

FIRST REGULAR SESSION

# SENATE BILL NO. 206

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR WIGGINS.

Pre-filed December 20, 2000, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

0855L.011

## AN ACT

To repeal sections 701.025, 701.027, 701.029, 701.031, 701.033, 701.035, 701.037, 701.038, 701.040, 701.043, 701.046, 701.048, 701.050, 701.051, 701.052, 701.053, 701.054, 701.055 and 701.059, RSMo 2000, relating to on-site sewage treatment systems, and to enact in lieu thereof nineteen new sections relating to the same subject.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 701.025, 701.027, 701.029, 701.031, 701.033, 701.035, 701.037, 701.038, 701.040, 701.043, 701.046, 701.048, 701.050, 701.051, 701.052, 701.053, 701.054, 701.055 and 701.059, RSMo 2000, are repealed and nineteen new sections enacted in lieu thereof, to be known as sections 701.025, 701.027, 701.029, 701.031, 701.033, 701.035, 701.037, 701.038, 701.040, 701.043, 701.046, 701.048, 701.050, 701.051, 701.052, 701.053, 701.054, 701.055 and 701.059, to read as follows:

701.025. As used in sections 701.025 to 701.059, unless the context otherwise requires, the following terms mean:

(1) **"Administrative authority", any governing body which has, as authorized by statute, charter or other form of enabling authority, adopted the standards promulgated pursuant to sections 701.025 to 701.059, including, but not limited to, county health departments, sewer districts, municipalities and the department of health;**

(2) "Department", the department of health of the state of Missouri;

[(2)] (3) **"Designer", a person trained and certified by the department to design on-site sewage treatment systems;**

(4) "Director", the director of the department of health or the designee of the director;

**EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

[(3)] (5) **"Emergency", any set of circumstances that constitute an imminent health hazard or the threat of an imminent health hazard;**

(6) "Existing system", an on-site sewage [disposal] **treatment** system in operation prior to September 1, 1995;

[(4)] (7) **"Failing system", a system which results in contamination of surface waters or groundwater, or which presents a nuisance or imminent health hazard;**

(8) "Human excreta", undigested food and by-products of metabolism which are passed out of the human body;

[(5)] (9) "Imminent health hazard", a condition which is likely to cause an immediate threat to life or a serious risk to the health, safety, and welfare of the public if immediate action is not taken;

[(6)] (10) **"Licensed inspector", a person trained and licensed to evaluate on-site sewage treatment systems;**

(11) **"Loan evaluation", an inspection to determine if the on-site sewage treatment system is creating a nuisance;**

(12) "Major modification" or "major repair", the redesigning and alteration of an on-site sewage system by relocation of the system or a part of the system, replacement of the [septic] **sewage** tank or construction of a new **subsurface** absorption field **or lagoon;**

[(7)] (13) "Nuisance", sewage, human excreta or other human organic waste discharged or exposed [on the owner's land or any other land from an on-site sewage disposal system] **in a location other than a lagoon**, in a manner that makes [it] **such waste** a potential instrument or medium for the breeding of flies and mosquitoes, the production of odors, or the transmission of disease to or between a person or persons, or which contaminates surface waters or groundwater;

[(8)] (14) "On-site sewage [disposal] **treatment** system" **or "sewage treatment system"**, any **constructed** system handling or treatment facility receiving domestic sewage which discharges into a subsurface soil absorption system **or lagoon not regulated by chapter 644, RSMo**, and [discharges] **which treats** less than three thousand gallons per day;

[(9)] (15) "On-site sewage [disposal] **treatment** system contractor", any person who constructs, alters, repairs[,] or extends an on-site sewage [disposal] **treatment** system on behalf of, or under contract with, the property owner;

[(10)] (16) "Person", any individual, group of individuals, association, trust, partnership, corporation, person doing business under an assumed name, the state of Missouri or any department thereof, or any political subdivision of this state;

[(11)] (17) **"Professional" or "licensed professional", a person engaged in a trade or profession relating to the design, installation or maintenance of on-site sewage treatment systems, including but not limited to soil scientists, inspectors and installers;**

(18) "Property owner", the person in whose name legal title to the real estate is recorded;

