

AN ACT

To amend sections 307.37, 319.281, 521.01, 711.05, 711.10, 711.131, 3701.83, 3709.085, 3709.09, 3709.091, 4736.01, 5302.30, 6111.04, and 6111.44 and to enact sections 3718.01, 3718.02, 3718.021, 3718.03 to 3718.10, 3718.99, and 6111.441 of the Revised Code to require the Public Health Council to adopt rules governing household sewage treatment systems and small flow on-site sewage treatment systems, to define and authorize boards of health to regulate small flow on-site sewage treatment systems, to create the Sewage Treatment System Technical Advisory Committee to advise the Director of Health on the approval or disapproval of new systems, to require the transferor of real property that is served by a sewage treatment system to provide on the real property disclosure form a statement that operation and maintenance information on the system is available from the Department of Health or the local board of health of the health district in which the system is located, and to establish other requirements governing sewage treatment systems.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 307.37, 319.281, 521.01, 711.05, 711.10, 711.131, 3701.83, 3709.085, 3709.09, 3709.091, 4736.01, 5302.30, 6111.04, and 6111.44 be amended and sections 3718.01, 3718.02, 3718.021, 3718.03, 3718.04, 3718.05, 3718.06, 3718.07, 3718.08, 3718.09, 3718.10, 3718.99, and 6111.441 of the Revised Code be enacted to read as follows:

Sec. 307.37. (A) As used in this section, "proposed new construction" means a proposal to erect, construct, repair, alter, redevelop, or maintain a

single-family, two-family, or three-family dwelling or any structure that is regulated by the Ohio building code.

(B)(1) The board of county commissioners, in addition to its other powers, may adopt, amend, rescind, administer, and enforce regulations pertaining to the erection, construction, repair, alteration, redevelopment, and maintenance of single-family, two-family, and three-family dwellings within the unincorporated territory of the county, or the board may establish districts in any part of the unincorporated territory and may adopt, amend, rescind, administer, and enforce such regulations in the districts. When adopted, all regulations, including service charges, shall be uniform within all districts in which building codes are established; however, more stringent regulations may be imposed in flood hazard areas and in Lake Erie coastal erosion areas identified under section 1506.06 of the Revised Code in order to prevent or reduce the hazard resulting from flooding and from erosion along Lake Erie. Except as provided in division (B)(3) of this section, in no case shall the regulations go beyond the scope of regulating the safety, health, and sanitary conditions of those buildings.

Any person adversely affected by an order of the board adopting, amending, or rescinding a regulation under this section may appeal to the court of common pleas of the county on the ground that the board failed to comply with the law in adopting, amending, rescinding, publishing, or distributing the regulation, that the regulation, as adopted or amended by the board, is unreasonable or unlawful, or that the revision of the regulation was unreasonable or unlawful.

(2) A county building code may include regulations for participation in the national flood insurance program established in the "Flood Disaster Protection Act of 1973," 87 Stat. 975, 42 U.S.C.A. 4002, as amended, and regulations adopted for the purposes of section 1506.04 or 1506.07 of the Revised Code governing the prohibition, location, erection, construction, redevelopment, or floodproofing of new buildings or structures, substantial improvements to existing buildings or structures, or other development in unincorporated territory within flood hazard areas identified under the "Flood Disaster Protection Act of 1973," 87 Stat. 975, 42 U.S.C.A. 4002, as amended, or within Lake Erie coastal erosion areas identified under section 1506.06 of the Revised Code, including, but not limited to, residential, commercial, institutional, or industrial buildings or structures or other permanent structures, as defined in section 1506.01 of the Revised Code. Rules adopted under division (B)(2) of this section shall not conflict with the Ohio building code.

(3)(a) A county building code may include regulations that provide for a

review of the specific effects of a proposed new construction on existing surface or subsurface drainage. The regulations may require reasonable drainage mitigation and reasonable alteration of a proposed new construction before a building permit is issued in order to prevent or correct any adverse effects that the proposed new construction may have on existing surface or subsurface drainage. The regulations shall not be inconsistent with, more stringent than, or broader in scope than standards adopted by the natural resource conservation service in the United States department of agriculture concerning drainage or rules adopted by the environmental protection agency for reducing, controlling, or mitigating storm water runoff from construction sites, where applicable. The regulations shall allow a person who is registered under Chapter 4703. or 4733. of the Revised Code to prepare and submit relevant plans and other documents for review, provided that the person is authorized to prepare the plans and other documents pursuant to the person's registration.

(b) If regulations are adopted under division (B)(3) of this section, the board shall specify in the regulations a procedure for the review of the specific effects of a proposed new construction on existing surface or subsurface drainage. The procedure shall include at a minimum all of the following:

(i) A meeting at which the proposed new construction shall be examined for those specific effects. The meeting shall be held within thirty days after an application for a building permit is filed or a review is requested unless the applicant agrees in writing to extend that time period or to postpone the meeting to another date, time, or place. The meeting shall be scheduled within five days after an application for a building permit is filed or a review is requested.

(ii) Written notice of the date, time, and place of that meeting, sent by regular mail to the applicant. The written notice shall be mailed at least seven days before the scheduled meeting date.

(iii) Completion of the review by the board of county commissioners not later than thirty days after the application for a building permit is filed or a review is requested unless the applicant has agreed in writing to extend that time period or postpone the meeting to a later time, in which case the review shall be completed not later than two days after the date of the meeting. A complete review shall include the issuance of any order of the board of county commissioners regarding necessary reasonable drainage mitigation and necessary reasonable alterations to the proposed new construction to prevent or correct any adverse effects on existing surface or subsurface drainage. If the review is not completed within the thirty-day period or an

extended or postponed period that the applicant has agreed to, the proposed new construction shall be deemed to have no adverse effects on existing surface or subsurface drainage, and those effects shall not be a valid basis for the denial of a building permit.

(iv) A written statement, provided to the applicant at the meeting or in an order for alterations to a proposed new construction, informing the applicant of the right to seek appellate review of the denial of a building permit under division (B)(3)(b)(iii) of this section by filing a petition in accordance with Chapter 2506. of the Revised Code.

(c) The regulations may authorize the board, after obtaining the advice of the county engineer, to enter into an agreement with the county engineer or another qualified person or entity to carry out any necessary inspections and make evaluations about what, if any, alterations are necessary to prevent or correct any adverse effects that a proposed new construction may have on existing surface or subsurface drainage.

(d) Regulations authorized by division (B)(3) of this section shall not apply to any property that has been approved by a platting authority under section 711.05, 711.09, 711.10, or 711.131 of the Revised Code.

(e) As used in division (B)(3) of this section, "subsurface drainage" does not include a household sewage ~~disposal~~ treatment system as defined in section 3709.091 of the Revised Code.

(C) Regulations or amendments may be adopted under this section only after public hearing at not fewer than two regular sessions of the board. The board shall cause to be published in a newspaper of general circulation in the county notice of the public hearings, including time, date, and place, once a week for two weeks immediately preceding the hearings. The proposed regulations or amendments shall be made available by the board to the public at the board office. The regulations or amendments shall take effect on the thirty-first day following the date of their adoption.

(D) No person shall violate any regulation of the board adopted under sections 307.37 to 307.40 of the Revised Code.

Each day during which an illegal location, erection, construction, floodproofing, repair, alteration, development, redevelopment, or maintenance continues may be considered a separate offense.

(E) Regulations or amendments adopted by resolution of the board do not affect buildings or structures that exist or on which construction has begun on or before the date the regulation or amendment is adopted by the board.

(F) The board may provide for a building regulation department and may employ personnel that it determines to be necessary for the purpose of

enforcing its regulations. Upon certification of the building department under section 3781.10 of the Revised Code, the board may direct the county building department to exercise enforcement authority and to accept and approve plans pursuant to sections 3781.03 and 3791.04 of the Revised Code for any other kind or class of building in the unincorporated territory of the county.

Sec. 319.281. The county auditor shall place on the general tax list and duplicate compiled in accordance with section 319.28 of the Revised Code the amount certified by the health commissioner of a city or general health district pursuant to section 3709.091 of the Revised Code of any unpaid operation permit or inspection fee for a household sewage ~~disposal~~ treatment system or a small flow on-site sewage treatment system or any other unpaid fee levied under Chapter 3718. of the Revised Code and any accrued late payment penalties, together with any fee charged by the county auditor for placing the amount on the general tax list and duplicate and for the expenses of its collection. The amount placed on the general tax list and duplicate shall be a lien on the real property on which the household sewage ~~disposal~~ treatment system or small flow on-site sewage treatment system is located from the date the amount was placed on the tax list and duplicate, and shall be charged and collected in the same manner as taxes on the list.

