the act, added or amended July 22,  
2   1974 (P.L.621, No.208) and October 4, 1978 (P.L.1003, No.212),  
3   is amended to read:

4       Section 7.   Permits.--(a)   No person shall install,  
5   construct, or request bid proposals for construction, or alter  
6   an individual sewage system or community sewage system or  
7   construct, or request bid proposals for construction, or install  
8   or occupy any building or structure for which an individual  
9   sewage system or community sewage system is to be installed  
10  without first obtaining a permit indicating that the [site and  
11  the] plans and specifications of such system appropriate to the  
12 proposed use of the site are in compliance with the provisions  
13 of this act and the standards adopted pursuant to this act. No  
14 permit under this act may be issued by the local agency or  
15 required by the department in those cases where a permit from  
16 the department is required pursuant to the act of June 22, 1937  
17 (P.L.1987, No.394), known as "The Clean Streams Law," as  
18 amended, or where the department pursuant to its rules and  
19 regulations, determines that such permit is not necessary either  
20 for a rural residence or for the protection of the public  
21 health: Provided, however, That the department shall not require  
22 a separate permit under "The Clean Streams Law," for on-lot  
23 sewage systems for which a permit may be issued under this act.

24       (b)   (1)   Application for permit shall be in writing to the  
25 local agency in accordance with the provisions of section 8 of  
26 this act, and shall be made in such form and shall include such  
27 data as the department may prescribe.

28       (2)   Permits shall be issued or denied within seven days  
29 after receiving an application for permit except that, in case  
30 the local agency in accordance with the provisions of section 8

1 of this act, finds the data submitted by an applicant is  
2 incomplete, or the local agency is unable to verify the  
3 information submitted, the local agency shall so notify the  
4 applicant within seven days after receiving said application and  
5 the time for acting thereon shall be extended fifteen days  
6 beyond the date of receipt of adequate supplementary or  
7 amendatory data. Denial of permit shall be supported by a  
8 statement in writing of the reasons for such action.

9 (3) No system or structure designed to provide individual or  
10 community sewage disposal shall be covered from view until  
11 approval to cover the same has been given by the body which  
12 issued the original permit or its authorized representative. If  
13 seventy-two hours have elapsed, excepting Sundays and holidays,  
14 since the body issuing the permit receive notification of  
15 completion of construction, the applicant may cover said system  
16 or structure unless permission has been refused by the issuing  
17 body.

18 (4) The local agency shall not issue permits for individual  
19 sewage systems or community sewage systems unless the system  
20 proposed is consistent with the official plan of the  
21 municipality in which said system is to be located and the  
22 municipality is adequately implementing the official plan. In  
23 the event that the municipality has no plan or has not revised  
24 or implemented its plan as required by the rules and regulations  
25 of the department or by order of the department, no permits may  
26 be issued under this section 7 of this act. The department shall  
27 implement this act with respect to individual and alternate  
28 individal sewage systems in those areas of the municipality for  
29 which an official plan, revision thereto or implementation  
30 thereof is required, until the municipality has submitted the

1 said official plan or revision to, and received the approval of,  
2 the department, or has commenced implementation of its plan or  
3 revisions in accordance with a schedule approved by the  
4 department: Provided, however, That it shall be presumed in  
5 administrative and judicial proceedings brought by the  
6 department against local agencies that official plans and  
7 implementation thereof by local agencies in respect to  
8 individual on-lot sewage systems as of the effective date of  
9 this amendment are in compliance with this act and "The Clean  
10 Streams Law," subject to the limitations set forth in section  
11 9(b) and (c) of this act.

12 (5) The limitations on permit issuance contained in  
13 paragraph (4) of this subsection shall not apply:

14 (i) to those sections of the municipality where the  
15 department finds that the zoning or applicable restrictive  
16 covenants running with the land and enforceable by other  
17 grantees in a subdivision provide for single family residential  
18 lots of one acre or more or the proportionate equivalent acreage  
19 for multiple family or commercial uses and provided that a  
20 replacement system could be installed on the lot in the event  
21 that the original system failed;

22 (ii) to existing subdivisions or sections thereof (where  
23 subdivision plans therefor have been filed of record pursuant to  
24 applicable law and ordinance prior to the effective date of this  
25 subsection) where the department finds that either lots or homes  
26 in the subdivision or sections thereof have been sold in good  
27 faith to a purchaser for value prior to May 15, 1972 and not for  
28 the purpose of avoiding the application of paragraph (4) of this  
29 subsection. This subsection shall not relieve the municipality  
30 of its planning responsibilities as specified in this act;



1 (iii) where the department finds it necessary to issue  
2 permits for the abatement of pollution and/or the correction of  
3 health hazards.