[(12)] **(19)** "Sewage" [or "domestic sewage"], human excreta and wastewater, including bath and toilet waste, [residential] laundry waste, [residential] kitchen waste [and other similar waste from household or establishment appurtenances], **excluding footing drains, roof drains, yard drains and water softening backwash.** Sewage [and domestic sewage waste are] **is** further categorized as:

(a) "Blackwater", [waste carried off by toilets, urinals and kitchen drains] **liquid-carried waste from any appurtenance which contains organic wastes, excreta or other bodily wastes, blood or other bodily fluids and garbage;**

(b) "Graywater", all [domestic] waste not covered in paragraph (a) of this subdivision, including **but not limited to** bath, lavatory, laundry and sink waste;

[(13)] "Subdivision", land divided or proposed to be divided for predominantly residential purposes into such parcels as required by local ordinances, or in the absence of local ordinances, "subdivision" means any land which is divided or proposed to be divided by a common owner or owners into three or more lots or parcels, any of which contains less than three acres, or into platted or unplatted units, any of which contains less than three acres, as a part of a uniform plan of development;

[(14)] **(20)** "Soil morphology", a physical examination and evaluation of specific soil features and site parameters, including **but not limited to color, texture and structure;**

**(21)** "Subsurface soil absorption system", a system for the final [renovation] **treatment** of the sewage tank effluent and return of the [renovated] **treated** wastewater to the hydrologic cycle[, including the lateral lines, the perforated pipes, the rock material and the absorption trenches. Included within the scope of this definition are: sewage tank absorption systems, privies, chemical toilets, single-family lagoons and other similar systems]; except that a subsurface sewage [disposal] **treatment** system does not include a sewage system regulated pursuant to chapter 644, RSMo;

[(15)] **(22)** "Waste" or "**wastewater**", sewage[, human excreta or domestic sewage].

701.027. Sections 701.025 to 701.059 [pertains] **pertain** to maximum daily flows of sewage of three thousand gallons or less and to sewage treatment facilities that have a designed maximum daily flow or an actual maximum daily flow of three thousand gallons or less, **and which are not regulated pursuant to chapter 644, RSMo.**

701.029. No person or property owner may operate an on-site sewage [disposal] **treatment** system or transport and dispose of waste removed [therefrom] **from such system** in such a manner that may result in the contamination of surface waters or groundwater or present a nuisance or imminent health hazard to any other person or property owner and that does not comply with the requirements of sections 701.025 to 701.059 and the on-site sewage [disposal] **treatment** rules promulgated [under] **pursuant to** sections 701.025 to 701.059 by the

department.

701.031. Property owners of all buildings where people live, work or assemble shall provide for the sanitary disposal of all domestic sewage. [Except as provided in this section,] Sewage [and waste] from such buildings shall be [disposed of by discharging] **discharged** into a sewer system regulated pursuant to chapter 644, RSMo, or shall be [disposed of by discharging] **discharged** into an on-site sewage [disposal] **treatment** system operated as defined by rules promulgated pursuant to sections 701.025 to 701.059. [The owner of a single-family residence lot consisting of three acres or more, or the owner of a residential lot consisting of ten acres or more with no single-family residence on-site sewage disposal system located within three hundred sixty feet of any other on-site sewage disposal system and no more than one single-family residence per each ten acres in the aggregate, except lots adjacent to lakes operated by the Corps of Engineers or by a public utility, shall be excluded from the provisions of sections 701.025 to 701.059 and the rules promulgated pursuant to sections 701.025 to 701.059, including provisions relating to the construction, operation, major modification and major repair of on-site disposal systems, when all points of the system are located in excess of ten feet from any adjoining property line and no effluent enters an adjoining property, contaminates surface waters or groundwater or creates a nuisance as determined by a readily available scientific method. Except as provided in this section,] Any construction, operation, major modification or major repair of an on-site sewage [disposal] **treatment** system shall be in accordance with rules promulgated pursuant to sections 701.025 to 701.059, regardless of when the system was originally constructed. [The provisions of subdivision (2) of subsection 1 of section 701.043 shall not apply to lots located in subdivisions under the jurisdiction of the department of natural resources which are required by a consent decree, in effect on or before May 15, 1984, to have class 1, National Sewage Federation (NSF) aerated sewage disposal systems.]

