GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2016 REGULAR SESSION

HOUSE BILL NO. 431

AS ENACTED

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ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY K. Adler

1 AN ACT relating to water conservation.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 211.350 is amended to read as follows:

4 (1) The cabinet shall regulate the construction, installation, or alteration of on-site
5 sewage disposal systems except for systems that have a surface discharge. The
6 cabinet shall create and maintain an electronic database for Kentucky on-site
7 wastewater systems information, which for each system shall include but not be
8 limited to permit application date, permit application status, system installation
9 date, system type, latitude and longitude of system, records of system plan and site
10 evaluations, inspection dates, and the condition of system at time of inspection. The
11 cabinet shall within twenty-four (24) months of July 12, 2006, annually report to the
12 Governor and the Legislative Research Commission on the status of on-site systems
13 statewide, including numbers and types of systems, summaries of conditions of
14 systems, geographic distribution, observations of trends, and recommendation for
15 future protection of public health and safety with on-site sewage disposal systems.

16 (2) The Department for Public Health shall maintain a current list of approved and
17 experimental on-site wastewater treatment technologies ***and greywater***
18 ***technologies, which the department***~~[and]~~ shall make ~~[this list]~~available, ***along***
19 ***with***~~[and]~~ guidance and expertise, to local health departments***. Local health***
20 ***departments shall***~~[, which will]~~ provide ***the list of approved technologies***~~[it]~~ to on-
21 site wastewater professionals and permit applicants***. With respect to on-site sewage***
22 ***disposal systems that utilize greywater to reduce total daily waste flows, the local***
23 ***health department shall inform the permit applicant, at the time of making an***
24 ***application to construct an on-site sewage disposal system that utilizes greywater***
25 ***to reduce daily waste flows, of the opportunity to consult with the environmental***
26 ***health program evaluators in the Department for Public Health Protection and***
27 ***Safety regarding the administrative regulations, permit requirements, and***

1 ***permissible system designs for inclusion and use of greywater.***

2 (3) Site evaluations shall be completed by the local health department within fifteen
3 (15) working days of receipt of the application. If further information is required,
4 the local health department shall promptly notify the applicant and shall have an
5 additional ten (10) working days after that submittal of additional information in
6 which to evaluate and issue or deny the permit. It shall be the responsibility of the
7 property owner or owner's agent to protect and maintain the suitability of an
8 approved site and to notify the local health department for a reinspection if site
9 conditions substantively change. If a site previously determined to be suitable is
10 thereafter declared unsuitable by the local health department, remedial measures
11 shall be provided in writing to the property owner or owner's agent within fifteen
12 (15) working days.

13 (4) After the conclusion of the site evaluation, the local health department shall, upon
14 request, provide a list of all options that may be approved for the property, including
15 new and emerging technologies. It shall be the responsibility of the owner of
16 advanced treatment, alternative, experimental, or new and emerging technology
17 systems to contract with a management entity, certified system operator, or trained
18 system operator to develop and implement an approved operations and maintenance
19 plan specific to, and appropriate for, the approved system.

20 (5) No person, firm, or corporation shall construct, install, alter, or cause to be
21 constructed, installed, or altered, any on-site sewage disposal system subject to
22 regulation by the cabinet without having first obtained an on-site sewage disposal
23 permit from the local health department. In lieu of inspection and certification by
24 the local health department a licensed professional engineer in private practice
25 licensed by the Commonwealth of Kentucky may perform site evaluations and
26 approve system designs for an on-site sewage disposal system ***including those***
27 ***systems that utilize greywater for reductions in daily waste flows*** for the person,

1 firm, or corporation and apply for the permit from the local health department. The
2 final systems installation inspection shall be performed by the local health
3 department as soon as practicable. All applicable provisions of KRS Chapter 322
4 shall govern the licensed professional engineer. A professional engineer shall not
5 perform site evaluations, approve system designs, or certify system installations of
6 an on-site sewage disposal system on property owned by himself, an employee, or a
7 partner of an engineering firm by which he is employed, or on property owned by
8 the engineering firm. Nothing in this section shall be construed to deny a farmstead
9 owner the right to obtain a permit. Except for farmstead owners on their own
10 property, the construction, installation, or alteration shall be performed only by a
11 person certified by the cabinet pursuant to KRS 211.357.
12 (6) A local health department that issues a permit for an on-site sewage disposal
13 system***, including systems that utilize greywater to reduce total daily waste flows,***
14 based on the site evaluation or system design of a licensed professional engineer in
15 private practice licensed by the Commonwealth of Kentucky shall not be held liable
16 for any defects or failures of the on-site sewage disposal system due to the site
17 evaluation or system design.
18 (7) No person, firm, or corporation shall use or continue to use or permit the use or
19 continued use of any on-site sewage disposal system***, including those systems that***
20 ***utilize greywater to reduce total daily waste flows,*** that is constructed, installed, or
21 altered under an on-site sewage disposal permit if the cabinet or local health
22 department through a duly authorized inspector, employee, agent, or licensed
23 professional engineer in private practice licensed by the Commonwealth of
24 Kentucky finds that the system was not constructed, installed, or altered in
25 conformance with the permit and regulations issued by the cabinet.
26 (8) No certified electrical inspector acting under authority of KRS 227.491 shall issue
27 the certificates of approval of temporary or permanent electrical wiring unless the

