

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE DRS75167-LU-81A\* (03/04)

Short Title: Amend On-Site Wastewater Contractor Laws.

(Public)

Sponsors: Senator Swindell.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT AMENDING THE LAWS PERTAINING TO ON-SITE WASTEWATER  
3 CONTRACTORS AND INSPECTORS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 90A-71 reads as rewritten:

6 "§ 90A-71. Definitions.

7 The following definitions apply in this Article:

8 (1) "Board" means the North Carolina On-Site Wastewater Contractors and  
9 Inspectors Certification Board.

10 (2) "Contractor" means a person who constructs, installs, or repairs, or offers to  
11 construct, install, or repair an on-site wastewater system in the State.

12 (3) "Conventional wastewater system" has the same meaning as in  
13 G.S. 130A-343(a)(3).

14 (4) "Department" means the Department of Environment and Natural Resources.

15 (5) "Inspector" means a person who conducts an inspection ~~of an on-site~~  
16 ~~wastewater system at any time after the local health department has issued~~  
17 ~~an operation permit pursuant to G.S. 130A-337.~~ in accordance with rules  
18 adopted by the Board.

19 (5a) "Inspection" means an examination of an on-site wastewater system  
20 permitted under the provisions of Article 11 of Chapter 130A of the General  
21 Statutes, when requested by a lending institution, realtor, prospective  
22 homebuyer, or other impacted party as a condition of sale, refinancing, or  
23 transfer of title, which examination shall meet the minimum requirements  
24 established by the Board.

25 (6) "On-site wastewater system" means any wastewater system permitted under  
26 the provisions of Article 11 of Chapter 130A of the General Statutes that  
27 does not discharge to a treatment facility or the surface waters of the State.

28 (7) "Person" means all persons, including individuals, firms, partnerships,  
29 associations, public or private institutions, municipalities, or political  
30 subdivisions, governmental agencies, or private or public corporations  
31 organized and existing under the laws of this State or any other state or  
32 country.

33 (8) "Wastewater treatment facility" means a mechanical or chemical treatment  
34 facility serving a site with multiple wastewater sources."

35 SECTION 2. G.S. 90A-72 reads as rewritten:



1 **"§ 90A-72. Certification required; applicability.**

2 (a) Certification Required. – No person shall construct, install, or repair or offer to  
3 construct, install, or repair an on-site wastewater system ~~in the State as permitted under Article~~  
4 11 of Chapter 130A of the General Statutes without being certified as a contractor at the  
5 required level of certification for the specified system. No person shall conduct an inspection or  
6 offer to conduct an inspection of an on-site wastewater system as permitted under Article 11 of  
7 Chapter 130A of the General Statutes without being certified ~~as an inspector at the required~~  
8 ~~level of certification for the specified system in accordance with the provisions of this Article.~~

9 (b) Applicability. – This Article does not apply to the following:

- 10 (1) A person who is employed ~~by, or performs labor and services for, by~~ a  
11 certified contractor or inspector in connection with the construction,  
12 installation, repair, or inspection of an on-site wastewater system performed  
13 under the direct and personal supervision of the certified contractor or  
14 ~~inspector.~~ inspector in charge.
- 15 (2) A person who constructs, installs, or repairs an on-site wastewater system  
16 described as a single septic tank with a gravity-fed ~~distribution system~~ gravel  
17 trench dispersal media when located on land owned by that person and that  
18 is intended solely for use by that person and members of that person's  
19 immediate ~~family.~~ family when residing in the same dwelling.
- 20 (3) A person licensed under Article 1 of Chapter 87 of the General Statutes who  
21 constructs or installs an on-site wastewater system ancillary to the building  
22 being ~~constructed.~~ constructed or who provides corrective services and labor  
23 for the on-site wastewater system ancillary to the constructed building.
- 24 (4) A person who is certified by the Water Pollution Control System Operators  
25 Certification Commission and contracted to provide necessary operation and  
26 maintenance on the permitted on-site wastewater system.
- 27 (5) A person permitted under Article 21 of Chapter 143 of the General Statutes  
28 who is constructing a water pollution control facility necessary to comply  
29 with the terms and conditions of a National Pollutant Discharge Elimination  
30 System (NPDES) permit.
- 31 (6) A person licensed under Article 1 of Chapter 87 of the General Statutes as a  
32 licensed public utilities contractor who is installing or expanding a  
33 wastewater treatment facility, including a collection system, designed by a  
34 registered professional engineer.
- 35 (7) A plumbing contractor licensed under Article 2 of Chapter 87 of the General  
36 Statutes, so long as the plumber is not performing plumbing work that  
37 includes the installation or repair of a septic tank or similar depository, or  
38 lines or appurtenances downstream from the point where the house or  
39 building sewer lines from the plumbing system meet the septic tank or  
40 similar depository."

41 **SECTION 3.** G.S. 90A-73(a) reads as rewritten:

42 "(a) Creation and Appointments. – There is created the North Carolina On-Site  
43 Wastewater Contractors and Inspectors Certification Board. The Board shall consist of nine  
44 members appointed to three-year terms as follows:

- 45 (1) One member appointed by the Governor who, at the time of appointment, is  
46 engaged in the construction, installation, repair, or inspection of on-site  
47 wastewater systems, to a term that expires on 1 July of years that precede by  
48 one year those years that are evenly divisible by three.
- 49 (2) One member appointed by the Governor who, at the time of appointment, is  
50 ~~a certified water treatment facility operator pursuant to Article 2 of Chapter~~  
51 90A of the General Statutes, engaged in the construction, installation, repair,

1 or inspection of on-site wastewater systems, to a term that expires on 1 July  
2 of years evenly divisible by three.