701.033. 1. The department shall have the power and duty to:

(1) **Notwithstanding any other provision of law to the contrary**, promulgate [such] **one set of** rules [and regulations] as [are] **is** necessary to carry out the provisions of sections 701.025 to 701.059;

(2) Cause investigations to be made when a violation of any provision of sections 701.025 to 701.059 or the on-site sewage [disposal] **treatment** rules promulgated [under] **pursuant to** sections 701.025 to 701.059 is reported to the department;

(3) Enter at reasonable times, after receiving a complaint and determining probable cause that a violation exists, upon private or public property for the purpose of inspecting and investigating conditions relating to the administration and enforcement of sections 701.025 to 701.059 and the on-site sewage [disposal] **treatment** rules promulgated [under] **pursuant to** sections 701.025 to 701.059;

(4) Authorize the trial or experimental use of innovative systems for on-site sewage

[disposal] **treatment**, after consultation with the staff of the Missouri clean water commission, upon such conditions as the department may set.

2. No rule or portion of a rule promulgated [under the authority of] **pursuant to** sections 701.025 to 701.059 shall become effective unless it has been promulgated pursuant to the provisions of [section 536.024] **chapter 536**, RSMo.

701.035. Sections 701.025 to 701.059 shall not prohibit the enforcement of ordinances of political subdivisions establishing a system for the regulation and inspection of on-site sewage [disposal] **treatment** contractors and a minimum code of standards for design, construction, materials, operation and maintenance of on-site sewage [disposal] **treatment** systems, for the transportation and disposal of wastes therefrom and for on-site sewage [disposal] **treatment** systems servicing equipment, provided such ordinance establishes a system at least equal to state regulation and inspection. **A local ordinance may differ from the state regulation and inspection, provided such ordinance demonstrates accepted public health principles. The department may, no more than once a year, review the local ordinance. Any municipality or county aggrieved by a decision of the department may appeal a decision of the department to the state board of health established pursuant to section 191.400, RSMo. Any municipality or county aggrieved by a decision of the state board of health may appeal such decision to the administrative hearing commission as provided in section 621.120, RSMo.** [Nor shall] Sections 701.025 to 701.059 **shall not** be interpreted so as to preempt any private right of action which might otherwise exist. Nothing in sections 701.025 to 701.059 shall be construed to prohibit a political subdivision from enacting and enforcing standards which are more stringent than the provisions of sections 701.025 to 701.059 and rules promulgated pursuant thereto.

701.037. 1. Whenever the director determines, after receipt of a complaint, that there are reasonable grounds to believe that there has been violation of any provision of sections 701.025 to 701.059 or the rules promulgated [under] **pursuant to** sections 701.025 to 701.059, the director shall give notice of such alleged violation to the person responsible, as [herein] provided **in this section**. The notice shall:

(1) Be in writing;

(2) Include a statement of the reasons for the issuance of the notice;

(3) Allow reasonable time as determined by the director for the performance of any act it requires;

(4) Be served upon the owner, operator or contractor, as the case may require, provided that such notice or order shall be deemed to have been properly served upon such person when a copy thereof has been sent by registered or certified mail to the person's last known address, as listed in the local property tax records concerning such property, or when such person has been served with such notice by any other method authorized by the laws of this state;

(5) Contain an outline of remedial action which is required to effect compliance with sections 701.025 to 701.059 and the rules promulgated [under] **pursuant to** sections 701.025 to 701.059.

2. Existing systems, as defined in section 701.025, shall not be inspected, unless the director determines, upon receipt of a complaint, that there are reasonable grounds to believe that there has been a violation of any provision of sections 701.025 to 701.059.

3. If an aggrieved person files a written request for a hearing within ten days of the date of receipt of a notice, a hearing shall be held within twenty days from the date of the receipt of the notice, before the department director, to review the appropriateness of the remedial action. The director shall issue a written decision within thirty calendar days of the date of the hearing. Any final decision of the director may be appealed to the administrative hearing commission in the manner provided in chapter 621, RSMo, or may at the option of the aggrieved person be appealed to the circuit court of the county wherein the offense is alleged to have occurred for a trial de novo on the merits. Any decision of the administrative hearing commission may be appealed as provided in sections 536.100 to 536.140, RSMo.

