

**SUBSTITUTE FOR
HOUSE BILL NO. 5752**

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 12752 (MCL 333.12752) and by adding part 128.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 12752. **(1)** Public sanitary sewer systems are ~~essential~~**OF**
2 **CRITICAL IMPORTANCE** to the health, safety, and welfare of the
3 people of the ~~THIS~~ state. ~~Septic tank disposal~~**SIMILARLY, ONSITE**
4 **WASTEWATER TREATMENT** systems are ~~subject to failure due to soil~~
5 ~~conditions or other reasons.~~**A COST-EFFECTIVE AND LONG-TERM OPTION**
6 **FOR MEETING PUBLIC HEALTH AND WATER QUALITY OBJECTIVES,**
7 **PARTICULARLY IN LESS DENSELY POPULATED AREAS.** Failure or potential
8 failure of ~~septic tank disposal~~**ONSITE WASTEWATER TREATMENT** systems
9 poses a threat to the public health, safety, and welfare; presents

1 a potential for ill health, transmission of disease, mortality, and
2 economic blight; and constitutes a threat to the quality of surface
3 and subsurface waters of this state. The connection to available
4 public sanitary sewer systems ~~at the earliest, reasonable date is a~~
5 ~~matter~~ **WHEN AVAILABLE AND THE USE OF ONSITE WASTEWATER TREATMENT**
6 **SYSTEMS THAT ARE ADEQUATELY MANAGED ARE MATTERS** for the protection
7 of the public health, safety, and welfare and necessary in the
8 public interest which is declared as a matter of legislative
9 determination.

10 (2) **ONSITE WASTEWATER TREATMENT SYSTEMS ARE SUBJECT TO**
11 **REGULATION UNDER PART 128. LOCAL HEALTH DEPARTMENTS MAY IMPLEMENT**
12 **AND ENFORCE THIS PART AND PART 128 UNDER ANY APPLICABLE PROVISIONS**
13 **OF THIS ACT, SUBJECT TO THE LIMITS PROVIDED IN PART 128.**

14 (3) AS USED IN THIS SECTION, "ONSITE WASTEWATER TREATMENT
15 SYSTEM" MEANS THAT TERM AS IT IS DEFINED IN SECTION 12801.

16 PART 128 ONSITE WASTEWATER TREATMENT SYSTEMS
17 SEC. 12801. AS USED IN THIS PART:

18 (A) "ALTERNATIVE SYSTEM" MEANS AN ONSITE WASTEWATER TREATMENT
19 SYSTEM THAT IS NOT A CONVENTIONAL SYSTEM AND THAT PROVIDES FOR AN
20 EQUIVALENT OR BETTER DEGREE OF PROTECTION FOR PUBLIC HEALTH AND THE
21 ENVIRONMENT THAN A CONVENTIONAL SYSTEM.

22 (B) "APPROVED ONSITE WASTEWATER TREATMENT SYSTEM" MEANS AN
23 ALTERNATIVE SYSTEM OR CONVENTIONAL SYSTEM FOR WHICH CONSTRUCTION
24 AND ANY REQUIRED OPERATING PERMITS HAVE BEEN ISSUED BY THE
25 DEPARTMENT OR BY THE LOCAL HEALTH DEPARTMENT HAVING JURISDICTION
26 AND AN INSPECTION HAS FOUND THE SYSTEM TO BE IN COMPLIANCE WITH ALL
27 REQUIRED PERMITS.

1 (C) "AUTHORIZED LOCAL HEALTH DEPARTMENT" MEANS A LOCAL HEALTH
2 DEPARTMENT AUTHORIZED BY THE DEPARTMENT TO ADMINISTER THIS PART
3 PURSUANT TO SECTION 12802 FOR CONVENTIONAL SYSTEMS OR SECTION 12803
4 FOR ALTERNATIVE SYSTEMS, AS APPLICABLE.

5 (D) "CONSTRUCTION PERMIT" MEANS A PERMIT TO INSTALL,
6 CONSTRUCT, ALTER, OR REPAIR AN ONSITE WASTEWATER TREATMENT SYSTEM.

7 (E) "CONVENTIONAL SYSTEM" MEANS AN ONSITE WASTEWATER TREATMENT
8 SYSTEM THAT CONTAINS A WATERTIGHT SEPTIC TANK WITH NONUNIFORM
9 DISTRIBUTION OF EFFLUENT TO A SOIL DISPERSAL SYSTEM THAT DOES NOT
10 INCLUDE ANY COMPONENTS OF AN APPROVED ALTERNATIVE TECHNOLOGY.

11 (F) "DEPARTMENT" MEANS THE DEPARTMENT OF ENVIRONMENTAL
12 QUALITY.

13 (G) "DOMESTIC EQUIVALENT WASTEWATER" MEANS WASTEWATER THAT IS
14 NOT SANITARY SEWAGE BUT HAS BEEN DEMONSTRATED TO HAVE SIMILAR
15 WASTEWATER CHARACTERISTICS AND FLOW AND IS AMENABLE TO ONSITE
16 WASTEWATER TREATMENT AND SOIL DISPERSAL THROUGH A CONVENTIONAL OR
17 ALTERNATIVE SYSTEM.

18 (H) "EXPERIMENTAL ONSITE WASTEWATER TREATMENT SYSTEM" MEANS AN
19 ONSITE WASTEWATER TREATMENT SYSTEM THAT IS IN EXPERIMENTAL USE AND
20 REQUIRES FURTHER TESTING IN ORDER TO PROVIDE SUFFICIENT INFORMATION
21 TO DETERMINE ITS ACCEPTABILITY.

22 (I) "FAILURE" MEANS A MALFUNCTION OR FAILURE OF AN ONSITE
23 WASTEWATER TREATMENT SYSTEM CONSISTING OF ANY OF THE FOLLOWING:

24 (i) A DISCHARGE OF SANITARY SEWAGE TO THE SURFACE OF THE
25 GROUND.

26 (ii) A DISCHARGE OF SANITARY SEWAGE OR EFFLUENT INTO SURFACE
27 WATER OR DIRECTLY INTO GROUNDWATER.