- 3 (3) One member appointed by the Governor who is an employee of the Division  
4 of Environmental Health of the Department to a term that expires on 1 July  
5 of years that follow by one year those years that are evenly divisible by  
6 three.
- 7 (4) One member appointed by the General Assembly upon recommendation of  
8 the President Pro Tempore of the Senate who, at the time of appointment, is  
9 engaged in the construction, installation, repair, or inspection of on-site  
10 wastewater systems, to a term that expires on 1 July of years that follow by  
11 one year those years that are evenly divisible by three.
- 12 (5) One member appointed by the General Assembly upon recommendation of  
13 the President Pro Tempore of the Senate who, at the time of appointment, is  
14 engaged in the business of inspecting on-site wastewater systems, to a term  
15 that expires on 1 July of years that precede by one year those years that are  
16 evenly divisible by three.
- 17 (6) One member appointed by the General Assembly upon recommendation of  
18 the President Pro Tempore of the Senate upon the recommendation of the  
19 North Carolina Home Builders Association, to a term that expires on 1 July  
20 of years evenly divisible by three.
- 21 (7) One member appointed by the General Assembly upon recommendation of  
22 the Speaker of the House of Representatives who, at the time of  
23 appointment, is engaged in the construction, installation, repair, or  
24 inspection of on-site wastewater systems, to a term that expires on 1 July of  
25 years evenly divisible by three.
- 26 (8) One member appointed by the General Assembly upon recommendation of  
27 the Speaker of the House of Representatives who, at the time of  
28 appointment, is (i) employed as an environmental health specialist, and (ii)  
29 engaged primarily in the inspection and permitting of on-site wastewater  
30 systems, to a term that expires on 1 July of years that follow by one year  
31 those years that are evenly divisible by three.
- 32 (9) One member appointed by the General Assembly upon recommendation of  
33 the Speaker of the House of Representatives who, at the time of  
34 appointment, is ~~(i) employed by the North Carolina Cooperative Extension~~  
35 ~~Service, and (ii) is knowledgeable in the area of on-site wastewater~~  
36 ~~systems,~~a certified water treatment facility operator pursuant to Article 2 of  
37 Chapter 90A of the General Statutes, to a term that expires on 1 July of years  
38 that precede by one year those years that are evenly divisible by three."

39 **SECTION 4.** G.S. 90A-74(4) reads as rewritten:

40 "The Board shall have the following general powers and duties:

41 ...

- 42 (4) To develop and administer examinations for ~~each grade level of~~  
43 ~~certification-specific grade levels as approved by the Board.~~ The Board may  
44 approve applications by recognized associations for certification of its  
45 members after a review of the requirements of the association to ensure that  
46 they are equivalent to the requirements of the Board.

47 ...."

48 **SECTION 5.** G.S. 90A-76 reads as rewritten:

49 "**§ 90A-76. On-Site Wastewater Certification Fund.**

50 The On-Site Wastewater Certification Fund is created as a nonreverting account ~~within the~~  
51 ~~Department,~~established and controlled by the Board. All fees collected pursuant to this Article

1 shall be credited to the Fund. The Fund shall be used solely for the costs of administering this  
2 Article."

3 **SECTION 6.** G.S. 90A-77(a) reads as rewritten:

4 "(a) Certification. – The Board shall issue a certificate of the appropriate grade level to  
5 an applicant who satisfies all of the following conditions:

- 6 (1) Is at least 18 years of age.
- 7 (2) Submits a properly completed application to the Board.
- 8 (3) ~~If the applicant has prior experience providing on-site wastewater system~~  
9 ~~services, submits affidavits of three persons not related to the applicant for~~  
10 ~~whom the applicant provided on-site wastewater services.~~Completes the  
11 basic on-site wastewater education program approved by the Board for the  
12 specified grade levels as determined by the Board.
- 13 (4) ~~If the applicant has no prior experience, completes the basic on-site~~  
14 ~~wastewater education program approved by the Board.~~
- 15 (5) Completes any additional training program designed by the Board specific to  
16 the grade level for which the applicant is applying.
- 17 (6) Pays the applicable fees set by the Board for the particular application and  
18 grade level.
- 19 (7) For grade levels ~~greater than conventional systems,~~as determined by the  
20 Board, passes a written or oral examination that tests the applicant's  
21 proficiency in all of the following areas:
  - 22 a. Principles of public and environmental health associated with on-site  
23 wastewater systems.
  - 24 b. Principles of construction and safety.
  - 25 c. Technical and practical knowledge of on-site wastewater systems  
26 typical to the specified grade level.
  - 27 d. Laws and rules related to the installation, construction, repair, or  
28 inspection of the specified on-site wastewater system."

29 **SECTION 7.** Fees held by the Department of Environment and Natural Resources  
30 pursuant to the On-Site Wastewater Certification Fund under G.S. 90A-76 shall be transferred  
31 to the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board in  
32 accordance with G.S. 90A-76, as enacted in Section 5 of this act, on the effective date of this  
33 act.

34 **SECTION 8.** This act is effective when it becomes law.