Sec. 521.01. (A) As used in this chapter, "private sewage collection tile" means any tile, ditch, pipe, or other improvement installed by a private person to receive and convey sewage and sewage effluent from at least five household sewage ~~disposal~~ treatment systems, as those systems are defined ~~in rules adopted by the public health council under~~ in section ~~3701.34~~ 3718.01 of the Revised Code.

(B) A board of township trustees may maintain and repair private sewage collection tiles located within a township road right-of-way in the township, where the expenditure from the township general fund for materials to maintain and repair the tiles does not exceed two hundred dollars for any one project. No maintenance or repair shall be performed that is paid for from the township general fund under this division until the board adopts a resolution authorizing the maintenance or repair. If material costs would exceed two hundred dollars, the board may proceed under ~~sections 521.02 to 521.07 of the Revised Code~~ this chapter to maintain and repair the tiles by assessing the cost against property based on the special benefits the property receives from the project.

Sec. 711.05. (A) Upon the submission of a plat for approval, in accordance with section 711.041 of the Revised Code, the board of county commissioners shall certify on it the date of the submission. Within five

days of submission of the plat, the board shall schedule a meeting to consider the plat and send a written notice by regular mail to the clerk of the board of township trustees of the township in which the plat is located and the board of health of the health district in which the plat is located. The notice shall inform the trustees and the board of health of the submission of the plat and of the date, time, and location of any meeting at which the board of county commissioners will consider or act upon the proposed plat. The meeting shall take place within thirty days of submission of the plat, and no meeting shall be held until at least seven days have passed from the date the notice was sent by the board of county commissioners. The approval of the board required by section 711.041 of the Revised Code or the refusal to approve shall take place within thirty days from the date of submission or such further time as the applying party may agree to in writing; otherwise the plat is deemed approved and may be recorded as if bearing such approval.

(B) The board may adopt general rules governing plats and subdivisions of land falling within its jurisdiction, to secure and provide for the coordination of the streets within the subdivision with existing streets and roads or with existing county highways, for the proper amount of open spaces for traffic, circulation, and utilities, and for the avoidance of future congestion of population detrimental to the public health, safety, or welfare, but shall not impose a greater minimum lot area than forty-eight hundred square feet. Before the board may amend or adopt rules, it shall notify all the townships in the county of the proposed amendments or rules by regular mail at least thirty days before the public meeting at which the proposed amendments or rules are to be considered.

The rules may require the ~~county department~~ board of health to review and comment on a plat before the board of county commissioners acts upon it and may also require proof of compliance with any applicable zoning resolutions, and with household sewage treatment rules adopted under section 3718.02 of the Revised Code, as a basis for approval of a plat. ~~Where under the provisions of~~ section 711.101 of the Revised Code the board of county commissioners has set up standards and specifications for the construction of streets, utilities, and other improvements for common use, ~~such~~ the general rules may require the submission of appropriate plans and specifications for approval. The board shall not require the person submitting the plat to alter the plat or any part of it as a condition for approval, as long as the plat is in accordance with general rules governing plats and subdivisions of land, adopted by the board as provided in this section, in effect at the time the plat was submitted and the plat is in

accordance with any standards and specifications set up under section 711.101 of the Revised Code, in effect at the time the plat was submitted.

(C) The ground of refusal to approve any plat, submitted in accordance with section 711.041 of the Revised Code, shall be stated upon the record of the board, and, within sixty days thereafter, the person submitting any plat that the board refuses to approve may file a petition in the court of common pleas of the county in which the land described in the plat is situated to review the action of the board. A board of township trustees is not entitled to appeal a decision of the board of county commissioners under this section.

Sec. 711.10. Whenever a county planning commission or a regional planning commission adopts a plan for the major streets or highways of the county or region, no plat of a subdivision of land within the county or region, other than land within a municipal corporation or land within three miles of a city or one and one-half miles of a village as provided in section 711.09 of the Revised Code, shall be recorded until it is approved by the county or regional planning commission and the approval is endorsed in writing on the plat. Within five days after the submission of a plat for approval, the county or regional planning commission shall schedule a meeting to consider the plat and send a notice by regular mail or by electronic mail to the clerk of the board of township trustees of the township in which the plat is located and the board of health of the health district in which the plat is located. The notice shall inform the trustees and the board of health of the submission of the plat and of the date, time, and location of any meeting at which the county or regional planning commission will consider or act upon the plat. The meeting shall take place within thirty days after submission of the plat, and no meeting shall be held until at least seven days have passed from the date the notice was sent by the planning commission.

The approval of the planning commission or the refusal to approve shall be endorsed on the plat within thirty days after the submission of the plat for approval, or within such further time as the applying party may agree to in writing; otherwise that plat is deemed approved, and the certificate of the planning commission as to the date of the submission of the plat for approval and the failure to take action on it within that time shall be sufficient in lieu of the written endorsement or evidence of approval required by this section. A county or regional planning commission shall not require a person submitting the plat to alter the plat or any part of it as a condition for approval, as long as the plat is in accordance with the general rules governing plats and subdivisions of land, adopted by the commission as provided in this section, in effect at the time the plat is submitted. The

ground of refusal of approval of any plat submitted, including citation of or reference to the rule violated by the plat, shall be stated upon the record of the commission. Within sixty days after the refusal, the person submitting any plat that the county or regional planning commission refuses to approve may file a petition in the court of common pleas of the proper county, and the proceedings on the petition shall be governed by section 711.09 of the Revised Code as in the case of the refusal of a planning authority to approve a plat. A board of township trustees is not entitled to appeal a decision of the county or regional planning commission under this section.

A county or regional planning commission shall adopt general rules, of uniform application, governing plats and subdivisions of land falling within its jurisdiction, to secure and provide for the proper arrangement of streets or other highways in relation to existing or planned streets or highways or to the county or regional plan, for adequate and convenient open spaces for traffic, utilities, access of firefighting apparatus, recreation, light, and air, and for the avoidance of congestion of population. The rules may provide for their modification by the county or regional planning commission in specific cases where unusual topographical and other exceptional conditions require the modification. The rules may require the ~~county department~~ board of health to review and comment on a plat before the county or regional planning commission acts upon it and may also require proof of compliance with any applicable zoning resolutions, and with household sewage treatment rules adopted under section 3718.02 of the Revised Code, as a basis for approval of a plat.

Before adoption of its rules or amendment of its rules, a public hearing shall be held on the adoption or amendment by the commission. Notice of the public hearing shall be sent to all townships in the county or region by regular mail or electronic mail at least thirty days before the hearing. No county or regional planning commission shall adopt any rules requiring actual construction of streets or other improvements or facilities or assurance of that construction as a condition precedent to the approval of a plat of a subdivision unless the requirements have first been adopted by the board of county commissioners after a public hearing. A copy of the rules shall be certified by the planning commission to the county recorders of the appropriate counties.

After a county or regional street or highway plan has been adopted as provided in this section, the approval of plats and subdivisions provided for in this section shall be in lieu of any approvals provided for in other sections of the Revised Code, so far as the territory within the approving jurisdiction of the county or regional planning commission, as provided in this section,

is concerned. Approval of a plat shall not be an acceptance by the public of the dedication of any street, highway, or other way or open space shown upon the plat. Any county or regional planning commission and a city or village planning commission, or platting commissioner or legislative authority of a village, with subdivision regulation jurisdiction over unincorporated territory within the county or region may cooperate and agree by written agreement that the approval of a plat by the city or village planning commission, or platting commissioner or legislative authority of a village, as provided in section 711.09 of the Revised Code, shall be conditioned upon receiving advice from or approval by the county or regional planning commission.

Sec. 711.131. Notwithstanding sections 711.001 to 711.13 of the Revised Code, a proposed division of a parcel of land along an existing public street, not involving the opening, widening, or extension of any street or road, and involving no more than five lots after the original tract has been completely subdivided, may be submitted to the authority having approving jurisdiction of plats under section 711.05, 711.09, or 711.10 of the Revised Code for approval without plat. If the authority acting through a properly designated representative is satisfied that the proposed division is not contrary to applicable platting, subdividing, zoning, or access management regulations ~~or~~ regulations adopted under division (B)(3) of section 307.37 of the Revised Code regarding existing surface or subsurface drainage, or household sewage treatment rules adopted under section 3718.02 of the Revised Code, it shall within seven working days after submission approve the proposed division and, on presentation of a conveyance of the parcel, shall stamp the conveyance "approved by (planning authority); no plat required" and have it signed by its clerk, secretary, or other official as may be designated by it. The planning authority may require the submission of a sketch and other information that is pertinent to its determination under this section.