4. Any city or county that has adopted the state standard, or the department **or its designated representative**, may require a property owner to abate a nuisance or repair a malfunctioning on-site sewage [disposal] **treatment** system on the owner's property not later than the thirtieth day from which the owner receives notification from the city, county or department of the malfunctioning system or a final written order from the director, if a hearing or hearings were held pursuant to subsections 2 and 3 of this section. If [weather] conditions prevent the abatement of the nuisance or repair of the system within the thirty-day period [or if the owner is unable, after reasonable effort, to obtain the services of a contractor or repair service within the thirty-day period], the abatement of the nuisance or repair of the system shall be made[, weather permitting, no later than sixty days after notification] **no later than a length of time established by the department or its designated representative**. Such extension for abatement or repair shall be subject to approval by the city, county or department. The department may assess an administrative penalty on the property owner of no more than fifty dollars per day for each day that the on-site sewage [disposal] **treatment** system remains unrepaired beyond the last day permitted by this section for the abatement or repair. All administrative penalties collected by the department [under the provisions of] **pursuant to** this section shall be deposited in the state treasury to the credit of the general revenue fund.

5. The prosecuting attorney of the county in which any noncompliance or violation of sections 701.025 to 701.059 or any rule promulgated [under] **pursuant to** sections 701.025 to 701.059 is occurring, **or the attorney general**, shall, at the request of the city, county or department, institute appropriate proceedings for correction in cases of noncompliance with or violation of the provisions of sections 701.025 to 701.059 and any rules promulgated [under]

**pursuant to** sections 701.025 to 701.059.

6. When it is determined by the department, after receipt of a complaint, that an emergency exists which requires immediate action to protect the health and welfare of the public, the department is authorized to seek a temporary restraining order and injunction. Such action shall be brought at the request of the director of the department by the prosecuting attorney of the county in which the violation occurred **or by the attorney general**. When such conditions are corrected and the health of the people of the state of Missouri is no longer threatened, the department shall request that such temporary restraining order and injunction be dissolved. [For the purposes of this subsection, an "emergency" means any set of circumstances that constitute an imminent health hazard or the threat of an imminent health hazard as defined in section 701.025.]

701.038. 1. The department of health or any of its agents [may not investigate a sewage complaint except when necessary] **shall investigate nuisance complaints in response to a complaint received from a person or** as part of a communicable disease investigation [unless the complaint is received from an aggrieved party or an adjacent landowner]. The department of health or any of its agents may enter any adjoining property if necessary when they are making an inspection pursuant to this section. [The necessity for entering such adjoining property] **Notice of intent to enter such property** shall be stated in writing and the owner of such property shall be notified before the department or any of its agents may enter, except that, if **verbal consent is given or if** an imminent health hazard exists, such notification shall be attempted but is not required.

2. If the department or its agents make an investigation pursuant to a complaint as described in subsection 1 of this section and find that a nuisance does exist, the property owner shall comply with state and local standards when repairing or replacing the on-site sewage [disposal] **treatment** system.

701.040. [1.] The department of health shall:

(1) Develop [by September 1, 1995, a state standard for the location, size of sewage tanks and length of lateral lines based on the percolation or permeability rate of the soil, construction, installation, and operation of on-site sewage disposal systems] **a state standard for the design, construction, installation and operation of on-site sewage treatment systems based on a soil morphology and specific site conditions**. Advice from the department of natural resources shall be considered. City or county governments may adopt, by order or ordinance, the state standard in accordance with the provisions of sections 701.025 to 701.059. In any jurisdiction where a city or county has not adopted the state standard, the department of health shall enforce the state standard until such time as the city or county adopts the standard. **If a soil morphology cannot be reasonably obtained, a percolation test may be accepted, at the discretion of the administrative authority, prior to January 1, 2003. Beginning January 1, 2003, percolation tests shall not be accepted;**

(2) Define by rule a list of those persons who are qualified to perform the [percolation tests or] soils morphology tests required by the state standard. The list shall include [the following:

(a) Persons trained and certified by either the department, which shall include on-site sewage disposal system contractors or a certified agent of the department;