1 (iii) THE INABILITY OF THE ONSITE WASTEWATER TREATMENT SYSTEM
2 TO ACCEPT SANITARY SEWAGE AT THE RATE BEING DISCHARGED, WHICH
3 RESULTS IN THE BACKUP OF SANITARY SEWAGE INTO THE STRUCTURE OR
4 IMPEDES THE FLOW OF WASTEWATER WITHIN THE STRUCTURE.

5 (iv) A STRUCTURAL FAILURE OF THE SEPTIC TANK OR OTHER
6 ASSOCIATED COMPONENTS AND APPURTENANCES.

7 (v) A DISCHARGE OF TREATED WASTEWATER THAT DOES NOT COMPLY
8 WITH APPLICABLE STANDARDS.

9 (vi) AN ILLICIT CONNECTION OR ILLICIT DISCHARGE.

10 (vii) EVIDENCE OF EFFLUENT WITHIN THE SEPTIC TANK ABOVE OR
11 BELOW THE INVERT OF THE SEPTIC TANK OUTLET.

12 (J) "FUND" MEANS THE ONSITE WASTEWATER TREATMENT SYSTEM
13 ADMINISTRATION FUND CREATED IN SECTION 12813.

14 (K) "ILLICIT CONNECTION" MEANS A PHYSICAL CONNECTION TO AN
15 ONSITE WASTEWATER TREATMENT SYSTEM OR OTHER SEPARATE DRAINAGE
16 SYSTEM IN VIOLATION OF LAW.

17 (l) "ILLICIT DISCHARGE" MEANS ANY DISCHARGE FROM AN ONSITE
18 WASTEWATER TREATMENT SYSTEM OR OTHER SEPARATE DRAINAGE SYSTEM IN
19 VIOLATION OF LAW.

20 (M) "IMMINENT DANGER" MEANS THAT TERM AS DEFINED IN SECTIONS
21 2251 AND 2451.

22 (N) "LOCAL GOVERNMENTAL UNIT" MEANS A COUNTY, CITY, VILLAGE,
23 CHARTER TOWNSHIP, OR TOWNSHIP.

24 (O) "LOCAL HEALTH DEPARTMENT" MEANS A LOCAL HEALTH DEPARTMENT
25 AS DEFINED IN SECTION 1105.

26 (P) "MANAGEMENT" MEANS THE SITING, DESIGN, INSTALLATION,
27 OPERATION, AND MAINTENANCE OF ONSITE WASTEWATER TREATMENT SYSTEMS

1 TO ENSURE THAT ONSITE WASTEWATER TREATMENT SYSTEMS MEET REQUIRED
2 PERFORMANCE STANDARDS AND ARE PROTECTIVE OF PUBLIC HEALTH AND THE
3 ENVIRONMENT.

4 (Q) "NONPROPRIETARY TECHNOLOGY" MEANS A WASTEWATER TREATMENT
5 OR DISTRIBUTION TECHNOLOGY, METHOD, OR PRODUCT NOT SUBJECT TO A
6 PATENT OR TRADEMARK THAT SIGNIFICANTLY CONTRIBUTES TO THE
7 ATTAINMENT OF THE TREATMENT OR DISPERSAL OBJECTIVES.

8 (R) "ONSITE WASTEWATER TREATMENT SYSTEM" OR "SYSTEM" MEANS A
9 SYSTEM OF COMPONENTS AND APPURTENANCES USED TO COLLECT AND TREAT
10 SANITARY SEWAGE OR DOMESTIC EQUIVALENT WASTEWATER FROM 1 OR MORE
11 DWELLINGS, BUILDINGS, OR STRUCTURES AND DISCHARGE NOT MORE THAN
12 10,000 GALLONS PER DAY OF THE RESULTING EFFLUENT TO A SOIL
13 DISPERSAL SYSTEM ON PROPERTY OWNED BY OR UNDER THE CONTROL OF THE
14 OWNER OF THE ONSITE WASTEWATER TREATMENT SYSTEM.

15 (S) "ONSITE WASTEWATER TREATMENT SYSTEM EVALUATION" OR
16 "EVALUATION" MEANS AN EVALUATION OF AN ONSITE WASTEWATER TREATMENT
17 SYSTEM CONDUCTED UNDER SECTION 12810.

18 (T) "OPERATING PERMIT" MEANS A RENEWABLE AND REVOCABLE PERMIT,
19 IF REQUIRED, TO OPERATE AND MAINTAIN AN ALTERNATIVE SYSTEM IN
20 COMPLIANCE WITH SPECIFIC OPERATIONAL OR PERFORMANCE REQUIREMENTS.

21 (U) "POINT OF SALE ORDINANCE" MEANS AN ORDINANCE OR OTHER
22 REGULATION THAT RESTRICTS OR CONDITIONS THE SALE, PURCHASE, OR
23 OTHER TRANSFER OF AN INTEREST IN REAL ESTATE ON THE EVALUATION OR
24 OTHER INSPECTION, REPAIR, OR THE APPROVAL OF AN ONSITE WASTEWATER
25 TREATMENT SYSTEM OR PAYMENT OF A FEE OR ESCROW.

26 (V) "PROPRIETARY PRODUCT" MEANS A TREATMENT OR DISTRIBUTION
27 PRODUCT HELD UNDER PATENT OR TRADEMARK THAT SIGNIFICANTLY

1 CONTRIBUTES TO THE TREATMENT PERFORMANCE AND ATTAINMENT OF EFFLUENT
2 QUALITY OR DISPERSAL OBJECTIVES.

3 (W) "SANITARY SEWAGE" MEANS WATER AND CONTAMINANTS DISCHARGED
4 FROM SANITARY CONVENIENCES, INCLUDING BATHROOM, KITCHEN, AND
5 HOUSEHOLD LAUNDRY FIXTURES OF DWELLINGS, OFFICE BUILDINGS,
6 INDUSTRIAL PLANTS, COMMERCIAL BUILDINGS, AND INSTITUTIONS. SANITARY
7 SEWAGE DOES NOT INCLUDE COMMERCIAL LAUNDRY WASTES AND WASTES FROM
8 INDUSTRIAL AND COMMERCIAL PROCESSES.

9 (X) "STATEWIDE CODE" MEANS THE RULES PROMULGATED UNDER SECTION
10 12809 PROVIDING FOR THE MANAGEMENT OF ALTERNATIVE SYSTEMS.