Sec. 3701.83. (A) There is hereby created in the state treasury the general operations fund. Moneys in the fund shall be used for the purposes specified in sections 3701.04, 3701.344, 3702.20, 3710.15, 3711.021, 3717.45, 3718.06, 3721.02, 3722.04, 3729.07, 3733.04, 3733.25, 3733.43, 3748.04, 3748.05, 3748.07, 3748.12, 3748.13, 3749.04, 3749.07, 4747.04, 4751.04, and 4769.09 of the Revised Code.

(B) The alcohol testing program fund is hereby created in the state treasury. The director of health shall use the fund to administer and enforce the alcohol testing and permit program authorized by section 3701.143 of the Revised Code.

The fund shall receive transfers from the liquor control fund created under section 4301.12 of the Revised Code. All investment earnings of the alcohol testing program fund shall be credited to the fund.

Sec. 3709.085. (A) The board of health of a city or general health district may enter into a contract with any political subdivision or other governmental agency to obtain or provide all or part of any services, including, but not limited to, enforcement services, for the purposes of Chapter 3704. of the Revised Code, the rules adopted and orders made pursuant thereto, or any other ordinances or rules for the prevention, control, and abatement of air pollution.

(B)(1) As used in division (B)(2) of this section:

(a) "Semipublic disposal system" means a disposal system that treats the sanitary sewage discharged from publicly or privately owned buildings or places of assemblage, entertainment, recreation, education, correction, hospitalization, housing, or employment, but does not include a disposal system that treats sewage in amounts of more than twenty-five thousand gallons per day; a disposal system for the treatment of sewage that is exempt from the requirements of section 6111.04 of the Revised Code pursuant to division (F)~~(6)~~(7) of that section; or a disposal system for the treatment of industrial waste.

(b) Terms defined in section 6111.01 of the Revised Code have the same meanings as in that section.

(2) The board of health of a city or general health district may enter into a contract with the environmental protection agency to conduct on behalf of the agency inspection or enforcement services, for the purposes of Chapter 6111. of the Revised Code and rules adopted thereunder, for the disposal or treatment of sewage from semipublic disposal systems. The board of health of a city or general health district may charge a fee established pursuant to section 3709.09 of the Revised Code to be paid by the owner or operator of a semipublic disposal system for inspections conducted by the board pursuant to a contract entered into under division (B)(2) of this section, except that the board shall not charge a fee for those inspections conducted at any recreational vehicle park, recreation camp, or combined park-camp that is licensed under section 3729.05 of the Revised Code or at any manufactured home park that is licensed under section 3733.03 of the Revised Code.

Sec. 3709.09. (A) The board of health of a city or general health district may, by rule, establish a uniform system of fees to pay the costs of any services provided by the board.

The fee for issuance of a certified copy of a vital record or a

certification of birth shall not be less than the fee prescribed for the same service under division (A)(1) of section 3705.24 of the Revised Code and shall include the fees required by division (B) of section 3705.24 and section 3109.14 of the Revised Code.

Fees for services provided by the board for purposes specified in sections 3701.344, 3711.05, 3718.06, 3729.07, 3730.03, 3733.04, 3733.25, and 3749.04 of the Revised Code shall be established in accordance with rules adopted under division (B) of this section. The district advisory council, in the case of a general health district, and the legislative authority of the city, in the case of a city health district, may disapprove any fee established by the board of health under this division, and any such fee, as disapproved, shall not be charged by the board of health.

(B) The public health council shall adopt rules under section 111.15 of the Revised Code that establish fee categories and uniform methodologies for use in calculating the costs of services provided for purposes specified in sections 3701.344, 3711.05, 3718.06, 3729.07, 3730.03, 3733.04, 3733.25, and 3749.04 of the Revised Code. In adopting the rules, the public health council shall consider recommendations it receives from advisory boards established either by statute or the director of health for entities subject to the fees.

(C) At least thirty days prior to establishing a fee for a service provided by the board for a purpose specified in section 3701.344, 3711.05, 3718.06, 3729.07, 3730.03, 3733.04, 3733.25, or 3749.04 of the Revised Code, a board of health shall notify any entity that would be affected by the proposed fee of the amount of the proposed fee.

Sec. 3709.091. (A) As used in this section:

(1) "Household sewage ~~disposal~~ treatment system" means any sewage ~~disposal or~~ treatment system, or part ~~thereof~~ of such a system, for a single-family, two-family, or three-family dwelling that receives sewage.

(2) "Sewage" means ~~any~~ liquid waste containing animal or vegetable matter in suspension or solution ~~from water closets, urinals, lavatories, bathtubs, laundry tubs or devices, floor drains, drinking fountains, or other sanitary fixtures, and may include liquid containing chemicals in solution~~ that originates from humans and human activities. "Sewage" includes liquids containing household chemicals in solution commonly discharged from a residence or from commercial, institutional, or other similar facilities.

(3) "Small flow on-site sewage treatment system" means a system, other than a household sewage treatment system, that treats not more than one thousand gallons of sewage per day and that does not require a national

pollutant discharge elimination system permit issued under section 6111.03 of the Revised Code or an injection well drilling or operating permit issued under section 6111.043 of the Revised Code.

(B) If any owner, leaseholder, or assignee of real property fails to pay a fee as required by rule of a board of health of a city or general health district pursuant to section 3709.09 of the Revised Code for an operation permit for, or for inspection of, a household sewage ~~disposal~~ treatment system or a small flow on-site sewage treatment system located on the real property, the health commissioner of the city or general health district or the commissioner's designated representative shall notify the owner, leaseholder, or assignee of the real property of the amount of the fee and any accrued penalties for late payment of the fee. The notice shall state, in boldface letters: "You have 30 days to object to the amount of the unpaid operation permit or inspection fee for your household sewage ~~disposal~~ treatment system or small flow on-site sewage treatment system, as applicable, as designated in this notice, which may include accrued penalties for late payment of the fee. If you do not pay this amount as instructed herein within 30 days of receipt of this notice or object to this amount during that time period in accordance with the procedures set forth herein, the amount will be placed as a lien on your real property." The notice also shall explain how the owner, leaseholder, or assignee may pay the amount, or object to the amount in accordance with the procedures established by divisions (C) and (D) of this section.

Notice to the owner, leaseholder, or assignee shall be made by either of the following:

- (1) Certified mail, overnight delivery service, hand delivery, or any other method that includes written evidence of receipt;
- (2) The sheriff of the county in which the owner, leaseholder, or assignee to be served resides, in one or more of the methods provided in the Ohio Rules of Civil Procedure. The sheriff may charge reasonable fees for ~~such~~ that service.

(C) Not later than thirty days after receipt under division (B) of this section of notification of the amount of an unpaid operation permit or inspection fee and any accrued late payment penalties, the owner, leaseholder, or assignee may object to the amount by delivering a written notice of objection to the health commissioner by any of the means provided for in division (B)(1) of this section. Not later than sixty days after receipt of the notice of objection, the county prosecutor, on behalf of the city or general health district, may file a civil action in the court of common pleas against the owner, leaseholder, or assignee. If the county prosecutor fails to

commence suit within the sixty-day period, or if the action is commenced, but dismissed with prejudice before adjudication, the unpaid fee and any accrued late payment penalties are void and cannot be placed on the general tax list and duplicate as a lien against the real property.

(D) If, in accordance with division (C) of this section, the owner, leaseholder, or assignee objects to the amount of the unpaid operation permit or inspection fee and any accrued late payment penalties and the county prosecutor commences suit and prevails in the action, the owner, leaseholder, or assignee objecting shall pay the amount of the fee, any accrued late payment penalties, and the costs of the action, as determined by the court.

(E) If the owner, leaseholder, or assignee on which the notice required by division (B) of this section was served does not pay to the city or general health district the amount of an unpaid operation permit or inspection fee and any accrued late payment penalties within thirty days after receipt of the notice, or does not object to the amount in the manner provided in division (C) of this section, the health commissioner of the city or general health district or the commissioner's designated representative may certify, on or before the first Monday of September, the amount of the unpaid fee and any accrued late payment penalties to the county auditor to be placed on the general tax list and duplicate as provided in section 319.281 of the Revised Code.

Sec. 3718.01. As used in this chapter:

(A) "Alter" means to change by making substantive replacements of, additions to, or deletions in the design or materials or to change the location of an existing sewage treatment system.