(b) Licensed engineers as defined in section 327.011, RSMo;

(c) Sanitarians meeting standards defined by the department;

(d) Qualified geologists as defined in section 256.501, RSMo; and

(e) **soil scientists[,] trained in on-site sewage treatment systems and certified by the department. For purposes of this subdivision, "soil scientist" is defined as a person [that] who has successfully completed at least fifteen semester credit hours of soils science course work, including at least three semester credit hours of course work in soil morphology and interpretations, and who has successfully completed an examination and a field experience component in such soil morphology course work;**

(3) Develop in accordance with sections 701.053 to 701.055 a [voluntary] **mandatory** registration program [for on-site sewage disposal system contractors. Approved county programs shall implement the contractor registration program. In any area where a county has not adopted, by order or ordinance, the contractor registration program, the department shall implement the program until such time as the county adopts the registration program] **requiring continuing education for certain licensed professionals, including but not limited to installers, soil scientists, designers, service maintenance contractors, administrative authorities and loan evaluators;**

(4) Establish an education training program specifically developed for [contractors and city and county employees. Contractors may be taught and allowed to perform percolation tests], **but not limited to, on-site sewage treatment system contractors, soil scientists, designers, loan evaluators, service maintenance contractors and administrative authorities. The education training program shall be developed in conjunction with an advisory professional and accreditation standards committee which shall consist of at least fourteen members. The committee shall include at least two members from each profession involved, including members from the department and from the department of natural resources.** Reasonable fees may be charged of the participants to cover the cost of the training and shall be deposited in the public health services fund created in section 192.900, RSMo. The department shall provide, as a part of the education training program, an installation manual for on-site sewage [disposal systems. The manual shall also be made available, at the cost of publication and distribution, to persons not participating in the education and training program] **treatment systems;**

(5) [Periodically review, but not more than annually, any county's or city's ordinance or order and enforcement record to assure that the state standard is being consistently and



appropriately enforced. In its review the department shall assess the timeliness of the county's or city's inspections of on-site sewage systems, and county or city enforcement may be terminated if the department determines that the county or city is unable to provide prompt inspections. If the department determines that the standard is not being consistently or appropriately enforced in any city or county, the department shall notify the county or city of the department's intent to enforce the standard in that jurisdiction and after thirty days' notice hold a public hearing in such county or city to make a determination as to whether the state shall enforce the state standard. Any city or county aggrieved by a decision of the department may appeal a decision of the department to the state board of health established under section 191.400, RSMo. Any city or county aggrieved by a decision of the state board of health may appeal that decision to the administrative hearing commission in the manner provided in section 621.120, RSMo;] **Define by rule those persons who are qualified to perform soil percolation tests pursuant to subdivision (1) of this section. Any rule promulgated pursuant to this subdivision shall be of no force and effect after December 31, 2002;** and

(6) Promulgate such rules [and regulations] as are necessary to carry out the provisions of sections 701.025 to 701.059.

[2. Subdivision (5) of this section shall be void and of no effect after January 1, 1998.]

701.043. 1. The state standard shall consist of the following:

(1) Site selection requirements;

(2) Minimum [design] standards [and specifications] for **design**, construction, installation[,] and [size of sewage tanks and length of lateral lines] **maintenance of on-site sewage treatment systems;**

(3) Permit requirements;

(4) Inspections of installations;

(5) Repairs to failing systems; **and**

(6) [Requiring an engineering design for areas with a percolation rate in excess of sixty minutes per inch; and

(7)] Criteria for variances.

2. If a city, county or the department determines that an on-site sewage [disposal] **treatment system, which is being maintained and operated in a manner consistent with sections 701.025 to 701.059**, meets the requirements of the state standards, the city, county or department may not impose any additional [requirement before such on-site sewage disposal system is approved for operation] **requirements.**

3. A city, county or the department shall inspect, in the aggregate, up to sixty percent of on-site sewage [disposal] **treatment** systems constructed, modified or repaired by contractors registered [under] **pursuant to** sections 701.053 to 701.055 [and at least seventy-five percent of on-site sewage disposal systems constructed, modified or repaired by persons not registered under

sections 701.053 to 701.055] for which notice of construction, repair or modification is given [under] **pursuant to** sections 701.046 to 701.048 and 701.050.