11 (Y) "TECHNICAL ADVISORY COMMITTEE" MEANS THE TECHNICAL
12 ADVISORY COMMITTEE ESTABLISHED BY THE DEPARTMENT UNDER SECTION
13 12808.

14 SEC. 12802. (1) A LOCAL HEALTH DEPARTMENT STAFF MEMBER SHALL
15 MEET THE FOLLOWING MINIMUM EDUCATIONAL AND TRAINING REQUIREMENTS TO
16 WORK INDEPENDENTLY IN A CONVENTIONAL ONSITE WASTEWATER TREATMENT
17 SYSTEM PROGRAM:

18 (A) OBTAIN A MINIMUM OF 8 HOURS OF TRAINING THAT INCLUDES A
19 MINIMUM OF 4 HOURS OF FIELD TRAINING ON THE UNITED STATES
20 DEPARTMENT OF AGRICULTURE SOIL CLASSIFICATION SYSTEM FROM THE
21 DEPARTMENT OR ANOTHER ENTITY APPROVED BY THE DEPARTMENT.

22 (B) DEMONSTRATE COMPETENCY AND UNDERSTANDING OF LOCAL SANITARY
23 REGULATIONS, CRITERIA FOR SUBSURFACE SEWAGE DISPOSAL PROVIDED IN
24 STATE LAW AND RULES, AND THE LAND DIVISION ACT, 1967 PA 288, MCL
25 560.101 TO 560.293.

26 (C) DEMONSTRATE COMPETENCY AND UNDERSTANDING OF THE MICHIGAN
27 LOCAL PUBLIC HEALTH ACCREDITATION PROGRAM, ACCREDITATION

1 INDICATORS, AND ALL MINIMUM PROGRAM REQUIREMENTS PERTAINING TO
2 ONSITE WASTEWATER TREATMENT SYSTEMS.

3 (D) CONDUCT A MINIMUM OF 10 SUPERVISED FIELD EVALUATIONS OF
4 ONSITE WASTEWATER TREATMENT SYSTEM DESIGNS AND 10 SUPERVISED FINAL
5 INSPECTIONS WITH SENIOR STAFF OR A SUPERVISOR.

6 (E) CONDUCT A MINIMUM OF 5 SOLO FIELD EVALUATIONS OF ONSITE
7 WASTEWATER TREATMENT SYSTEM DESIGNS AND 5 SOLO FINAL INSPECTIONS
8 DEMONSTRATING UNDERSTANDING OF THE ONSITE WASTEWATER TREATMENT
9 SYSTEM PROGRAM AS DETERMINED BY SENIOR STAFF OR A SUPERVISOR.

10 (F) ATTEND AND OBSERVE A MINIMUM OF 2 COMPLETE ONSITE
11 WASTEWATER TREATMENT SYSTEM INSTALLATIONS FROM BEGINNING TO END.

12 (2) AN INDIVIDUAL WHO IS A STAFF MEMBER OF A LOCAL HEALTH
13 DEPARTMENT ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED
14 THIS SECTION SHALL MEET THE REQUIREMENTS OF SUBSECTION (1) WITHIN 1
15 YEAR AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
16 SECTION.

17 SEC. 12803. (1) THE DEPARTMENT MAY AUTHORIZE A LOCAL HEALTH
18 DEPARTMENT TO ADMINISTER THIS PART FOR ALTERNATIVE SYSTEMS IF THE
19 LOCAL HEALTH DEPARTMENT DOES BOTH OF THE FOLLOWING:

20 (A) DEMONSTRATES THAT IT MEETS THE REQUIREMENTS OF SECTION
21 12802.

22 (B) ADOPTS REGULATIONS CONSISTENT WITH THIS PART FOR THE
23 PURPOSE OF CARRYING OUT THE RESPONSIBILITIES OF THIS PART,
24 INCLUDING AUTHORITY TO DO ALL OF THE FOLLOWING:

25 (i) REVIEW, EVALUATE, APPROVE, OR REJECT APPLICATIONS, PLANS,
26 AND SPECIFICATIONS TO ALTER, INSTALL, REPAIR, OR REPLACE
27 ALTERNATIVE SYSTEMS.

1 (ii) ISSUE CONSTRUCTION PERMITS AUTHORIZING THE INSTALLATION
2 OF ALTERNATIVE SYSTEMS IN ACCORDANCE WITH SECTION 12805.

3 (iii) ENSURE LONG-TERM MAINTENANCE OF ALTERNATIVE SYSTEMS
4 THROUGH THE ISSUANCE OF OPERATING PERMITS.

5 (2) EXISTING LOCAL HEALTH DEPARTMENT REGULATIONS OR GUIDANCE
6 FOR A PARTICULAR TYPE OF ALTERNATIVE SYSTEM REMAIN IN EFFECT UNTIL
7 RECOMMENDED STANDARDS AND GUIDANCE FOR THAT TYPE OF ALTERNATIVE
8 SYSTEM ARE DEVELOPED BY THE DEPARTMENT IN ACCORDANCE WITH SECTION
9 12807.

10 SEC. 12804. (1) A PERSON SHALL NOT INSTALL, CONSTRUCT, ALTER,
11 OR REPAIR A CONVENTIONAL OR ALTERNATIVE SYSTEM UNLESS HE OR SHE HAS
12 RECEIVED A CONSTRUCTION PERMIT FROM AN AUTHORIZED LOCAL HEALTH
13 DEPARTMENT OR THE DEPARTMENT, SUBJECT TO ANY PERMIT REQUIRED UNDER
14 PART 31 OR 41 OF THE NATIONAL RESOURCES AND ENVIRONMENTAL
15 PROTECTION ACT, 1994 PA 451, MCL 324.3101 TO 324.3134 AND 324.4101
16 TO 324.4113.

17 (2) A CONSTRUCTION PERMIT FOR A CONVENTIONAL OR ALTERNATIVE
18 SYSTEM SHALL BE OBTAINED FROM AN AUTHORIZED LOCAL HEALTH DEPARTMENT
19 IN COMPLIANCE WITH THIS PART. IF THE LOCAL HEALTH DEPARTMENT WITH
20 JURISDICTION OVER THE PROPERTY IS NOT AUTHORIZED TO ADMINISTER THIS
21 PART WITH RESPECT TO THAT PERMIT, THE DEPARTMENT IS RESPONSIBLE FOR
22 THE ISSUANCE OF THE PERMIT.

