SENATE, No. 569

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator FRED H. MADDEN, JR. District 4 (Camden and Gloucester)

SYNOPSIS

Requires DEP to establish certification program for septic system inspectors.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



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AN ACT establishing a certification program for septic system inspectors, and supplementing Title 45 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. The Department of Environmental Protection shall, within 180 days after the date of enactment of this act, establish a training and examination program for the certification of persons who perform septic system inspections.

2. Beginning 90 days after the establishment of the certification program by the department, no person who is not certified pursuant to section 1 of this act shall perform septic system inspections. This section shall not apply to any person performing an inspection on a septic system the person owns, or to any person performing an inspection without remuneration.

3. No person shall disclose to any person, except to the department, the address, location, or owner of a property where a septic system inspection was performed, or the results of any septic system inspection, unless the owner of the property waives, in writing, this right of confidentiality. This section shall not apply to any person performing an inspection on a septic system the person owns or to instances where disclosure is necessary to contract for further inspections or to contract for mitigation or protection of the property. In the case of a prospective sale of a property where the septic system has been inspected, the seller shall provide the buyer, at the time the contract of sale is entered into, with a copy of the results of the inspection, and evidence of any subsequent mitigation or treatment, and any prospective buyer who contracts for inspection of the septic system shall have the right to receive the results of that inspection.

4. A person certified pursuant to section 1 of this act to perform septic system inspections shall, within 30 days after providing these services, disclose to the department the address or location of a property where the septic system inspection was performed, the name of the owner of the property, and the results of the inspection.

5. The department shall establish a fee schedule to cover the costs of the certification program established pursuant to sections 1 of this act.

6. The department shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations to implement the provisions of this act.

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7. A person who violates the provisions of sections 2, 3, or 4 of this act, or any rule or regulation adopted pursuant thereto, shall be liable to a civil penalty of up to \$1,000 for each offense, to be collected in a civil action by a summary proceeding under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court and municipal court shall have jurisdiction to enforce the "Penalty Enforcement Law of 1999." If the violation is of a continuing nature, each day during which it continues shall constitute a separate offense.

In addition to the penalty provided in this section, the department may, in its discretion, revoke a septic system inspector certification for violation of any provision of this act.

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8. For the purposes of P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404 (C.47:1A-5 et al.), data relating to septic system inspections at specific properties, including residential dwellings, gathered pursuant to the provisions of this act shall not be deemed to be public records or government records. The department shall destroy all information in the department's possession relating to the names and addresses of persons owning properties on which data were collected relating to septic system inspections, at the end of five years from the date on which the data were collected.

9. This act shall take effect immediately.

STATEMENT

This bill would require the Department of Environmental Protection (DEP) to establish, within 180 days after enactment, a training and examination program for the certification of septic system inspectors. Ninety days after the establishment of the certification program, only persons certified as septic system inspectors would be able to perform such services in the State. However, these provisions would not apply to persons performing inspections on septic systems they own, or to persons performing inspections without remuneration.

Also, except as it relates to reporting requirements to the DEP, the right of confidentiality would apply to owners of property where a septic system inspection was performed, and to the results of such inspections, unless the owner of the property waives this right of confidentiality. This provision would not apply to persons performing inspections on septic systems they own or to instances where disclosure is necessary to contract for further inspections or to contract for mitigation or protection of the property.

Additionally, the bill would require the seller, in the case of a prospective sale of a property, to provide the buyer, at the time the contract of sale is entered into, with a copy of the results of the

septic system inspection, and evidence of any subsequent mitigation or treatment. Further, prospective buyers who contract for inspection of the septic system, would have the right to receive the results of that inspection.

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This bill would also require certified inspectors to disclose to the DEP the address or location of a property where a septic system inspection was performed, the name of the owner of the property, and the results of the inspection, within 30 days after providing these services.

Furthermore, for the purposes of the "Open Public Records Act," data gathered relating to septic system inspections at specific properties, including residential dwellings, pursuant to the provisions of the bill, would not become public records or government records. After five years, the DEP would be required to destroy all information relating to the names and addresses of persons and properties where septic system inspections have been performed.

Finally, the bill requires the DEP to establish a fee schedule for the costs of the certification program, requires the department to adopt rules and regulations to implement the bill, establishes civil penalties of up to \$1,000 for violations, and provides for the revocation of septic system inspector certifications.