(B) "Board of health" means the board of health of a city or general health district or the authority having the duties of a board of health in any city as authorized by section 3709.05 of the Revised Code.

(C) "Domestic septage" means the liquid or solid material removed from a sewage treatment system, portable toilet, or type III marine sanitation device as defined in 33 C.F.R. 159.3. "Domestic septage" does not include grease removed from a grease trap.

(D) "Household sewage treatment system" means any sewage treatment system, or part of such a system, that receives sewage from a single-family, two-family, or three-family dwelling.

(E) "Inspection" means the on-site evaluation or analysis of the functioning of a sewage treatment system.

(F) "Installer" means any person who engages in the business of installing or altering or who, as an employee of another, installs or alters any

sewage treatment system.

(G) "Manufacturer" means any person that manufactures sewage treatment systems or components of systems.

(H) "Person" has the same meaning as in section 1.59 of the Revised Code and also includes any state, any political subdivision of a state, and any department, division, board, commission, agency, or instrumentality of a state or political subdivision.

(I) "Sanitary sewerage system" means pipelines or conduits, pumping stations, force mains, and all other constructions, devices, appurtenances, and facilities that convey sewage to a central sewage treatment plant and that are required to obtain a permit under Chapter 6111. of the Revised Code.

(J) "Septage hauler" means any person who engages in the collection, transportation, disposal, and land application of domestic septage.

(K) "Service provider" means any person who services, but does not install or alter, sewage treatment systems.

(L) "Sewage" means liquid waste containing animal or vegetable matter in suspension or solution that originates from humans and human activities. "Sewage" includes liquids containing household chemicals in solution commonly discharged from a residence or from commercial, institutional, or other similar facilities.

(M) "Sewage treatment system" means a household sewage treatment system, a small flow on-site sewage treatment system, or both, as applicable.

(N) "Small flow on-site sewage treatment system" means a system, other than a household sewage treatment system, that treats not more than one thousand gallons of sewage per day and that does not require a national pollutant discharge elimination system permit issued under section 6111.03 of the Revised Code or an injection well drilling or operating permit issued under section 6111.043 of the Revised Code.

Sec. 3718.02. (A) Not later than one year after the effective date of this section, the public health council, in accordance with Chapter 119. of the Revised Code, shall adopt, and subsequently may amend and rescind, rules of general application throughout the state to administer this chapter. Rules adopted under division (A) of this section shall do at least all of the following:

(1) Require that the appropriate board of health approve or disapprove the use of a sewage treatment system if it is not connected to a sanitary sewerage system;

(2) Require that a board of health conduct a site evaluation for any proposed installation of a sewage treatment system;

(3) Prescribe standards for the siting, design, installation, operation, monitoring, maintenance, and abandonment of household sewage treatment systems that may be used in this state. The standards shall include at a minimum all of the following:

(a) Soil absorption specifications;

(b) Specifications for discharging systems that do not conflict with provisions related to the national pollutant discharge elimination system permit program established in section 6111.03 of the Revised Code and rules adopted under it;

(c) Requirements for the maintenance of a system according to the manufacturer's instructions, if available;

(d) Requirements and procedures under which a person may demonstrate the required maintenance of a system in lieu of having an inspection conducted when an inspection otherwise is required.

The rules also shall require that a system that has been or is sited or installed prior to or on the effective date of the rules and that is operating on that date shall be deemed approved unless the system is declared to be a public health nuisance by a board of health.

(4) Prescribe procedures for notification to boards of health of the approval of a sewage treatment system or components of a system by the director of health under section 3718.04 of the Revised Code;

(5) Prescribe criteria and procedures under which boards of health shall issue installation and operation permits for sewage treatment systems. The rules shall require as a condition of an installation permit that the installer of a system must warrant that the system was installed in accordance with all applicable rules and design requirements. In addition, the rules shall require a board of health, not later than sixty days after the issuance of an installation permit, to certify to the director on a form provided by the director that the permit was issued.

(6) Require a board of health to inspect a sewage treatment system not later than eighteen months after its installation to ensure that the system is operating properly. The rules shall require a board of health, not later than sixty days after the inspection, to certify to the director on a form provided by the director that the inspection was performed.

(7) Require a board of health to register installers, service providers, and septage haulers that perform work within the health district; prescribe criteria and procedures for the registration; and prescribe criteria for a demonstration of competency as a part of the registration;

(8) Prescribe requirements for the collection, transportation, disposal, and land application of domestic septage in this state from a sewage

treatment system:

(9) Require boards of health to maintain records that are determined necessary to ascertain compliance with this chapter and the rules adopted under it:

(10) Require a board of health and the manufacturer of a sewage treatment system, when possible, to provide instructions for the operation and maintenance of the system. The rules shall authorize the instructions to be posted on the department of health's web site and the manufacturer's web site. In addition, the rules shall require a board of health and a manufacturer to provide a copy of the operation and maintenance instructions, if available, when a board of health or a manufacturer receives a written request for instructions.

(11) Prescribe criteria for the provision of written evidence of compliance with rules pertaining to household sewage treatment for purposes of sections 711.05 and 711.10 of the Revised Code:

(12) Prescribe minimum criteria and procedures under which boards of health may establish household sewage treatment district management programs for the purpose of providing a responsive approach toward preventing or solving sewage treatment problems resulting from household sewage treatment systems within the districts established under the program. For purposes of division (A)(12) of this section, a board of health may enter into a contract with any entity to administer a household sewage treatment district management program.

(13) Prescribe standards for the siting, design, installation, operation, monitoring, maintenance, and abandonment of small flow on-site sewage treatment systems that may be used in this state.

The council may adopt other rules under division (A) of this section that it determines are necessary to implement this chapter and to protect the public health and welfare.

At least sixty days prior to adopting a rule under division (A) of this section, the council shall provide boards of health and any other interested parties an opportunity to comment on the rule.

(B) In accordance with section 3709.20 or 3709.21 of the Revised Code, as applicable, and subject to review by and approval of the director under division (C) of section 3718.05 of the Revised Code, a board of health may adopt rules necessary for the public health providing for more stringent standards governing household sewage treatment systems, installers, service providers, or septage haulers than those established in rules of the public health council adopted under division (A) of this section. A board that intends to adopt such rules shall notify the department of health of the rules

at least ninety days prior to the proposed date of adoption. The director shall approve or disapprove any such proposed rule within ninety days after receiving notice of it under this division. If the director fails to approve or disapprove a proposed rule within ninety days after receiving notice of it, the proposed rule shall be deemed approved.

Sec. 3718.021. (A) A board of health may regulate the siting, design, installation, operation, monitoring, maintenance, and abandonment of small flow on-site sewage treatment systems in accordance with rules adopted by the public health council under division (A)(13) of section 3718.02 of the Revised Code. If a board of health chooses to regulate small flow on-site sewage treatment systems, the board first shall send written notification to the director of health and the director of environmental protection.

(B) If a board of health chooses to regulate small flow on-site sewage treatment systems under division (A) of this section and later determines that it no longer wants to regulate those systems, the board shall notify the director of health and the director of environmental protection. Upon the receipt of the notification by the director of environmental protection, the board of health shall cease regulating small flow on-site sewage treatment systems, and the environmental protection agency shall regulate those systems.

(C) If after a survey conducted under section 3718.07 of the Revised Code the director of health finds that a board of health that has chosen to regulate small flow on-site sewage treatment systems is not complying with the rules adopted under division (A)(13) of section 3718.02 of the Revised Code, the director shall notify the director of environmental protection and the board of health. Upon receipt of the notification, the board shall cease regulating small flow on-site sewage treatment systems, and the environmental protection agency shall regulate those systems.

Sec. 3718.03. (A) There is hereby created the sewage treatment system technical advisory committee consisting of the director of health or the director's designee and ten members who are knowledgeable about sewage treatment systems and technologies to be appointed by the director. Of the ten members appointed by the director, one shall represent academia, two shall represent the interests of manufacturers of household sewage treatment systems, one shall represent installers and service providers, two shall be health commissioners who are members of and recommended by the association of Ohio health commissioners, one shall be a sanitarian who is registered under Chapter 4736. of the Revised Code and who is a member of the Ohio environmental health association, one shall be an engineer from the environmental protection agency, one shall be selected from among soil

scientists from the division of soil and water conservation in the department of natural resources, and one shall be a representative of the public who is not employed by the state or any of its political subdivisions and who does not have a pecuniary interest in sewage treatment systems. All appointments to the committee shall be made not later than sixty days after the effective date of this section.