23 (3) A LOCAL UNIT OF GOVERNMENT SHALL NOT ISSUE A BUILDING
24 PERMIT FOR A RESIDENCE OR FACILITY THAT WILL BE SERVED BY AN ONSITE
25 WASTEWATER TREATMENT SYSTEM UNLESS A CONSTRUCTION PERMIT FOR THE
26 ONSITE WASTEWATER SYSTEM HAS BEEN OBTAINED UNDER THIS PART.

27 SEC. 12805. (1) THE DEPARTMENT OR AN AUTHORIZED LOCAL HEALTH

1 DEPARTMENT THAT ADMINISTERS AN ALTERNATIVE SYSTEM CONSTRUCTION AND
2 OPERATING PERMITTING PROGRAM WITHIN ITS JURISDICTION SHALL ISSUE A
3 CONSTRUCTION PERMIT FOR THE INSTALLATION OF AN ALTERNATIVE SYSTEM
4 IF BOTH OF THE FOLLOWING CONDITIONS ARE MET:

5 (A) THE ALTERNATIVE SYSTEM DOES EITHER OF THE FOLLOWING:

6 (i) UTILIZES A PROPRIETARY PRODUCT THAT HAS BEEN REGISTERED
7 FOR USE BY THE DEPARTMENT.

8 (ii) UTILIZES A NONPROPRIETARY TECHNOLOGY IN ACCORDANCE WITH
9 THE RECOMMENDED STANDARDS AND GUIDANCE PROVIDED BY THE DEPARTMENT
10 IN ACCORDANCE WITH THE STATEWIDE CODE.

11 (B) THE SOILS, SITE CONDITIONS, AND OPERATING CONDITIONS AT
12 THE LOCATION ARE APPROPRIATE FOR THE USE OF THE ALTERNATIVE SYSTEM
13 IN COMPLIANCE WITH THE STATEWIDE CODE.

14 (2) AN ALTERNATIVE SYSTEM SHALL BE INSPECTED BY THE
15 DEPARTMENT, AN AUTHORIZED LOCAL HEALTH DEPARTMENT, OR A QUALIFIED
16 INSPECTOR AT LEAST ONCE EVERY 5 YEARS UNLESS OTHERWISE PROVIDED IN
17 THE STATEWIDE CODE.

18 (3) IF THE DEPARTMENT ISSUES A CONSTRUCTION PERMIT OR
19 OPERATING PERMIT FOR AN ALTERNATIVE SYSTEM UNDER THIS PART, THE
20 DEPARTMENT MAY CHARGE A REASONABLE PERMIT FEE TO COVER ITS COSTS IN
21 REVIEWING AND ISSUING THE CONSTRUCTING PERMIT OR OPERATING PERMIT.
22 THE DEPARTMENT SHALL FORWARD ALL MONEY RECEIVED UNDER THIS
23 SUBSECTION TO THE STATE TREASURER FOR DEPOSIT INTO THE FUND.

24 SEC. 12806. (1) A PERSON SHALL NOT INSTALL, CONSTRUCT, ALTER,
25 OR REPAIR A PROPRIETARY PRODUCT UNLESS THAT PRODUCT HAS BEEN
26 REGISTERED FOR USE IN THIS STATE BY THE DEPARTMENT AND A
27 CONSTRUCTION PERMIT IS OBTAINED UNDER SECTION 12804.

1 (2) A PERSON MAY APPLY FOR REGISTRATION OF A PROPRIETARY
2 PRODUCT UNDER SUBSECTION (1) BY SUBMITTING AN APPLICATION WITH THE
3 REQUIRED INFORMATION TO THE DEPARTMENT. THE DEPARTMENT MAY CHARGE A
4 FEE OF \$3,000.00 TO COVER ITS COSTS IN REVIEWING APPLICATIONS FOR
5 REGISTRATION UNDER THIS SECTION. MONEY RECEIVED BY THE DEPARTMENT
6 SHALL BE FORWARDED TO THE STATE TREASURER FOR DEPOSIT INTO THE
7 FUND. WITHIN 30 DAYS AFTER RECEIPT OF AN APPLICATION AND FEE, THE
8 DEPARTMENT SHALL REVIEW THE APPLICATION AND DETERMINE WHETHER IT IS
9 ADMINISTRATIVELY COMPLETE. WITHIN 60 DAYS AFTER RECEIPT OF AN
10 ADMINISTRATIVELY COMPLETE APPLICATION, THE DEPARTMENT SHALL APPROVE
11 THE REGISTRATION OR, PURSUANT TO SUBSECTION (3), DENY THE
12 REGISTRATION, AND NOTIFY THE APPLICANT IN WRITING. IN APPROVING AND
13 REGISTERING FOR USE A PROPRIETARY PRODUCT IN THIS STATE, THE
14 DEPARTMENT SHALL CONSIDER THE RECOMMENDED STANDARDS AND GUIDANCE
15 PROVIDED TO THE DEPARTMENT BY THE TECHNICAL ADVISORY COMMITTEE. A
16 REGISTRATION UNDER THIS SECTION IS VALID FOR 5 YEARS. A
17 REGISTRATION MAY BE RENEWED, HOWEVER, THERE IS NO FEE FOR A
18 RENEWAL.

19 (3) THE DEPARTMENT MAY DENY, SUSPEND, OR REVOKE A REGISTRATION
20 UNDER THIS SECTION FOLLOWING A CONTESTED CASE HEARING PURSUANT TO
21 THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201
22 TO 24.328, IF THE DEPARTMENT FINDS ANY OF THE FOLLOWING:

23 (A) THE REGISTRATION WAS OBTAINED OR ATTEMPTED TO BE OBTAINED
24 THROUGH MISREPRESENTATION OR FRAUD.

25 (B) THE REGISTRANT TRANSACTED BUSINESS UNDER ITS REGISTRATION
26 USING FRAUDULENT, COERCIVE, OR DISHONEST PRACTICES.