4. A city, county or the department may accept certification without on-site inspection [under] **pursuant to** sections 701.046 to 701.048 and 701.050, from a registered contractor not required to provide a performance bond [under] **pursuant to** section 701.052, that a system is properly designed and installed, modified or repaired pursuant to the state standard.

701.046. [Except as otherwise provided in section 701.031,] No person may[, on or after September 1, 1995,] construct or make a major modification or major repair to an on-site sewage [disposal] **treatment** system without first notifying the city, county or department and completing an application[, ] upon a form provided by the department, [and] submitting a fee in the amount established by the city, county or department, **and obtaining a permit**. The fee shall be set at an amount no greater than that necessary to cover the cost to implement the state standard for on-site sewage [disposal] **treatment** systems and the registration of contractors. [For areas of the state where the department is enforcing the state standard or registering contractors, the department shall establish the fee, by rule, at an amount not greater than ninety dollars. The department may charge an additional fee, as necessary, to cover the expenses of training those contractors electing to perform the percolation tests.] The application form shall require such information necessary to show that the on-site sewage [disposal] **treatment** system will comply with the state standard. [Such fees, when collected by the department, shall be deposited in the state treasury to the credit of the Missouri public health services fund.] The department shall provide technical assistance regarding the type and location of the system to be installed when processing applications received [under] **pursuant to** sections 701.046 to 701.048 and 701.050. Fees collected by the department shall be deposited in the Missouri public health services fund created in section 192.900, RSMo, and shall be used to implement sections 701.025 to 701.059 and for no other purpose.

701.048. [Except as otherwise provided in section 701.031,] No person may construct, modify or repair an on-site sewage [disposal] **treatment** system in a manner which does not comply with the state standard established [under] **pursuant to** sections 701.025 to 701.059.

701.050. No person required to provide notice and apply to the city, county or department [under] **pursuant to** section 701.046 may complete the construction, major modification or major repair of an on-site sewage [disposal] **treatment** system without providing notice and an opportunity for inspection by the city, county or department as provided in this section. **The person installing shall notify the administrative authority prior to 9:00 a.m. on the day prior to the date of commencement.** The person shall notify the city, county or department prior to 9:00 a.m. on the **second** day [preceding] **prior to the date of** completion, [in the case of contractors registered under sections 701.053 to 701.055, or prior to 9:00 a.m. on the second day preceding completion, in the case of persons not registered under sections 701.053 to 701.055,] and

the system shall be maintained in a condition which allows for a complete inspection, pursuant to the state standard, until 3:00 p.m. on the day of completion, unless the city, county or department provides confirmation that the system has been inspected and approved prior to that time. The system shall not be closed or completed if the city, county or department determines upon inspection that the system does not meet the state standard, and the city, county or department shall provide, at the time of inspection, a conspicuous marker or other form of notice indicating that the system does not meet the state standard. The city, county or department shall provide written confirmation of the results of the inspection or confirmation that the department did not inspect the system to the property owner [within three working days of the day of completion].

701.051. [The department of health may charge a fee of up to fifty dollars for an inspection of an on-site sewage disposal system conducted pursuant to a request from a lending institution, a prospective purchaser, the owner of the property, a real estate agent or a real estate broker. The fee for such inspection shall be paid by the requesting party. The fees collected by the department pursuant to this section shall be deposited in the Missouri public health services fund.] **A loan evaluation may be conducted pursuant to a request from a lending institution, a prospective purchaser, the owner of the property, a real estate agent or a real estate broker.** The department of health may [license and use] **allow** private contractors to carry out the provisions of this section, **and shall license all inspectors.**

701.052. 1. A person who has, within the preceding twenty-four months, been found guilty or pleaded guilty to a violation of section 701.046, 701.047, 701.048 or 701.050 may not begin construction, major modification or major repair of an on-site sewage [disposal] **treatment** system that is owned by another person unless the person constructing, modifying or repairing the system has provided to the department a performance bond or letter of credit as provided [under] **in** this section.

2. The bond or letter shall be conditioned upon faithful compliance with the state standard for on-site sewage [disposal] **treatment** systems established [under] **pursuant to** sections 701.025 to 701.059 and shall be in the amount of five thousand dollars.

