



BILL SUMMARY

Sewage Disposal Systems Inspections SF 261

Status of Bill: House Calendar
Committee: Environmental Protection (passed Committee 18-2)
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BACKGROUND

Currently, in Iowa, at least 21 counties have adopted the requirement that private sewage disposal systems must be inspected when the property is sold or transferred. This bill provides for a statewide uniform program.

SUMMARY

Inspection Requirements

Any building where a person lives, works, or gathers, which has a private sewage disposal system, must have the system for that building inspected prior to any transfer of ownership of the building. This requirement is applied to all types of ownership transfers including at the time a seller financed real estate contract is signed. Transfer is defined the same as under Chapter 558A.1, Real Estate Disclosures. The Iowa Department of Natural Resources (DNR) must adopt rules regarding the inspection of any type of private sewage disposal system or on-site treatment unit.

At the time of inspection, any septic tank as part of the sewage disposal system must be opened and have the contents pumped out and disposed. However, the owner may provide evidence that the septic tank was pumped out within the previous year. The previous inspection must have been completed by a commercial septic tank cleaner licensed by DNR. In addition, the evidence of the inspection must include documentation of the size and condition of the tank and its components at time of the previous inspection.

If a system is failing to guarantee effective wastewater treatment or is generally working improperly, the system must be renovated to meet the current construction standards, as adopted by DNR. The renovations will be paid for by the seller; or by the buyer, if agreed to by the county or DNR and done in a reasonable amount of time. A system that is properly treating the wastewater and not creating an unsanitary condition in the environment at the time of inspection is not required to meet current construction standards.

Recording Inspection

After the inspection, the DNR inspection form and any related reports must be submitted to the county for enforcement of any follow up mandatory system improvements, and to DNR to be kept for record. An inspection is valid for a two year time period for any ownership transfers during that time.

The county recorder cannot record a deed or any other property transfer or conveyance document until a certified inspector's report is provided, which documents the current condition of the system and

whether any modifications are required to conform to the standards adopted by DNR. Alternately, the deed can not be recorded until the buyer has implemented and submitted a binding agreement with the county board of health to conduct a certified inspection of the system at the earliest time and to be responsible for any modifications necessary as identified by the certified inspector. This would only be due to weather or other temporary physical conditions that would prevent the certified inspection from being conducted.

DNR Certified Inspectors

Inspectors must be certified by DNR. In addition, DNR must adopt certification requirements for inspectors including training, testing, and fees. The certification requirements will be uniform statewide standards, as well as the inspection form. A list of certified inspectors will be kept by DNR. County officials may become certified inspectors. The counties may set an inspection fee for inspection conducted by the certified county personnel. A county must allow DNR certified inspectors to conduct an inspection within the county's jurisdiction.

Effective Date

The bill takes effect July 1, 2008.

AMENDMENTS

H-8010, Unsewered Community Revolving Loan Program and Fund, by Sands of Louisa (R) – The amendment requires the Iowa Finance Authority (IFA) to establish and administer an Unsewered Community Revolving Loan Program Fund. Assistance from the Program will consist of no interest loans with a term of not more than forty years and will only be used for purposes of installing sewage disposal systems in a city without a sewage disposal system or in an area where a cluster of homes is located. For this section, an “area where a cluster of homes is located,” is defined as in a county which includes six or more homes but less than 500 homes.

An unsewered community can apply for assistance under the program. When awarding assistance, IFA is required to encourage the use of innovative, cost effective sewage disposal systems and technologies. DNR will adopt rules that prioritize applications for disadvantaged unsewered communities.

An Unsewered Community Revolving Loan Fund is created in the State Treasury under the control of IFA and consisting of moneys appropriated by the General Assembly and any other moneys available to and obtained or accepted by the IFA for placement in the fund.

Repayment of moneys loaned and recaptures of loans will be deposited in the Fund. Moneys in the Fund will be used to provide assistance through the Program. At the end of a Fiscal Year, any left over monies will remain in the Fund and all interest or earnings on moneys in the Fund will be credited to the Fund.

Lastly, the title is amended to reflect the creation of the Unsewered Community Revolving Loan Program and Fund.

H-8009, by Alons of Sioux (R) – This amendment excludes the inspection requirement for single family residences on land which is three acres or more.