(B) Of the initial members appointed by the director to the technical advisory committee, three shall be appointed for one year, three shall be appointed for two years, and four shall be appointed for three years. Thereafter, terms shall be for three years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall serve from the date of appointment until the end of the term for which the member was appointed.

Members may be reappointed. Vacancies shall be filled in the same manner as provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member was appointed shall hold office for the remainder of that term. A member shall continue to serve after the expiration date of the member's term until the member's successor is appointed or until a period of sixty days has elapsed, whichever occurs first. The director may remove a member from the committee for failure to attend two consecutive meetings without showing good cause for the absences.

(C) The director or the director's designee shall serve as the chairperson of the technical advisory committee. The committee annually shall select from among its members a vice-chairperson and a secretary to keep a record of its proceedings. A majority vote of the members of the full committee is necessary to take action on any matter. The committee may adopt bylaws governing its operation, including bylaws that establish the frequency of meetings.

(D) Serving as a member of the sewage treatment system technical advisory committee does not constitute holding a public office or position of employment under the laws of this state and does not constitute grounds for removal of public officers or employees from their offices or positions of employment. Members of the committee shall serve without compensation for attending committee meetings.

(E) A member of the committee shall not have a conflict of interest with the position. For the purposes of this division, "conflict of interest" means the taking of any action that violates any provision of Chapter 102. or 2921. of the Revised Code.

(F) The sewage treatment system technical advisory committee shall do

all of the following:

(1) Develop with the department of health standards and guidelines for use by the director in approving or disapproving a sewage treatment system or components of a system under section 3718.04 of the Revised Code;

(2) Develop with the department an application form to be submitted to the director by an applicant for approval or disapproval of a sewage treatment system or components of a system and specify the information that must be included with an application form;

(3) Advise the director on the approval or disapproval of an application sent to the director under section 3718.04 of the Revised Code requesting approval of a sewage treatment system or components of a system.

(G) If the committee meets in a calendar year, the director of health shall prepare and submit a report concerning the activities of the committee to the general assembly not later than ninety days after the end of the calendar year. The report shall discuss the number of applications submitted under section 3718.04 of the Revised Code for the approval of a new sewage treatment system or a component of a system, the number of such systems and components that were approved, any information that the committee considers beneficial to the general assembly, and any other information that the director determines is beneficial to the general assembly. If the committee determines that certain information should be included in the report, the committee shall submit the information to the director not later than thirty days after the end of the calendar year.

(H) The department shall provide meeting space for the committee. The committee shall be assisted in its duties by the staff of the department.

(I) Sections 101.82 to 101.87 of the Revised Code do not apply to the sewage treatment system technical advisory committee.

Sec. 3718.04. (A) A manufacturer seeking approval for the use of a sewage treatment system or a component of a system in this state that differs in design or function from systems or components of systems the use of which is authorized in rules adopted under section 3718.02 of the Revised Code shall request an application form from the department of health. The applicant shall complete the form and include with it all of the information that is required by the department and the sewage treatment system technical advisory committee. The applicant shall submit a completed application and all required information to the director of health.

(B) Upon receipt of an application, the director shall examine the application and all accompanying information to determine if the application is complete. If the director determines that the application is not complete, the director shall notify the applicant not later than fourteen days after

determining that the application is not complete, provide a description of the information that is missing from the application, and return the application and all accompanying information to the applicant. The applicant may resubmit the application to the director. Not later than fourteen days after receipt of a complete application, the director shall notify the committee of the complete application and send a copy of the complete application and all accompanying information to the committee together with a request that the committee advise the director on the approval or disapproval of the system.

(C) In approving or disapproving an application, the director shall use the standards and guidelines that the committee developed with the department for that purpose. The director shall not approve an application that fails to comply with those standards and guidelines. If the committee advises the director concerning the application, the director shall consider the advice before approving or disapproving the application. However, if the committee fails to provide advice or if the committee fails to provide advice within a reasonable period of time before the director is required to approve or disapprove the application, the director may approve or disapprove the application without considering the advice of the committee. Not later than ninety days after receipt of a complete application, the director shall approve or disapprove the application in writing. If the director fails to approve or disapprove the application within that ninety-day period, the application shall be deemed approved.

(D) If the director approves an application under this section, the director shall notify the applicant in writing. The director also shall notify boards of health in accordance with the procedures established in rules adopted under section 3718.02 of the Revised Code. If the director disapproves an application under this section, the director shall notify the applicant in writing and provide a brief explanation for the disapproval.

Sec. 3718.05. The director of health shall do all of the following:

(A) Administer and enforce this chapter and the rules of the public health council adopted under it;

(B) Examine records of boards of health, in accordance with rules adopted by the council, that are determined necessary to ascertain compliance with this chapter and rules adopted under it;

(C) Review and approve or disapprove rules proposed by boards of health under division (B) of section 3718.02 of the Revised Code. The director shall not disapprove a proposed rule unless the director determines that the proposed rule conflicts with this chapter or rules adopted under section 3718.02 of the Revised Code by the public health council or fails to promote public health or environmental protection. If the director

disapproves a proposed rule, the director shall provide a written explanation of the director's disapproval to the board of health that proposed the rule.

(D) Survey boards of health as required by section 3718.07 of the Revised Code;

(E) Develop with the sewage treatment system technical advisory committee standards and guidelines for use by the director in approving or disapproving a sewage treatment system under section 3718.04 of the Revised Code and an application form for use by applicants for that approval, including identification of the information that must be included with the form;

(F) Provide instructions on the operation and maintenance of a sewage treatment system. The director shall provide the operation and maintenance instructions on the department of health's web site. In addition, the director shall provide a copy of the operation and maintenance instructions when the director receives a written request for the instructions.

Sec. 3718.06. (A)(1) A board of health shall establish fees in accordance with section 3709.09 of the Revised Code for the purpose of carrying out its duties under this chapter and rules adopted under it, including a fee for an installation permit issued by the board. All fees so established and collected by the board shall be deposited in a special fund of the district to be used exclusively by the board in carrying out those duties.

(2) In accordance with Chapter 119. of the Revised Code, the public health council may establish by rule a fee to be collected from applicants for installation permits issued under rules adopted under this chapter. The director of health shall use the proceeds from that fee for administering and enforcing this chapter and the rules adopted under it by the council. A board of health shall collect the fee at the same time that it collects the fee established by it under division (A)(1) of this section for installation permits.

Not later than sixty days after the last day of the month in which an installation permit is issued, a board shall certify the amount collected under division (A)(2) of this section and transmit the amount to the treasurer of state. All money so received shall be deposited in the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. The director shall use the money so credited solely for the administration and enforcement of this chapter and the rules adopted under it by the public health council.

(B) The director may submit recommendations to the council regarding the amount of the fee collected under division (A)(2) of this section for installation permits. When making the recommendations, the director shall

submit a report stating the current and projected expenses of administering and enforcing this chapter and the rules adopted under it by the council and the total of all money that has been deposited to the credit of the general operations fund under division (A)(2) of this section. The director may include in the report any recommendations for modifying the requirements established under this chapter and the rules adopted under it by the council.

Sec. 3718.07. The director of health shall survey each city and general health district at least once every three years to determine whether there is substantial compliance with the requirements of this chapter pertaining to health districts and the applicable rules adopted by the public health council under this chapter. Upon determining that there is substantial compliance, the director shall place the district on an approved list. The director may resurvey an approved district if it is determined by the director to be necessary and may remove from the list a district that is found not to be substantially complying with the requirements of this chapter pertaining to health districts and the applicable rules.

If the director determines that a district is not eligible to be placed on the approved list or to continue on the list after a resurvey, the director shall certify that determination to the board of health, and the director shall carry out the duties of the unapproved health district under this chapter and the applicable rules adopted under it within the district or shall contract with an approved health district to conduct those duties until the unapproved district is placed on or returned to the approved list. The director or the contracting district shall have within the unapproved district the authority to exercise powers and perform duties granted to or imposed on the board under this chapter and the applicable rules adopted under it.

Until the unapproved district is placed on or returned to the approved list, the director or the contracting district shall collect all fees payable to the board of health under this chapter and all such fees previously paid to the unapproved district that have not been expended or encumbered. The director shall deposit those fees in the state treasury to the credit of a special fund, which is hereby created, to be used by the director for the purpose of carrying out the duties of the unapproved health district under this chapter and the applicable rules adopted under it. A contracting district shall deposit those fees to the credit of its fund created under section 3718.06 of the Revised Code to be used by the district for the purpose of carrying out the duties of the unapproved district under this chapter and the applicable rules adopted under it. The director or contracting district shall repay to the unapproved district any balance remaining in the applicable fund from all sources when the unapproved district is placed on or returned to the

approved list by the director.