27 (C) THE APPLICANT OR REGISTRANT FAILED TO PAY REQUIRED

1 REGISTRATION APPLICATION REVIEW FEES.

2 (D) FIELD REVIEWS DETERMINE THAT THE PROPRIETARY PRODUCT DOES
3 NOT FUNCTION OR PERFORM AS DESIGNED.

4 SEC. 12807. THE DEPARTMENT SHALL DEVELOP RECOMMENDED STANDARDS
5 AND GUIDANCE TO ASSIST LOCAL HEALTH DEPARTMENTS IN PERMITTING
6 DIFFERENT TYPES OF ALTERNATIVE SYSTEMS, INCLUDING THE FOLLOWING
7 CATEGORIES:

8 (A) NONPROPRIETARY TECHNOLOGIES SUCH AS SAND FILTERS.

9 (B) PROPRIETARY PRODUCTS SUCH AS SUBSURFACE DRIPLINE PRODUCTS
10 OR GRAVELLESS DISTRIBUTION PRODUCTS.

11 SEC. 12808. (1) THE TECHNICAL ADVISORY COMMITTEE IS CREATED IN
12 THE DEPARTMENT TO ADVISE THE DEPARTMENT REGARDING ALL OF THE
13 FOLLOWING:

14 (A) RECOMMENDED STANDARDS AND GUIDANCE FOR THE MANAGEMENT OF
15 ALTERNATIVE SYSTEMS.

16 (B) NONPROPRIETARY TECHNOLOGIES AND RECOMMENDED STANDARDS AND
17 GUIDANCE FOR THEIR USE.

18 (C) TESTING AND DESIGN STANDARDS USED FOR PROPRIETARY PRODUCT
19 REGISTRATION AND RECOMMENDED STANDARDS AND GUIDANCE FOR USE OF
20 PROPRIETARY PRODUCTS.

21 (D) INSPECTION ELEMENTS AND REPORTING.

22 (E) CONTINUING EDUCATION REQUIREMENTS FOR PERSONS INVOLVED IN
23 THE MANAGEMENT OF ALTERNATIVE SYSTEMS.

24 (2) THE GOVERNOR SHALL APPOINT MEMBERS TO THE TECHNICAL
25 ADVISORY COMMITTEE WHO HAVE TECHNICAL OR SCIENTIFIC KNOWLEDGE AND
26 PRACTICAL EXPERIENCE APPLICABLE TO ONSITE WASTEWATER TREATMENT
27 SYSTEMS FROM AGENCIES, PROFESSIONS, AND ORGANIZATIONS AS FOLLOWS:

1 (A) TWO REGIONAL LOCAL HEALTH DEPARTMENT REPRESENTATIVES
2 RECOMMENDED BY A STATE ORGANIZATION REPRESENTING LOCAL HEALTH
3 DEPARTMENTS.

4 (B) TWO PROFESSIONAL ENGINEERS.

5 (C) ONE HYDROGEOLOGIST.

6 (D) ONE SOIL SCIENTIST.

7 (E) ONE UNIVERSITY REPRESENTATIVE.

8 (F) ONE ALTERNATIVE SYSTEM PRODUCT MANUFACTURER.

9 (G) ONE ALTERNATIVE SYSTEM INSTALLER.

10 (H) ONE ALTERNATIVE SYSTEM SERVICE PROVIDER.

11 (I) TWO DEPARTMENT REPRESENTATIVES.

12 (J) ONE STATE EPIDEMIOLOGIST.

13 (K) ONE INDIVIDUAL WITH KNOWLEDGE OF THE USE OF ALTERNATIVE
14 SYSTEMS REPRESENTING USERS OF ALTERNATIVE ONSITE SYSTEMS.

15 (3) THE MEMBERS FIRST APPOINTED TO THE TECHNICAL ADVISORY
16 COMMITTEE SHALL BE APPOINTED WITHIN 90 DAYS AFTER THE EFFECTIVE
17 DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION.

18 (4) MEMBERS OF THE TECHNICAL ADVISORY COMMITTEE SHALL SERVE
19 FOR TERMS OF 4 YEARS OR UNTIL A SUCCESSOR IS APPOINTED.

20 (5) IF A VACANCY OCCURS ON THE TECHNICAL ADVISORY COMMITTEE,
21 THE GOVERNOR SHALL MAKE AN APPOINTMENT FOR THE UNEXPIRED TERM IN
22 THE SAME MANNER AS THE ORIGINAL APPOINTMENT.

23 (6) THE GOVERNOR MAY REMOVE A MEMBER OF THE TECHNICAL ADVISORY
24 COMMITTEE FOR INCOMPETENCE, DERELICTION OF DUTY, MALFEASANCE,
25 MISFEASANCE, OR NONFEASANCE IN OFFICE, OR ANY OTHER GOOD CAUSE.

26 (7) THE FIRST MEETING OF THE TECHNICAL ADVISORY COMMITTEE
27 SHALL BE CALLED BY THE GOVERNOR. AT THE FIRST MEETING, THE

1 TECHNICAL ADVISORY COMMITTEE SHALL ELECT FROM AMONG ITS MEMBERS A
2 CHAIRPERSON AND OTHER OFFICERS AS IT CONSIDERS NECESSARY OR
3 APPROPRIATE. AFTER THE FIRST MEETING, THE TECHNICAL ADVISORY
4 COMMITTEE SHALL MEET AT LEAST BIMONTHLY, OR MORE FREQUENTLY AT THE
5 CALL OF THE CHAIRPERSON OR IF REQUESTED BY THE DEPARTMENT.

6 (8) A MAJORITY OF THE MEMBERS OF THE TECHNICAL ADVISORY
7 COMMITTEE CONSTITUTE A QUORUM FOR THE TRANSACTION OF BUSINESS AT A
8 MEETING OF THE TECHNICAL ADVISORY COMMITTEE. A MAJORITY OF THE
9 MEMBERS PRESENT AND SERVING ARE REQUIRED FOR OFFICIAL ACTION OF THE
10 TECHNICAL ADVISORY COMMITTEE.

11 (9) THE BUSINESS THAT THE TECHNICAL ADVISORY COMMITTEE MAY
12 PERFORM SHALL BE CONDUCTED AT A PUBLIC MEETING OF THE TECHNICAL
13 ADVISORY COMMITTEE HELD IN COMPLIANCE WITH THE OPEN MEETINGS ACT,
14 1976 PA 267, MCL 15.261 TO 15.275.