H-1442, by Sands of Louisa (R) – First, the amendment eliminates the time of transfer provision. Instead all private sewage disposal systems must be inspected by July 1, 2017.

Next, the amendment strikes the language regarding the alternative if a septic tank has been inspected in the past year. The remaining language states that the owner must only provide evidence of the previous date of inspection of the septic tank.

Lastly, the amendment strike the language referring to the incurred costs, by the seller or the buyer, for renovating an improperly functioning sewage disposal system. Instead, the amendment states that DNR must prioritize the renovation requirements schedule. The highest priority will be systems that are closest to public lakes and high quality water resources as determined by DNR. The next highest priority will be systems that are closest to public waters that have human sources of bacteriological or pathogen impairments as determined by DNR. If money is not available in the On-Site Wastewater Systems Assistance Fund then renovations will not be required until financial assistance through those programs are available.

H-8008, by Huser of Polk (D) – First, the amendment deals with the definition of “transfer,” as defined in section 558A.1. The amendment identifies that only the following exceptions to the definition of transfer are applicable to this bill.

- Transfer pursuant to a court order, foreclosure of a real estate mortgage, forfeiture of a real estate contract, transfer by a real estate trustee in bankruptcy, by eminent domain, resulting from a decree for specific performance.
- Transfer to a mortgagee or mortgagor or successor in interest who is in default, transfer by a mortgagee who has acquired real estate property at a sale, transfer back to a mortgagor exercising a right of first refusal, a non judicial voluntary foreclosure procedure, or a deed in lieu of foreclosure
- Transfer by a fiduciary in the course of the administration of a decedents’ estate, guardianship, conservatorship, or trust.
- Transfer between joint tenants or tenants in common.
- Transfer main to a spouse, or to a person in the lineal line of consanguinity of person making a transfer.
- Transfer between spouses resulting from a divorce, legal separation, or a property settlement agreement which is incidental to the decree, including a decree in relation to a divorce or separation.

Second, the amendment changes the amount of time, from one year to three years, that the previous inspection could have occurred so that the septic tank does not have to be cleaned out at the time of transfer.

H-8014 to H-8012 by Kressig of Black Hawk (D) – The amendment to the amendment changes the amount of time, from five year to three years, that the previous inspection could have occurred so that the septic tank does not have to be cleaned out at the time of transfer.

H-8012, by Huser of Polk (D) – First, the amendment deals with the definition of “transfer,” as defined in section 558A.1. The amendment identifies that only the following exceptions to the definition of transfer are applicable to this bill.

- Transfer pursuant to a court order, foreclosure of a real estate mortgage, forfeiture of a real estate contract, transfer by a real estate trustee in bankruptcy, by eminent domain, resulting from a decree for specific performance.
- Transfer to a mortgagee or mortgagor or successor in interest who is in default, transfer by a mortgagee who has acquired real estate property at a sale, transfer back to a mortgagor exercising a right of first refusal, a non judicial voluntary foreclosure procedure, or a deed in lieu of foreclosure
- Transfer by a fiduciary in the course of the administration of a decedents’ estate, guardianship, conservatorship, or trust.
- Transfer between joint tenants or tenants in common.
- Transfer main to a spouse, or to a person in the lineal line of consanguinity of person making a transfer.

- Transfer between spouses resulting from a divorce, legal separation, or a property settlement agreement which is incidental to the decree, including a decree in relation to a divorce or separation.

Second, the amendment adds another exception to the inspection requirement. The inspection requirement does not apply to a transfer when the transferee intends to demolish or raze the building. In addition, DNR is required to adopt rules relating to these transfers.

Lastly, the amendment changes the amount of time, from one year to five years, that the previous inspection could have occurred so that the septic tank does not have to be cleaned out at the time of transfer.

H-8013 by Alons, Mertz, and others - This amendment excludes the inspection requirement for single family residences land which is three acres or more, only if none of the following exist:

- The land is located in a county requiring inspections at the time of transfer as of July 1, 2008.
- The land is located adjacent to a lake that is operated by the United States Army Corps of Engineers or by a public utility.
- The discharge points of the sewage disposal system are located within ten feet of an adjoining property.
- Effluent is flowing onto an adjoining property or contaminating surface water or groundwater.
- The system is creating a nuisance, as determined quantifiably by a scientific method.

H-8005, Committee Amendment – This amendment changes the enactment date from July 1, 2008 to July 1, 2009