If a health district is removed from the approved list under this section and the board of health of the district is regulating small flow on-site sewage treatment systems in the district under section 3718.021 of the Revised Code, the director of environmental protection shall regulate those systems in that district in accordance with division (C) of that section.

Sec. 3718.08. No person shall violate this chapter, any rule adopted or order issued under it, or any condition of a registration or permit issued under rules adopted under it.

Sec. 3718.09. (A) A board of health may issue, modify, suspend, or revoke enforcement orders to a registration or permit holder or other person directing the holder or person to abate a violation of this chapter, any rule adopted or order issued under it, or a condition of a registration or permit issued under it within a specified, reasonable time. If an order issued under this division is neglected or disregarded, the applicable board of health may proceed in accordance with section 3707.02 of the Revised Code.

(B) The health commissioner or the commissioner's designated representative, without prior notice or hearing and in accordance with the rules of the public health council, may issue an emergency order requiring any action necessary to meet a public health emergency regarding domestic septage management or regarding a sewage treatment system. A person to whom such an emergency order is issued immediately shall comply with the order. A person so ordered may apply to the issuer of the order for a hearing, which shall be held as soon as possible, but not later than twenty days after the issuer's receipt of the application for a hearing.

Sec. 3718.10. (A) The prosecuting attorney of the county or the city director of law, village solicitor, or other chief legal officer of the municipal corporation where a violation has occurred or is occurring, upon complaint of the director of health or a board of health, shall prosecute to termination or bring an action for injunction or other appropriate relief against any person who is violating or has violated this chapter, any rule adopted or order issued under it, or any condition of a registration or permit issued under rules adopted under it. The court of common pleas or the municipal or county court in which an action for injunction is filed has jurisdiction to grant such relief upon a showing that the respondent named in the complaint is or was in violation of the chapter or rules, orders, or conditions.

Upon finding that a person intentionally has violated this chapter, a rule adopted or order issued under it, or any condition of a registration or permit issued under rules adopted under it, the court may assess a civil penalty of not more than one hundred dollars for each day of violation against the

person. Seventy-five per cent of any penalties assessed by the court under this division shall be paid to the health district whose board of health brought the complaint, or to the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code if the director of health is carrying out the duties of an unapproved health district in which the violation occurred in accordance with section 3718.07 of the Revised Code, and shall be used for the purposes of this chapter and the rules adopted under it. Twenty-five per cent of any penalties assessed by the court under this division shall be paid to the prosecuting attorney of the county or city director of law, village solicitor, or other chief legal officer of the municipal corporation that prosecuted or brought the action under this division to pay the expenses incurred in bringing the action.

(B) The remedies provided in this chapter are in addition to any other remedies available under law.

Sec. 3718.99. Whoever purposely violates section 3718.08 of the Revised Code shall be fined not more than one thousand dollars. Each day of violation is a separate offense. All money collected from fines under this section shall be used to administer and enforce this chapter and rules adopted under it and shall be deposited as follows:

(A) If the violation occurred within a health district that is approved under section 3718.07 of the Revised Code, the money shall be deposited to the credit of the district's special fund created under section 3718.06 of the Revised Code.

(B) If the violation occurred within a health district that is not approved under section 3718.07 of the Revised Code and a contracting district is carrying out the duties of the unapproved health district in accordance with that section, the money shall be deposited to the credit of the contracting district's special fund created under section 3718.06 of the Revised Code.

(C) If the violation occurred within an unapproved health district and the director of health is carrying out the duties of the unapproved health district in accordance with section 3718.07 of the Revised Code, the money shall be deposited in the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code.

Sec. 4736.01. As used in this chapter:

(A) "Environmental health science" means the aspect of public health science that includes, but is not limited to, the following bodies of knowledge: air quality, food quality and protection, hazardous and toxic substances, consumer product safety, housing, institutional health and safety, community noise control, radiation protection, recreational facilities, solid and liquid waste management, vector control, drinking water quality,

milk sanitation, and rabies control.

(B) "Sanitarian" means a person who performs for compensation educational, investigational, technical, or administrative duties requiring specialized knowledge and skills in the field of environmental health science.

(C) "Registered sanitarian" means a person who is registered as a sanitarian in accordance with this chapter.

(D) "Sanitarian-in-training" means a person who is registered as a sanitarian-in-training in accordance with this chapter.

(E) "Practice of environmental health" means consultation, instruction, investigation, inspection, or evaluation by an employee of a city health district, a general health district, the environmental protection agency, the department of health, or the department of agriculture requiring specialized knowledge, training, and experience in the field of environmental health science, with the primary purpose of improving or conducting administration or enforcement under any of the following:

(1) Chapter 911., 913., 917., 3717., 3718., 3721., 3729., or 3733. of the Revised Code;

(2) Chapter 3734. of the Revised Code as it pertains to solid waste;

(3) Section 955.26, 3701.344, 3707.01, or 3707.03, sections 3707.38 to 3707.99, or section 3715.21 of the Revised Code;

(4) Rules adopted under section 3701.34 of the Revised Code pertaining to ~~home sewage~~, rabies control, or swimming pools.

"Practice of environmental health" does not include sampling, testing, controlling of vectors, reporting of observations, or other duties that do not require application of specialized knowledge and skills in environmental health science performed under the supervision of a registered sanitarian.

The state board of sanitarian registration may further define environmental health science in relation to specific functions in the practice of environmental health through rules adopted by the board under Chapter 119. of the Revised Code.

Sec. 5302.30. (A) As used in this section:

(1) "Good faith" means honesty in fact in a transaction involving the transfer of residential real property.

(2) "Land installment contract" has the same meaning as in section 5313.01 of the Revised Code.

(3) "Political subdivision" and "state" have the same meanings as in section 2744.01 of the Revised Code.

(4) "Residential real property" means real property that is improved by a building or other structure that has one to four dwelling units.

(B)(1) Except as provided in division (B)(2) of this section, this section applies to any transfer of residential real property that occurs on or after July 1, 1993, by sale, land installment contract, lease with option to purchase, exchange, or lease for a term of ninety-nine years and renewable forever. For purposes of this section, a transfer occurs when the initial contract for transfer is executed, regardless of when legal title is transferred, and references in this section to transfer offers and transfer agreements refer to offers and agreements in respect of the initial contract for transfer.

(2) This section does not apply to any transfer of residential real property that is any of the following:

(a) A transfer pursuant to court order, including, but not limited to, a transfer ordered by a probate court during the administration of a decedent's estate, a transfer pursuant to a writ of execution, a transfer by a trustee in bankruptcy, a transfer as a result of the exercise of the power of eminent domain, and a transfer that results from a decree for specific performance of a contract or other agreement between persons;

(b) A transfer to a mortgagee by a mortgagor by deed in lieu of foreclosure or in satisfaction of the mortgage debt;

(c) A transfer to a beneficiary of a deed of trust by a trustor in default;

(d) A transfer by a foreclosure sale that follows a default in the satisfaction of an obligation secured by a mortgage;

(e) A transfer by a sale under a power of sale following a default in the satisfaction of an obligation that is secured by a deed of trust or another instrument containing a power of sale;

(f) A transfer by a mortgagee, or a beneficiary under a deed of trust, who has acquired the residential real property at a sale conducted pursuant to a power of sale under a mortgage or a deed of trust or who has acquired the residential real property by a deed in lieu of foreclosure;

(g) A transfer by a fiduciary in the course of the administration of a decedent's estate, a guardianship, a conservatorship, or a trust;

(h) A transfer from one co-owner to one or more other co-owners;

(i) A transfer made to the transferor's spouse or to one or more persons in the lineal line of consanguinity of one or more of the transferors;

(j) A transfer between spouses or former spouses as a result of a decree of divorce, dissolution of marriage, annulment, or legal separation or as a result of a property settlement agreement incidental to a decree of divorce, dissolution of marriage, annulment, or legal separation;

(k) A transfer to or from the state, a political subdivision of the state, or another governmental entity;

(l) A transfer that involves newly constructed residential real property

that previously has not been inhabited;

(m) A transfer to a transferee who has occupied the property as a personal residence for one or more years immediately prior to the transfer;

(n) A transfer from a transferor who both has not occupied the property as a personal residence within one year immediately prior to the transfer and has acquired the property through inheritance or devise.

