

NORTH CAROLINA GENERAL ASSEMBLY  
1981 SESSION

CHAPTER 949  
HOUSE BILL 838

AN ACT TO ESTABLISH THE GROUND ABSORPTION SEWAGE TREATMENT AND  
DISPOSAL ACT OF 1981 AND TO AMEND THE RULE-MAKING AUTHORITY OF  
LOCAL BOARDS OF HEALTH.

The General Assembly of North Carolina enacts:

**Section 1.** G.S. 130-160 is repealed.

**Sec. 2.** Article 13C of Chapter 130 is repealed.

**Sec. 3.** Article 13C of Chapter 130 is replaced by the following:

"ARTICLE 13C.

"Ground Absorption Sewage Treatment and Disposal Act of 1981.

"§ 130-166.22. **Short title.** — This Article shall be known and may be cited as the 'Ground Absorption Sewage Treatment and Disposal Act of 1981'.

"§ 130-166.23. **Preamble.** — The General Assembly finds and declares that continued installation, at a rapidly and constantly accelerating rate, of septic tanks and other types of ground absorption sewage treatment and disposal systems in a faulty or improper manner and in areas where unsuitable soil and population density adversely affect the efficiency and functioning of these systems, has a detrimental effect on the public health through contamination of land, ground water, and surface waters. Recognizing, however, that sewage can be rendered ecologically safe and the public health protected if such methods of sewage treatment and disposal are properly regulated and recognizing that ground absorption sewage treatment and disposal will continue to be necessary to meet the needs of an expanding population, the General Assembly intends hereby to insure the regulation of ground absorption sewage treatment and disposal systems so that such systems may continue to be used, where appropriate, without jeopardizing the public health.

"§ 130-166.24. **Definitions.** — As used herein, unless the context otherwise requires:

- (1) 'Construction' means any work at the site of placement done for the purpose of preparing a residence, place of business or place of public assembly for initial occupancy, or subsequent additions thereto which increase sewage flow.
- (2) 'Health department' means any county, city, district, consolidated city-county or other health department authorized to be organized under Chapter 130 of the General Statutes.
- (3) 'Land sales business' means any business engaged in sales of land where a ground absorption sewage treatment and disposal system may be required, provided, however, that this definition shall not include sales of land upon which any residence, place of business, or place of public assembly is being or has been constructed and for which an Improvements Permit has been issued pursuant to G.S. 130-166.2.
- (4) 'Location' means the initial placement for occupancy of a residence, place of business, or place of public assembly.
- (5) 'Mobile home dealer' means every person or firm offering mobile homes for sale or lease within this State.

- (6) 'Mobile home sales lot' means any place where two or more mobile homes are displayed and offered for sale or lease.
- (7) 'Place of business' means any store, warehouse, manufacturing establishment, place of amusement or recreation, service station, office building, or any other place where people work.
- (8) 'Place of public assembly' means any fairground, auditorium, stadium, church, campground, theatre, or any other place where people assemble.
- (9) 'Public or community sewage system' means a single system of sewage collection, treatment, and disposal owned and operated by a sanitary district, a metropolitan sewage district, a water and sewer authority, a county or municipality or a public utility.
- (10) 'Relocation' means the displacement of a residence or place of business from one site to another.
- (11) 'Residence' means any private home, dwelling unit in a multiple family structure, hotel, motel, summer camp, labor work camp, mobile home, institution, or any other place where people reside.
- (12) 'Septic tank system' means a ground absorption sewage treatment and disposal system consisting of a settling tank and a ground absorption field.
- (13) 'Sewage' means and includes the liquid and solid human body waste, and liquids generated by domestic water-using fixtures and appliances, from any residence, place of business, or place of public assembly. For the purposes of this definition sewage shall not be construed to mean any industrial process wastewater or any other wastewater not considered to be domestic waste.
- (14) 'Sanitary system of sewage treatment and disposal' means a complete system of sewage treatment and disposal including approved privies, septic tank systems, connection to public or community sewage systems, incinerators, mechanical toilets, composting toilets, recycling toilets, mechanical aeration systems or other such systems.