15 (10) A WRITING PREPARED, OWNED, USED, IN THE POSSESSION OF, OR
16 RETAINED BY THE TECHNICAL ADVISORY COMMITTEE IN THE PERFORMANCE OF
17 AN OFFICIAL FUNCTION IS SUBJECT TO THE FREEDOM OF INFORMATION ACT,
18 1976 PA 442, MCL 15.231 TO 15.246.

19 (11) MEMBERS OF THE TECHNICAL ADVISORY COMMITTEE SHALL SERVE
20 WITHOUT COMPENSATION. HOWEVER, MEMBERS OF THE TECHNICAL ADVISORY
21 COMMITTEE MAY BE REIMBURSED FOR THEIR ACTUAL AND NECESSARY EXPENSES
22 INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES AS MEMBERS OF
23 THE TECHNICAL ADVISORY COMMITTEE.

24 (12) THE TECHNICAL ADVISORY COMMITTEE SHALL CONSIDER THE
25 FOLLOWING IN ITS ADVICE TO THE DEPARTMENT:

26 (A) SUFFICIENT THEORY AND APPLIED RESEARCH TO DOCUMENT
27 EFFICACY OF ALTERNATIVE SYSTEMS.

1 (B) POTENTIAL USE, LOCAL SOIL CONDITIONS, AND OTHER FACTORS
2 THAT MAY AFFECT THE OPERATION OF ALTERNATIVE SYSTEMS.

3 (C) FIELD PERFORMANCE DATA THAT CONFIRM THE PRODUCT OR
4 TECHNOLOGY FUNCTIONS WHEN INSTALLED ON SITE AS INDICATED BY
5 SUBMITTED DOCUMENTS.

6 (D) CERTIFICATION OF ALTERNATIVE SYSTEMS BY NSF INTERNATIONAL
7 OR ANOTHER RECOGNIZED CERTIFYING AGENCY.

8 (13) THE TECHNICAL ADVISORY COMMITTEE MAY CONSULT WITH EXPERTS
9 IN THE FIELD OF MANAGEMENT OF ONSITE WASTEWATER TREATMENT SYSTEMS
10 AND OTHER PERSONS WITH KNOWLEDGE AND EXPERTISE IN THE MANAGEMENT OF
11 ONSITE WASTEWATER TREATMENT SYSTEMS, INCLUDING, BUT NOT LIMITED TO,
12 ENVIRONMENTAL ORGANIZATIONS, FINANCIAL ORGANIZATIONS, HOME
13 BUILDERS, REALTORS, LOCAL UNITS OF GOVERNMENT, AND CONSERVATION
14 DISTRICTS.

15 (14) THE DEPARTMENT SHALL PROVIDE ADMINISTRATIVE SUPPORT TO
16 THE TECHNICAL ADVISORY COMMITTEE.

17 SEC. 12809. NOT LATER THAN 2 YEARS AFTER THE EFFECTIVE DATE OF
18 THE AMENDATORY ACT THAT ADDED THIS SECTION, THE DEPARTMENT SHALL
19 PROMULGATE RULES THAT ESTABLISH A STATEWIDE CODE CONTAINING
20 PERFORMANCE-BASED STANDARDS FOR ALTERNATIVE SYSTEMS. PRIOR TO
21 PROMULGATING THESE RULES, THE DEPARTMENT SHALL CONSULT WITH THE
22 TECHNICAL ADVISORY COMMITTEE. THE RULES SHALL PROVIDE BASELINE
23 PROTECTION FOR PUBLIC HEALTH AND THE ENVIRONMENT, INCLUDING ALL OF
24 THE FOLLOWING:

25 (A) MINIMUM STANDARDS AND CRITERIA FOR THE SITING, DESIGN, AND
26 INSTALLATION OF ALTERNATIVE SYSTEMS.

27 (B) WASTEWATER EFFLUENT STANDARDS FOR ALTERNATIVE SYSTEMS, IF

1 APPLICABLE.

2 (C) CORRECTIVE ACTIONS NECESSARY TO PROTECT THE PUBLIC HEALTH
3 AND THE ENVIRONMENT FOR ALTERNATIVE SYSTEMS THAT FAIL TO MEET THESE
4 STANDARDS.

5 (D) REQUIREMENTS RELATING TO THE CONSTRUCTION APPROVAL PROCESS
6 BY THE DEPARTMENT AND LOCAL HEALTH DEPARTMENTS FOR ALTERNATIVE
7 SYSTEMS.

8 (E) REQUIREMENTS FOR THE OPERATION, INSPECTION, AND
9 MAINTENANCE OF ALTERNATIVE SYSTEMS THAT DEFINE REQUIRED ROUTINE
10 MAINTENANCE NECESSARY TO ENSURE CONTINUED PROPER PERFORMANCE OF THE
11 SYSTEM TO PROTECT PUBLIC HEALTH AND THE ENVIRONMENT.

12 (F) REQUIREMENTS FOR THE APPROVAL OF ALTERNATIVE AND
13 EXPERIMENTAL ONSITE WASTEWATER TREATMENT SYSTEM PRODUCTS,
14 COMPONENTS, OR DEVICES.

15 (G) CRITERIA FOR REQUESTING AND GRANTING APPEALS BY AN
16 AUTHORIZED LOCAL HEALTH DEPARTMENT.

17 (H) CRITERIA FOR ALLOWING THE CONTINUED USE OF APPROVED
18 ALTERNATIVE SYSTEMS IN WHICH A CONSTRUCTION PERMIT WAS ISSUED PRIOR
19 TO THE EFFECTIVE DATE OF THE STATEWIDE CODE IF USE OF AN
20 ALTERNATIVE SYSTEM CAN BE MANAGED IN A MANNER THAT DOES ALL OF THE
21 FOLLOWING:

22 (i) ENSURES AN EFFECTIVE LEVEL OF TREATMENT OF SANITARY SEWAGE
23 DETERMINED TO BE NECESSARY, BASED UPON RISK.

24 (ii) PROTECTS PUBLIC HEALTH AND THE ENVIRONMENT.

25 (iii) PROTECTS THE SURFACE WATERS OF THE STATE.