(C) Except as provided in division (B)(2) of this section and subject to divisions (E) and (F) of this section, every person who intends to transfer any residential real property on or after July 1, 1993, by sale, land installment contract, lease with option to purchase, exchange, or lease for a term of ninety-nine years and renewable forever shall complete all applicable items in a property disclosure form prescribed under division (D) of this section and shall deliver in accordance with division (I) of this section a signed and dated copy of the completed form to each prospective transferee or ~~his~~ prospective transferee's agent as soon as is practicable.

(D)(1) Prior to July 1, 1993, the director of commerce, by rule adopted in accordance with Chapter 119. of the Revised Code, shall prescribe the disclosure form to be completed by transferors. The form prescribed by the director shall be designed to permit the transferor to disclose material matters relating to the physical condition of the property to be transferred, including, but not limited to, the source of water supply to the property; the nature of the sewer system serving the property; the condition of the structure of the property, including the roof, foundation, walls, and floors; the presence of hazardous materials or substances, including lead-based paint, asbestos, urea-formaldehyde foam insulation, and radon gas; and any material defects in the property that are within the actual knowledge of the transferor.

The form also shall set forth a statement of the purpose of the form, including statements substantially similar to the following: that the form constitutes a statement of the conditions of the property and of information concerning the property actually known by the transferor; that, unless the transferee is otherwise advised in writing, the transferor, other than having lived at or owning the property, possesses no greater knowledge than that which could be obtained by a careful inspection of the property by a potential transferee; that the statement is not a warranty of any kind by the transferor or by any agent or subagent representing the transferor in this transaction; that the statement is not a substitute for any inspections; that the transferee is encouraged to obtain ~~his/her~~ the transferee's own professional inspection; that the representations are made by the transferor and are not the representations of the transferor's agent or subagent; and that the form

and the representations contained therein are provided by the transferor exclusively to potential transferees in a transfer made by the transferor, and are not made to transferees in any subsequent transfers.

The form shall include instructions to the transferor for completing the form, space in which the transferor or transferors shall sign and date the form, and space in which the transferee or transferees shall sign and date the form acknowledging receipt of a copy of the form and stating that the transferee or transferees understand the purpose of the form as stated thereon.

(2) Not later than January 1, 2006, the director shall revise the disclosure form to include a statement that information on the operation and maintenance of the type of sewage treatment system serving the property is available from the department of health or the board of health of the health district in which the property is located.

As used in this section, "sewage treatment system" has the same meaning as in section 3718.01 of the Revised Code.

(E)(1) Each disclosure of an item of information that is required to be made in the property disclosure form prescribed under division (D) of this section in connection with particular residential real property and each act that may be performed in making any disclosure of an item of information shall be made or performed in good faith.

(2) If an item of information is unknown to the transferor of residential real property at the time the item is required to be disclosed in the property disclosure form and if the approximation is not used for the purpose of circumventing or otherwise evading divisions (C) and (D) of this section, the transferor may make a good faith approximation of the item of information.

(F)(1) A transferor of residential real property is not liable in damages in a civil action for injury, death, or loss to person or property that allegedly arises from any error in, inaccuracy of, or omission of any item of information required to be disclosed in the property disclosure form if the error, inaccuracy, or omission was not within the transferor's actual knowledge.

(2) If any item of information that is disclosed in the property disclosure form is rendered inaccurate after the delivery of the form to the transferee of residential real property or ~~his~~ the transferee's agent as a result of any act, occurrence, or agreement, the subsequent inaccuracy does not cause, and shall not be construed as causing, the transferor of the residential real property to be in noncompliance with the requirements of divisions (C) and (D) of this section.

(G) Any disclosure of an item of information in the property disclosure form prescribed under division (D) of this section may be amended in writing by the transferor of residential real property at any time following the delivery of the form in accordance with divisions (C) and (I) of this section. The amendment shall be subject to ~~the provisions of~~ this section.

(H) Except as provided in division (B)(2) of this section, every prospective transferee of residential real property who receives in accordance with division (C) of this section a signed and dated copy of a completed property disclosure form as prescribed under division (D) of this section shall acknowledge ~~his~~ receipt of the form by doing both of the following:

- (1) Signing and dating a copy of the form;
- (2) Delivering a signed and dated copy of the form to the transferor or ~~his~~ the transferor's agent or subagent.

(I) The transferor's delivery under division (C) of this section of a property disclosure form as prescribed under division (D) of this section and the prospective transferee's delivery under division (H) of this section of an acknowledgment of ~~his~~ receipt of that form shall be made by personal delivery to the other party or ~~his~~ the other party's agent or subagent, by ordinary mail or certified mail, return receipt requested, or by facsimile transmission. For the purposes of the delivery requirements of this section, the delivery of a property disclosure form to a prospective co-transferee of residential real property or ~~his~~ a prospective co-transferee's agent shall be considered delivery to the other prospective transferees unless otherwise provided by contract.

(J) The specification of items of information that must be disclosed in the property disclosure form as prescribed under division (D)(1) of this section does not limit or abridge, and shall not be construed as limiting or abridging, any obligation to disclose an item of information that is created by any other provision of the Revised Code or the common law of this state or that may exist in order to preclude fraud, either by misrepresentation, concealment, or nondisclosure in a transaction involving the transfer of residential real property. The disclosure requirements of this section do not bar, and shall not be construed as barring, the application of any legal or equitable defense that a transferor of residential real property may assert in a civil action commenced against the transferor by a prospective or actual transferee of that property.

(K)(1) Except as provided in division (K)(2) of this section, but subject to divisions (J) and (L) of this section, a transfer of residential real property that is subject to this section shall not be invalidated because of the failure

of the transferor to provide to the transferee in accordance with division (C) of this section a completed property disclosure form as prescribed under division (D) of this section.

(2) Subject to division (K)(3)(c) of this section, if a transferee of residential real property that is subject to this section receives a property disclosure form or an amendment of that form as described in division (G) of this section after the transferee has entered into a transfer agreement with respect to the property, the transferee, after ~~his~~ receipt of the form or amendment, may rescind the transfer agreement in a written, signed, and dated document that is delivered to the transferor or ~~his~~ the transferor's agent or subagent in accordance with divisions (K)(3)(a) and (b) of this section, without incurring any legal liability to the transferor because of the rescission, including, but not limited to, a civil action for specific performance of the transfer agreement. Upon the rescission of the transfer agreement, the transferee is entitled to the return of, and the transferor shall return, any deposits made by the transferee in connection with the proposed transfer of the residential real property.

(3)(a) Subject to division (K)(3)(b) of this section, a rescission of a transfer agreement under division (K)(2) of this section only may occur if the transferee's written, signed, and dated document of rescission is delivered to the transferor or ~~his~~ the transferor's agent or subagent within three business days following the date on which the transferee or ~~his~~ the transferee's agent receives the property disclosure form prescribed under division (D) of this section or the amendment of that form as described in division (G) of this section.

(b) A transferee may not rescind a transfer agreement under division (K)(2) of this section unless ~~he~~ the transferee rescinds the transfer agreement by the earlier of the date that is thirty days after the date upon which the transferor accepted the transferee's transfer offer or the date of the closing of the transfer of the residential real property.

(c) A transferee of residential real property may waive the right of rescission of a transfer agreement described in division (K)(2) of this section.

(d) A rescission of a transfer agreement is not permissible under division (K)(2) of this section if a transferee of residential real property that is subject to this section receives a property disclosure form as prescribed under division (D) of this section or an amendment of that form as described in division (G) of this section prior to the transferee's submission to the transferor or ~~his~~ the transferor's agent or subagent of a transfer offer and the transferee's entry into a transfer agreement with respect to the property.

(4) If a transferee of residential real property subject to this section does not receive a property disclosure form from the transferor after the transferee has submitted to the transferor or ~~his~~ the transferor's agent or subagent a transfer offer and has entered into a transfer agreement with respect to the property, the transferee may rescind the transfer agreement in a written, signed, and dated document that is delivered to the transferor or ~~his~~ the transferor's agent or subagent in accordance with division (K)(4) of this paragraph, section without incurring any legal liability to the transferor because of the rescission, including, but not limited to, a civil action for specific performance of the transfer agreement. Upon the rescission of the transfer agreement, the transferee is entitled to the return of, and the transferor shall return, any deposits made by the transferee in connection with the proposed transfer of the residential real property. A transferee may not rescind a transfer agreement under division (K)(4) of this paragraph section unless ~~he~~ the transferee rescinds the transfer agreement by the earlier of the date that is thirty days after the date upon which the transferor accepted the transferee's transfer offer or the date of the closing of the transfer of the residential real property.