3. Such performance bond, placed on file with the department, shall be in one of the following forms:

(1) A performance bond, payable to the department and issued by an institution authorized to issue such bonds in this state; or

(2) An irrevocable letter of credit issued in favor of and payable to the department from a commercial bank or savings and loan having an office in the state of Missouri.

4. Upon a determination by the department that a person has failed to construct, modify or repair an on-site sewage [disposal] **treatment** system in compliance with the state standard, the department shall notify the person that the bond or letter of credit shall be forfeited and the moneys placed in the Missouri public health services fund for remedial action, if that person does not bring

the system up to the state standard established [under] **pursuant to** sections 701.025 to 701.059 within thirty days after notice of such determination has been given.

5. If the system is not brought into compliance with the state standard within thirty days, the department shall, within thirty days of the expiration of the notice period, expend whatever portion of the bond or letter of credit is necessary to hire a registered on-site sewage [disposal] **treatment** system contractor to bring the system into compliance with the state standard.

6. The requirement for a person to provide a performance bond or a letter of credit [under] **pursuant to** this section shall cease for that person after two consecutive years in which the person has not been found guilty or pleaded guilty to a violation of section 701.046, 701.047, 701.048 or 701.050.

7. Emergency major modification or major repair of the on-site sewage [disposal] **treatment** system made to relieve an imminent health hazard may be made without a permit, but the city, county or department shall be notified not later than the fifth working day after the date on which the repair is made, and the city, county or department shall establish an expedited review process for emergency major modifications or major repairs.

701.053. 1. A person may not represent himself as a registered on-site sewage [disposal] **treatment** system contractor in this state unless the person is registered by [a county or] the department. [A county or] The department shall issue registration to a [contractor] **licensed professional** if the [contractor] **licensed professional** completes an application form that is in compliance with sections 701.025 to 701.059 and the rules [and regulations] adopted [thereunder] **pursuant to sections 701.025 to 701.059**. [A registration issued by a county in compliance with sections 701.053 to 701.055 shall be considered a state registration and valid in all political subdivisions of the state.]

2. To qualify for registration, a [contractor] **licensed professional** must successfully complete the educational training program provided by the department.

701.054. 1. A [contractor's] **licensed professional's** registration may be denied, suspended or revoked by the department if the [contractor] **licensed professional** violates sections 701.025 to 701.059 or any rule or regulation adopted [thereunder] **pursuant to sections 701.025 to 701.059**. The [contractor] **licensed professional** may appeal to the department within thirty days of the notice of denial, suspension or revocation by requesting a hearing or written review of the decision. After the hearing or written review, the department shall issue a final decision which the [contractor] **licensed professional** may appeal as provided by sections 536.100 to 536.140, RSMo. If the department's decision to revoke, suspend or deny is upheld or not appealed, the [contractor] **licensed professional** may reapply for registration one year after the date of the departmental action.

2. Each [contractor] **licensed professional** shall furnish proof of valid registration if requested by any person or a city, county or department.

3. The department shall publish an official roster of registered [contractors] **licensed professionals**. The department shall also publish a list of the names of the [contractors] **licensed professionals** who have had their registration revoked, suspended or denied pursuant to sections 701.025 to 701.059.

701.055. [1. Nothing in sections 701.053 to 701.055 shall preclude property owners from installing, modifying or repairing their own on-site sewage disposal system as long as they comply with the provisions of sections 701.025 to 701.059.

2. Nothing in sections 701.025 to 701.059 shall be construed so as to require a property owner to obtain a permit or to obtain registration as an on-site sewage disposal system contractor in order to clean that property owner's on-site sewage disposal system.] **Property owners may install or modify their own on-site sewage treatment system in compliance with section 701.040.**

701.059. 1. Any person or property owner who creates a nuisance or imminent health hazard as defined in section 701.025 on any [single-family residence lot of three acres or more] **real property** is guilty of an infraction.

2. For the purposes of section 516.120, RSMo, the statute of limitations begins to run when an owner knows or should have known that an on-site sewage [disposal] **treatment** system contractor had installed a defective system, a system which was inappropriate for the site or had installed a system incorrectly.