1 inspector has in his or her possession a notice of release as described in paragraphs
2 (a) and (b) of this subsection. The inspector shall record the number of the notice of
3 release on the certificate of approval. The person requesting approval of electrical
4 wiring shall be responsible for obtaining the release from the local health
5 department and providing it to the electrical inspector. This requirement shall only
6 apply to dwellings, mobile homes, manufactured housing, buildings, or other
7 structures that are constructed or installed after July 15, 1998. This requirement
8 shall not apply to structures that do not have sewage waste fixtures or to those that
9 are connected to a sewage waste disposal system approved by the Energy and
10 Environment Cabinet. Nothing in this section shall be construed to deny the
11 continued use of any electrical service connected to wiring approved prior to July
12 15, 1998.
13 (a) An initial notice of release to allow temporary electrical power for
14 construction shall be issued to the property owner or owner's agent by the
15 local health department upon the application for a site evaluation.
16 (b) A final notice of release to allow for permanent electrical power shall be
17 issued to the property owner or owner's agent by the local health department
18 upon approval of an on-site sewage disposal plan.
19 (c) This section shall not apply to any county that has adopted the Uniform State
20 Building Code and has and enforces on-site sewage disposal permitting.
21 (9) All applications for on-site sewage disposal permits shall be accompanied by plans
22 and specifications for the proposed system, including results of soils tests and other
23 information as directed by the cabinet by regulation. If the site evaluation or
24 approval of the system design is performed by a licensed professional engineer in
25 private practice licensed by the Commonwealth of Kentucky, the application shall
26 be accompanied by a statement by the engineer that he has met the requirements of
27 the regulations issued by the cabinet for site evaluation and system design. Any

1 action to deny an application shall be subject to appeal, and upon appeal an
2 administrative hearing shall be conducted in accordance with KRS Chapter 13B.
3 (10) The cabinet shall fix a schedule of fees for the functions performed by the cabinet
4 relating to the regulation of on-site sewage disposal systems. The fees shall be
5 designed to fully cover the cost of the service performed but shall not exceed the
6 cost of the service performed. Fees payable to the cabinet shall be paid into the
7 State Treasury and credited to a trust and agency fund to be used by the cabinet in
8 carrying out its responsibilities relating to the regulation of on-site sewage disposal
9 systems. No part of the fund shall revert to the general fund of the Commonwealth.
10 (11) Any regulation relating to on-site sewage disposal that is in effect on July 15, 1992,
11 shall remain in effect until altered by the secretary***, except that administrative***
12 ***regulations that govern total daily waste flows shall be updated in accordance***
13 ***with Section 2 of this Act***. The secretary may issue additional regulations necessary
14 to carry out the purposes of this section.
15 (12) Nothing in this section shall authorize or allow the cabinet to inspect or take
16 enforcement action against on-site sewage disposal systems installed on farmsteads
17 prior to July 15, 1992, or modifications to those systems unless the actions are
18 determined in writing by the cabinet, upon a written, verified complaint, to be
19 necessary to prevent imminent harm or damage to the safety, life, or health of a
20 person. In this instance, the cabinet shall deliver to the landowner a copy of the
21 written determination and the verified complaint prior to the commencement of the
22 inspection or enforcement action.
23 ***(13) As used in this section:***
24 ***(a) "Black water" means wastewater containing liquid or solid waste generated***
25 ***through use of a urinal, water closet, garbage disposal, or similar sanitary***
26 ***fixture; and***
27 ***(b) "Greywater" means wastewater generated by hygiene activities, including***

1 ***but not limited to wastewater from laundry, lavatory sinks, and showers, but***
2 ***shall exclude kitchen sinks and food preparation sinks. "Greywater" does***
3 ***not include black water.***
4 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO
5 READ AS FOLLOWS:
6 ***(1) Ninety (90) days from the effective date of this Act, the cabinet shall promulgate***
7 ***administrative regulations that update the daily waste flow charts to account for***
8 ***technological improvements in water using fixtures and appliances that reduce***
9 ***water usage. The cabinet also shall include a methodology for using conservation***
10 ***credits for greywater systems that reduce total daily waste flows.***
11 ***(2) No political subdivision of the state shall prohibit the use of greywater reduction***
12 ***of average daily waste flows by policy, rule, or ordinance if the greywater use is***
13 ***allowed pursuant to a permit issued under Section 1 of this Act.***

Speaker-House of Representatives

President of Senate

Attest: Chief Clerk of House of Representatives

Approved Governor

Date 13 APRIL 2016