26 (iv) PROTECTS GROUNDWATER QUALITY.

27 (I) QUALIFICATIONS AND CONTINUING EDUCATION REQUIREMENTS FOR

1 THOSE INVOLVED IN THE MANAGEMENT OF ALTERNATIVE SYSTEMS.

2 (J) A REQUIREMENT FOR SEPTIC TANKS INSTALLED OR ALTERED AFTER
3 THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION AS
4 PART OF AN ALTERNATIVE SYSTEM TO CONTAIN A SEPTIC TANK ACCESS RISER
5 AND SECONDARY SAFETY DEVICE.

6 SEC. 12810. (1) A PERSON CONDUCTING AN ONSITE WASTEWATER
7 TREATMENT SYSTEM EVALUATION SHALL DO ALL OF THE FOLLOWING:

8 (A) IDENTIFY THE SIZE AND CONDITION OF THE SEPTIC TANK OR
9 TANKS.

10 (B) VERIFY THAT ALL SANITARY SEWAGE-RELATED PLUMBING FIXTURES
11 ARE CONNECTED TO THE SEPTIC TANK OR TANKS.

12 (C) DETERMINE THE LEVEL OF EFFLUENT IN THE SEPTIC TANK OR
13 TANKS.

14 (D) EVALUATE THE TREATMENT AND DISPERSAL SYSTEM FOLLOWING THE
15 SEPTIC TANK OR TANKS.

16 (E) DOCUMENT EVIDENCE OF A FAILURE OF THE ONSITE WASTEWATER
17 TREATMENT SYSTEM AND WHETHER THE FAILURE IS CAUSING AN IMMINENT
18 DANGER.

19 (F) DETERMINE IF THE TOTAL DEPTH OF SCUM PLUS SLUDGE LAYERS
20 EQUALS OR EXCEEDS 1/3 OF THE DEPTH OF THE SEPTIC TANK.

21 (G) PREPARE AN EVALUATION REPORT OF THE INFORMATION GATHERED
22 UNDER THIS SUBSECTION.

23 (2) IF AN ONSITE WASTEWATER TREATMENT SYSTEM EVALUATION UNDER
24 SUBSECTION (1) (F) IDENTIFIES THE NEED FOR THE SEPTIC TANK OR TANKS
25 TO BE PUMPED, THE OWNER OF THE ONSITE WASTEWATER TREATMENT SYSTEM
26 SHALL HAVE THE SEPTIC TANK OR TANKS PUMPED BY A SEPTAGE WASTE
27 HAULER LICENSED UNDER PART 117 WITHIN 30 DAYS AFTER THE OWNER

1 RECEIVES A COPY OF THE EVALUATION REPORT.

2 (3) WITHIN 15 DAYS AFTER COMPLETION OF AN EVALUATION, THE
3 PERSON CONDUCTING THE EVALUATION SHALL PROVIDE A WRITTEN OR
4 ELECTRONIC COPY OF THE EVALUATION REPORT TO THE OWNER OF THE ONSITE
5 WASTEWATER TREATMENT SYSTEM AND TO THE AUTHORIZED LOCAL HEALTH
6 DEPARTMENT OR THE DEPARTMENT.

7 (4) AN EVALUATION THAT IS CONDUCTED UNDER THIS SECTION IS
8 VALID FOR A 5-YEAR PERIOD AS LONG AS THERE IS NO CHANGE TO THE USE
9 OF THE SYSTEM OR A FAILURE OF THE SYSTEM DURING THAT PERIOD.

10 (5) IF THE DEPARTMENT OR AN AUTHORIZED LOCAL HEALTH DEPARTMENT
11 CONDUCTS AN EVALUATION, THE DEPARTMENT OR AUTHORIZED HEALTH
12 DEPARTMENT SHALL CHARGE A REASONABLE FEE NOT TO EXCEED THE COSTS OF
13 CONDUCTING THE ONSITE WASTEWATER TREATMENT SYSTEM EVALUATION. THE
14 DEPARTMENT SHALL FORWARD MONEY COLLECTED UNDER THIS SUBSECTION TO
15 THE STATE TREASURER FOR DEPOSIT INTO THE FUND.

16 SEC. 12811. (1) THE DEPARTMENT SHALL DEVELOP AND MAKE
17 AVAILABLE EVALUATION REPORT FORMS AND INSPECTION REPORT FORMS FOR
18 ONSITE WASTEWATER TREATMENT SYSTEMS FOR USE IN DOCUMENTING THE
19 RESULTS OF ONSITE WASTEWATER TREATMENT SYSTEM EVALUATIONS AND
20 INSPECTIONS.

21 (2) THE DEPARTMENT SHALL MAKE AVAILABLE AND MAINTAIN AN ONSITE
22 WASTEWATER SYSTEM ELECTRONIC DATABASE FOR RECORDING AND TRACKING
23 THE RESULTS OF ONSITE WASTEWATER TREATMENT SYSTEM EVALUATIONS AND
24 INSPECTIONS OF ONSITE WASTEWATER TREATMENT SYSTEMS. WHEN THE ONSITE
25 WASTEWATER TREATMENT SYSTEM ELECTRONIC DATABASE IS AVAILABLE, THE
26 DEPARTMENT MAY REQUIRE THE PERSON CONDUCTING THE EVALUATION OR
27 INSPECTION TO ELECTRONICALLY ENTER EVALUATION AND INSPECTION REPORT

1 INFORMATION INTO THE DATABASE IN LIEU OF A WRITTEN EVALUATION OR
2 INSPECTION REPORT. THE DATABASE MUST NOT INCLUDE PERSONAL
3 INFORMATION RELATED TO THE OWNER OF AN ONSITE WASTEWATER TREATMENT
4 SYSTEM.

5 SEC. 12812. (1) THE DEPARTMENT MAY ENTER INTO AGREEMENTS,
6 CONTRACTS, OR COOPERATIVE ARRANGEMENTS WITH APPROPRIATE AUTHORIZED
7 LOCAL HEALTH DEPARTMENTS OR OTHER PERSONS FOR THE PURPOSE OF
8 ADMINISTERING THIS PART.