4 (6) If the local agency determines that: (i) any change has  
5 occurred in the physical conditions of any lands which will  
6 materially affect the operation of the community sewage system  
7 or individual sewage system covered by any permit issued by the  
8 local agency under section 7 of this act, or (ii) one or more  
9 tests material to the issuance of the permit has not been  
10 properly conducted, or (iii) information material to the  
11 issuance of the permit has been falsified, or (iv) the original  
12 decision of the local agency otherwise failed to conform to the  
13 provisions of this act or the rules and regulations of the  
14 department, or (v) the permittee has violated the rules and  
15 regulations of the department under which the permit was issued,  
16 the permit shall be revoked. Such action shall be taken after  
17 notice and opportunity for hearing has been given to the  
18 permittee.

19 (7) If construction or installation of an individual sewage  
20 system or community sewage system and of any building or  
21 structure for which such system is to be installed has not  
22 commenced within two years after the issuance of a permit for  
23 such system, the said permit shall expire, and a new permit  
24 shall be obtained prior to the commencement of said construction  
25 or installation.

26 (8) Upon completion of inspection of deep soil test pits and  
27 percolation tests, the inspector shall immediately notify the  
28 property owner that the tests are complete. Within five days  
29 after receiving such notice, the property owner shall backfill  
30 the test pits and holes. Any person who fails to comply with the

1 provisions of this subsection shall be subject to the remedies  
2 and penalties provided in sections 12 and 13.

3 Section 4. Section 9 of the act, amended December 10, 1974  
4 (P.L.856, No.288), is amended to read:

5 Section 9. Powers and Duties of the Environmental Quality  
6 Board.--(a) The Environmental Quality Board shall have the  
7 power and its duty shall be to adopt such rules and regulations  
8 of the department, applicable throughout the Commonwealth, as  
9 shall be necessary for the implementation of the provisions of  
10 this act in coordination with the act of June 22, 1937  
11 (P.L.1987, No.394), known as "The Clean Streams Law," as  
12 amended. Such rules and regulations shall establish standards  
13 for the construction, installation, alteration, maintenance and  
14 operation of individual sewage systems, alternative sewage  
15 systems, and community sewage systems and of sewage treatment  
16 plants in such systems, take cognizance of latest technological  
17 developments in the field of individual sewage systems,  
18 including adoption of standards providing for use of alternate  
19 and experimental individual sewage systems, standards for  
20 enforcement programs of local agencies and for the certification  
21 of personnel employed by local agencies to administer the  
22 provisions of this act[, ] and "The Clean Streams Law," standards  
23 for the preparation, review and acceptance of official plans,  
24 and requirements for the disbursement of State and Federal funds  
25 to municipalities and local agencies for planning, personnel and  
26 construction of sewage disposal systems. Such rules and  
27 regulations shall be adopted pursuant to the act of July 31,  
28 1968 (P.L.769, No.240), known as the "Commonwealth Documents  
29 Law," upon such notice and after such public hearings as the  
30 board deems appropriate. The rules and regulations adopted by

1 the board under this section shall supersede any ordinance,  
2 rules or regulations of local agencies which are not in  
3 conformity with the rules and regulations of the board.

4 (b) Within one hundred eighty days of enactment of this  
5 amendment, the department shall submit to the board proposed  
6 regulations to conform with the amendments contained herein.  
7 Such regulations shall codify in one chapter of 25 Pa. Code all  
8 rules and regulations affecting or concerning the permitting of  
9 on-lot sewage systems by the department and local agencies.

10 (c) The board shall not have the power to adopt, nor the  
11 department to enforce mandatory prohibitions or conclusive  
12 presumptions against the permitting of individual on-lot sewage  
13 systems based upon limiting zones, including, without  
14 limitation, soil mottling on the subject property, it being the  
15 intent of this act to afford applicants hereunder the  
16 opportunity to submit and local agencies to review all relevant  
17 evidence pertaining to the proposed system, including, without  
18 limitation, percolation tests performed on the subject property,  
19 adjacent dwellings with functioning systems under similar soil  
20 conditions, the particular plans and specifications of such  
21 system appropriate to the proposed use of the site, and the  
22 opinion of qualified soil scientists and other experts having  
23 specialized knowledge in the field.

24 Section 5. This act shall take effect in 60 days.