**"§ 130-166.25. Sanitary sewage treatment and disposal; rules.** — (a) Any person owning or controlling any single or multiple family residence, place of business, or place of public assembly shall provide a sanitary system of sewage treatment and disposal. Any such sanitary sewage treatment and disposal system consisting of approved privies, septic tank systems, incinerators, mechanical toilets, composting toilets, recycling toilets, or other such systems serving single or multiple family residences, places of business, or places of public assembly, the effluent from which is not discharged to the land surface or surface waters, shall be approved by the Department of Human Resources under rules and regulations adopted by the Commission for Health Services.

(b) In those cases where the design flow of sewage from residences, places of business, or places of public assembly exceeds 1,200 gallons per acre per day, septic tank systems shall not be used, provided that this subsection shall not apply to the installation of a single septic tank system serving a single family residence not to exceed four bedrooms, on a lot or tract of land: (1) which upon ratification of this act is specifically described in a deed, contract or other instrument conveying fee title or which is specifically described in a recorded plat and the lot or lots contiguous thereto have been conveyed by the subdivider so as to prevent enlargement of said lot or tract of land retained by the subdivider in order to satisfy this provision; and (2) which upon ratification of this act is of insufficient size to satisfy this provision; and (3) which, on the date system construction is proposed to begin, is not capable of being served by a public or community sewage system. However, if any two or more contiguous lots or tracts of land are under single ownership on January 1, 1982, they shall not be exempted if such lots or tracts of land under single ownership can be combined to meet this provision.

Any public or community sewage system and any system which discharges to the land surface or surface waters shall be approved by the Department of Natural Resources and Community Development under rules and regulations adopted by the Environmental Management Commission.

(c) Notwithstanding the provisions of subsection (a) of this section and the provisions of G.S. 130-17(b), any sanitary sewage treatment and disposal system subject to approval under rules and regulations of the Commission for Health Services shall be reviewed and approved under rules and regulations of a local board of health in the following circumstances:

- (1) The local board of health, on its own motion, has requested the Department of Human Resources to review its proposed regulations concerning sanitary sewage treatment and disposal systems.
- (2) The Department of Human Resources has found that the regulations of the local board of health concerning sanitary sewage treatment and disposal systems are more stringent, but not less stringent, than the Commission's regulations, and are sufficient to safeguard the public health.

(d) The Department of Human Resources from time to time, upon its own motion or upon the request of a local board of health or upon the request of a citizen of an affected county, may review its findings under subsection (c) of this section. Subject to such review, the Department of Human Resources' finding that local regulations meet the requirements of subsection (c) of this section shall be binding and conclusive.

(e) The relationship between State and local regulations concerning sanitary sewage treatment and disposal systems shall continue to be governed by G.S. 130-17(b) except in those cases where local regulations have been reviewed and approved pursuant to subsection (c) of this section.

(f) The Commission for Health Services rules and local board of health rules shall address at least the following: (1) sewage characteristics; (2) design unit; (3) design capacity; (4) design volume; (5) criteria for the design, installation, operation, maintenance and performance of sewage treatment and disposal systems; (6) soil morphology and drainage; (7) topography and landscape position; (8) depth to seasonally high water table, rock, and water impeding formations; (9) proximity to water supply wells, shellfish waters, estuaries, marshes, wet lands, areas subject to frequently flooding streams, lakes, swamps, and other bodies of surface or ground waters; (10) density of sewage treatment and disposal systems in a geographical area; and (11) such other factors as will affect the effective operation and performance of the ground absorption method of sewage treatment and disposal.

**"§ 130-166.26. Improvements permit required.** — (a) No person shall commence the construction or relocation of any residence, place of business, or place of public assembly nor shall any person locate, relocate or cause to be located or to be relocated any residence other than one exhibited for sale or stored for the purpose of later sale on a site in an area not served by a system of sewage treatment and disposal subject to rules adopted by the Environmental Management Commission without first obtaining an Improvements Permit from the local health department having jurisdiction.

(b) The local health department shall issue an Improvements Permit authorizing work to proceed and the installation or repair of a sewage treatment and disposal system when it has determined after a field investigation that such a system can be installed in compliance with rules adopted by the Commission of Health Services and/or rules of the local board of health having jurisdiction.