9 (2) TO THE EXTENT A LOCAL HEALTH DEPARTMENT IS NOT AUTHORIZED
10 TO ADMINISTER THIS PART, THE DEPARTMENT SHALL IMPLEMENT THIS PART.
11 IN IMPLEMENTING THIS PART, THE DEPARTMENT MAY CONTRACT WITH ANOTHER
12 AUTHORIZED LOCAL HEALTH DEPARTMENT OR OTHER QUALIFIED PERSON.

13 SEC. 12813. (1) THE ONSITE WASTEWATER TREATMENT SYSTEM
14 ADMINISTRATION FUND IS CREATED WITHIN THE STATE TREASURY.

15 (2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS FROM
16 ANY SOURCE FOR DEPOSIT INTO THE FUND. THE STATE TREASURER SHALL
17 DIRECT THE INVESTMENT OF THE FUND. THE STATE TREASURER SHALL CREDIT
18 TO THE FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS.

19 (3) MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL
20 REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.

21 (4) THE DEPARTMENT SHALL BE THE ADMINISTRATOR OF THE FUND FOR
22 AUDITING PURPOSES.

23 (5) THE DEPARTMENT SHALL EXPEND MONEY FROM THE FUND, UPON
24 APPROPRIATION, ONLY FOR THE FOLLOWING:

25 (A) TO ADMINISTER THIS PART.

26 (B) FOR GRANTS TO LOCAL HEALTH DEPARTMENTS TO CARRY OUT THEIR
27 RESPONSIBILITIES UNDER THIS PART.

1 (C) IF REVENUE IS DEPOSITED INTO THE FUND TO BE USED FOR
2 GRANTS TO DISTRESSED HOMEOWNERS FOR THE REPAIR AND REPLACEMENT OF
3 ONSITE WASTEWATER TREATMENT SYSTEMS THAT HAVE FAILED, MONEY MAY BE
4 EXPENDED FOR THAT PURPOSE.

5 SEC. 12814. (1) A LOCAL HEALTH DEPARTMENT MAY REQUIRE AN
6 ONSITE WASTEWATER TREATMENT SYSTEM EVALUATION FOR PROPERTY UPON ITS
7 SALE OR TRANSFER, BUT SHALL NOT RESTRICT OR CONDITION THE SALE,
8 PURCHASE, OR OTHER TRANSFER OF ANY INTEREST IN PROPERTY ON THE
9 EVALUATION OR OTHER INSPECTION, OR THE REPAIR OR THE APPROVAL OF
10 THE ONSITE WASTEWATER TREATMENT SYSTEM OR PAYMENT OF A FEE OR
11 ESCROW. AFTER AN EVALUATION, UNLESS REQUIRED TO CORRECT OR REMOVE
12 AN IMMINENT DANGER, A LOCAL HEALTH DEPARTMENT SHALL NOT CONDITION
13 OR RESTRICT THE OCCUPANCY OF THE PROPERTY ON THE REPAIR OR THE
14 APPROVAL OF THE ONSITE WASTEWATER TREATMENT SYSTEM IN CONNECTION
15 WITH A TRANSFER OF THE PROPERTY.

16 (2) A LOCAL GOVERNMENTAL UNIT SHALL NOT ADOPT, ENACT, OR
17 ENFORCE A POINT OF SALE ORDINANCE RELATED TO ONSITE WASTEWATER
18 TREATMENT SYSTEMS.

19 (3) A LOCAL HEALTH DEPARTMENT SHALL NOT ENFORCE A POINT OF
20 SALE ORDINANCE RELATED TO ONSITE WASTEWATER TREATMENT SYSTEMS BUT
21 MAY ADOPT OR ENFORCE ITS OWN REGULATION RELATED TO AN ONSITE
22 WASTEWATER TREATMENT SYSTEM EVALUATION AUTHORIZED UNDER SUBSECTION
23 (1).

24 SEC. 12815. SUBJECT TO SUBSECTION (2), THE DEPARTMENT UNDER
25 PART 41 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT,
26 1994 PA 451, MCL 324.4101 TO 324.4113, AND THIS ACT, AND LOCAL
27 HEALTH DEPARTMENTS UNDER THIS ACT HAVE EXCLUSIVE JURISDICTION OVER

1 THE REGULATION, PERMITTING, AND INSPECTION OF ONSITE WASTEWATER
2 TREATMENT SYSTEMS. ANY EVALUATION OR OTHER INSPECTION, REGULATION,
3 OR PERMIT REQUIREMENT FOR THE DESIGN, INSTALLATION, LOCATION,
4 OPERATION, EVALUATION OR OTHER INSPECTION, OR REGULATION OF ONSITE
5 WASTEWATER TREATMENT SYSTEMS MUST COMPLY WITH THIS ACT AND PART 41
6 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA
7 451, MCL 324.4101 TO 324.4113. THIS PART SUPERSEDES ANY ORDINANCE,
8 REGULATION, OR ACTION OF ANY LOCAL HEALTH DEPARTMENT, CITY,
9 TOWNSHIP, COUNTY, OR VILLAGE THAT PURPORTS TO REGULATE THE SUBJECT
10 MATTER OF THIS PART, AND NO REGULATION, ORDINANCE, PERMIT, OR OTHER
11 REQUIREMENT SHALL PROHIBIT, RESTRICT, OR REGULATE THE SALE,
12 PURCHASE, OR OTHER TRANSFER OF PROPERTY SERVED BY AN ONSITE
13 WASTEWATER TREATMENT SYSTEM, OR REQUIRE A FEE, ESCROW, BOND, OR
14 OTHER SECURITY FOR THE SALE, PURCHASE, OR OTHER TRANSFER OF
15 PROPERTY SERVED BY AN ONSITE WASTEWATER TREATMENT SYSTEM.

16 SEC. 12816. A PERSON THAT KNOWINGLY SUBMITS TO THE DEPARTMENT
17 OR LOCAL HEALTH DEPARTMENT INFORMATION RELATED TO AN ONSITE
18 WASTEWATER TREATMENT SYSTEM THAT IS FALSE, INCORRECT, MISLEADING,
19 OR FABRICATED IS GUILTY OF A MISDEMEANOR PUNISHABLE BY A FINE OF
20 NOT MORE THAN \$10,000.00 FOR EACH VIOLATION OR IMPRISONMENT FOR NOT
21 MORE THAN 1 YEAR, OR BOTH.