(L) The right of rescission of a transfer agreement described in division (K)(2) of this section or the absence of that right does not affect, and shall not be construed as affecting, any other legal causes of action or other remedies that a transferee or prospective transferee of residential real property may possess against the transferor of that property.

Sec. 6111.04. (A) Both of the following apply except as otherwise provided in division (A) or (F) of this section:

(1) No person shall cause pollution or place or cause to be placed any sewage, sludge, sludge materials, industrial waste, or other wastes in a location where they cause pollution of any waters of the state.

(2) Such an action prohibited under division (A)(1) of this section is hereby declared to be a public nuisance.

Divisions (A)(1) and (2) of this section do not apply if the person causing pollution or placing or causing to be placed wastes in a location in which they cause pollution of any waters of the state holds a valid, unexpired permit, or renewal of a permit, governing the causing or placement as provided in sections 6111.01 to 6111.08 of the Revised Code or if the person's application for renewal of such a permit is pending.

(B) If the director of environmental protection administers a sludge management program pursuant to division (S) of section 6111.03 of the Revised Code, both of the following apply except as otherwise provided in division (B) or (F) of this section:

(1) No person, in the course of sludge management, shall place on land located in the state or release into the air of the state any sludge or sludge materials.

(2) An action prohibited under division (B)(1) of this section is hereby declared to be a public nuisance.

Divisions (B)(1) and (2) of this section do not apply if the person placing or releasing the sludge or sludge materials holds a valid, unexpired permit, or renewal of a permit, governing the placement or release as provided in sections 6111.01 to 6111.08 of the Revised Code or if the person's application for renewal of such a permit is pending.

(C) No person to whom a permit has been issued shall place or discharge, or cause to be placed or discharged, in any waters of the state any sewage, sludge, sludge materials, industrial waste, or other wastes in excess of the permissive discharges specified under an existing permit without first receiving a permit from the director to do so.

(D) No person to whom a sludge management permit has been issued shall place on the land or release into the air of the state any sludge or sludge materials in excess of the permissive amounts specified under the existing sludge management permit without first receiving a modification of the existing sludge management permit or a new sludge management permit to do so from the director.

(E) The director may require the submission of plans, specifications, and other information that the director considers relevant in connection with the issuance of permits.

(F) This section does not apply to any of the following:

(1) Waters used in washing sand, gravel, other aggregates, or mineral products when the washing and the ultimate disposal of the water used in the washing, including any sewage, industrial waste, or other wastes contained in the waters, are entirely confined to the land under the control of the person engaged in the recovery and processing of the sand, gravel, other aggregates, or mineral products and do not result in the pollution of waters of the state;

(2) Water, gas, or other material injected into a well to facilitate, or that is incidental to, the production of oil, gas, artificial brine, or water derived in association with oil or gas production and disposed of in a well, in compliance with a permit issued under Chapter 1509. of the Revised Code, or sewage, industrial waste, or other wastes injected into a well in compliance with an injection well operating permit. Division (F)(2) of this section does not authorize, without a permit, any discharge that is prohibited by, or for which a permit is required by, regulation of the United States

environmental protection agency.

(3) Application of any materials to land for agricultural purposes or runoff of the materials from that application or pollution by animal waste or soil sediment, including attached substances, resulting from farming, silvicultural, or earthmoving activities regulated by Chapter 307. or 1515. of the Revised Code;

(4) The excrement of domestic and farm animals defecated on land or runoff therefrom into any waters of the state;

(5) On and after the date on which the United States environmental protection agency approves the NPDES program submitted by the director of agriculture under section 903.08 of the Revised Code, storm water from an animal feeding facility, as defined in section 903.01 of the Revised Code, or manure, as defined in that section;

(6) The discharge of sewage, industrial waste, or other wastes into a sewerage system tributary to a treatment works. Division (F)(6) of this section does not authorize any discharge into a publicly owned treatment works in violation of a pretreatment program applicable to the publicly owned treatment works.

~~(7) Septic tanks or any other disposal systems for the disposal or treatment of sewage from single-family, two-family, or three-family dwellings~~ A household sewage treatment system or a small flow on-site sewage treatment system, as applicable, as defined in section 3718.01 of the Revised Code that is installed in compliance with the sanitary code and section 3707.01 Chapter 3718. of the Revised Code and rules adopted under it. Division (F)(7) of this section does not authorize, without a permit, any discharge that is prohibited by, or for which a permit is required by, regulation of the United States environmental protection agency.

(8) Exceptional quality sludge generated outside of this state and contained in bags or other containers not greater than one hundred pounds in capacity. As used in division (F)(8) of this section, "exceptional quality sludge" has the same meaning as in division (Y) of section 3745.11 of the Revised Code.

(G) The holder of a permit issued under section 402 (a) of the Federal Water Pollution Control Act need not obtain a permit for a discharge authorized by the permit until its expiration date. The director shall administer and enforce those permits within this state and may modify their terms and conditions in accordance with division (J) of section 6111.03 of the Revised Code.

Sec. 6111.44. (A) Except as otherwise provided in division (B) of this section, in section 6111.14 of the Revised Code, or in rules adopted under

division (G) of section 6111.03 of the Revised Code, no municipal corporation, county, public institution, corporation, or officer or employee thereof or other person shall provide or install sewerage or treatment works for sewage, sludge, or sludge materials disposal or treatment or make a change in any sewerage or treatment works until the plans therefor have been submitted to and approved by the director of environmental protection. Sections 6111.44 to 6111.46 of the Revised Code apply to sewerage and treatment works of a municipal corporation or part thereof, an unincorporated community, a county sewer district, or other land outside of a municipal corporation or any publicly or privately owned building or group of buildings or place, used for the assemblage, entertainment, recreation, education, correction, hospitalization, housing, or employment of persons.

In granting an approval, the director may stipulate modifications, conditions, and rules that the public health and prevention of pollution may require. Any action taken by the director shall be a matter of public record and shall be entered in the director's journal. Each period of thirty days that a violation of this section continues, after a conviction for the violation, constitutes a separate offense.

(B) Sections 6111.45 and 6111.46 of the Revised Code and division (A) of this section do not apply to any of the following:

(1) Sewerage or treatment works for sewage installed or to be installed for the use of a private residence or dwelling;

(2) Sewerage systems, treatment works, or disposal systems for storm water from an animal feeding facility or manure, as "animal feeding facility" and "manure" are defined in section 903.01 of the Revised Code;

(3) Animal waste treatment or disposal works and related management and conservation practices that are subject to rules adopted under division (E)(2) of section 1511.02 of the Revised Code;

(4) Sewerage or treatment works for the on-lot disposal or treatment of sewage from a small flow on-site sewage treatment system, as defined in section 3718.01 of the Revised Code, if the board of health of a city or general health district has notified the director of health and the director of environmental protection under section 3718.021 of the Revised Code that the board has chosen to regulate the system, provided that the board remains in compliance with the rules adopted under division (A)(13) of section 3718.02 of the Revised Code.

The exclusions established in divisions (B)(2) and (3) of this section do not apply to the construction or installation of disposal systems, as defined in section 6111.01 of the Revised Code, that are located at an animal feeding

facility and that store, treat, or discharge wastewaters that do not include storm water or manure or that discharge to a publicly owned treatment works.

Sec. 6111.441. In addition to the exemption established under division (B)(4) of section 6111.44 of the Revised Code, sewerage or treatment works for the on-lot disposal or treatment of sewage from a small flow on-site sewage treatment system, as defined in section 3718.01 of the Revised Code, concerning which the board of health of a city or general health district has notified the director of health and the director of environmental protection under section 3718.021 of the Revised Code that the board has chosen to regulate the system are exempt from the administrative and permitting requirements established in this chapter and rules adopted under it and the fees established under section 3745.11 of the Revised Code, provided that the board remains in compliance with the rules adopted under division (A)(13) of section 3718.02 of the Revised Code.

SECTION 2. That existing sections 307.37, 319.281, 521.01, 711.05, 711.10, 711.131, 3701.83, 3709.085, 3709.09, 3709.091, 4736.01, 5302.30, 6111.04, and 6111.44 of the Revised Code are hereby repealed.

SECTION 3. Chapter 3701-29 of the Ohio Administrative Code shall remain in effect as it existed on the effective date of this act until it is superseded by the rules that are required to be adopted under section 3718.02 of the Revised Code as enacted by this act.

SECTION 4. Section 3718.021 of the Revised Code, as enacted by this act, shall become operative on the effective date of the rules adopted under division (A)(13) of section 3718.02 of the Revised Code, as enacted by this act.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____