**"§ 130-166.27. Certificate of Completion.** — No sewage treatment and disposal system subject to Commission for Health Services rules or rules of the local board of health having jurisdiction which is attempted to be installed shall be covered or placed into use until the local health department determines that the system as installed is in compliance with the rules and regulations governing such installations. Upon determining that a sewage treatment and

disposal system is properly installed, the local health department shall issue a Certificate of Completion authorizing a residence, place of business, or place of public assembly to be occupied following construction, location, or relocation. Upon determining that an existing sewage treatment and disposal system is properly installed and operating satisfactorily in a mobile home park, the local health department shall issue a Certificate of Completion authorizing a residence to be located and occupied in a mobile home park. No person shall occupy a residence, place of business, place of public assembly, or mobile home in a mobile home park until a Certificate of Completion has been issued.

**"§ 130-166.28. Improvements Permit or Certificate of Completion required before other permits to issue.** — (a) Where construction, location or relocation is proposed to be done upon a residence, place of business, or place of public assembly, no permit required for electrical, plumbing, heating, air conditioning or other construction, location, or relocation activity under any provision of general or special law shall be issued until after an Improvements Permit has been issued.

(b) Where location or relocation is proposed for a mobile home in a mobile home park, no permit required for electrical, plumbing, heating, air conditioning, or other construction, location, or relocation activity under any provision of general or special law shall be issued until after a Certificate of Completion has been issued.

**"§ 130-166.29. Limitation on electrical service.** — It shall be unlawful for any person, partnership, firm, or corporation to allow permanent electrical service to a residence, place of business, or place of public assembly upon construction, location or relocation until the official electrical inspector with jurisdiction as provided in G.S. 143-143.2 certifies to the electrical supplier that the required Improvements Permit and Certificate of Completion have been issued. Temporary electrical service necessary for constructing a residence or place of business can be provided after an Improvements Permit has been issued.

**"§ 130-166.30. Appeals procedure.** — (a) Appeals concerning the interpretation and enforcement of rules adopted by the Commission for Health Services shall be governed by General Statutes Chapter 150A.

(b) Appeals concerning the interpretation and enforcement of rules adopted by a local board of health in accordance with G.S. 130-166.25(c) or G.S. 130-17(b) shall be governed by subsections (c) and (d) of this section.

(c) Any person who wishes to take an appeal concerning the interpretation and enforcement of rules adopted by the local board of health shall have a right of appeal to the local board of health, provided such appeal is taken within 15 days of the challenged action. Notice of appeal shall be given by filing with the local health director a demand for a hearing. Upon filing of such notice the local health director shall, within five working days, transmit to the board of health the papers and materials upon which the challenged action was taken.

The local board of health shall hold a hearing within 15 days of the receipt of the notice of appeal. The board shall give the appellant not less than five days' notice of the date, time and place of the hearing. Any party may appear in person or by agent or attorney. In considering appeals, the board shall have authority to affirm, modify or reverse the challenged action.

(d) Any person who wishes to contest a decision of the local board of health under subsection (c) of this section shall have a right of appeal to the district court having jurisdiction, if such appeal be made within 10 days after the date of the decision by the board.

**"§ 130-166.31. Duties of land sales businesses and mobile home dealers.** — Each land sales business and mobile home dealer shall be required to post conspicuously at the office of each land sales business or mobile home sales lot the following notice in exactly this language:

'NOTICE: State law requires that the local health department determine the method and adequacy of sewage treatment and disposal before a residence or place of business is constructed or placed on the property.'

"§ 130-166.32. **Penalties.** — Any person who knowingly violates any provision of this Article shall be guilty of a misdemeanor."

**Sec. 4.** G.S. 13017(b) is amended by rewriting the first, second, and third sentences to read:

"The local boards of health shall adopt such rules, not inconsistent with law, as are necessary to protect and promote the public health. Where local rules regulate an area which is also regulated by rules of the Commission for Health Services or the Environmental Management Commission, the rules of the Commission for Health Services or the Environmental Management Commission shall prevail unless the local ground absorption sewage treatment and disposal rules are approved as provided by G.S. 130-166. 25(c), or there is a local condition which in the opinion of the local board of health requires more stringent regulation in order to protect and promote the public health in which case the local board of health is directed to adopt such rules as are necessary to protect and promote the public health; provided, however, that North Carolina food-service sanitation regulations shall be uniform throughout the State except when there is a threat of food-borne illness."

**Sec. 5.** The Director of the Budget shall transfer funds from within the Department of Human Resources or, if necessary, up to sixty thousand dollars (\$60,000), including personnel, from the Department of Natural Resources and Community Development to the Department of Human Resources to implement this act.

**Sec. 6.** This act shall become effective January 1, 1982.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.