

FIRST REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 617

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES KELLY (Sponsor), WELLS,  
DAY AND WALLACE (Co-sponsors).

Read 1st time February 23, 2005 and copies ordered printed.

Read 2nd time February 24, 2005 and referred to the Committee on Conservation and Natural Resources March 3, 2005.

Reported from the Committee on Conservation and Natural Resources April 8, 2005 with recommendation that the bill Do Pass with House Committee Amendment No. 1. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

Reported from the Committee on Rules April 12, 2005 with recommendation that the bill Do Pass with House Committee Amendment No. 1, with no time limit for debate.

Taken up for Perfection April 19, 2005. Bill ordered Perfected and printed, as amended.

STEPHEN S. DAVIS, Chief Clerk

1630L.03P

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### AN ACT

To repeal sections 249.1150, 249.1152, 249.1154, 249.1155, 640.635, 644.076, 701.031, and 701.038, RSMo, and to enact in lieu thereof four new sections relating to watershed districts.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 249.1150, 249.1152, 249.1154, 249.1155, 640.635, 644.076,  
2 701.031, and 701.038, RSMo, are repealed and four new sections enacted in lieu thereof, to be  
3 known as sections 249.1150, 644.076, 701.031, and 701.038, to read as follows:

249.1150. 1. There is hereby created within any county of the third classification  
2 without a township form of government and with more than thirty-four thousand but less than  
3 thirty-four thousand one hundred inhabitants, any county of the second classification without a  
4 township form of government and with more than fifty-four thousand two hundred but less than  
5 fifty-four thousand three hundred inhabitants, [any county of the third classification without a  
6 township form of government and with more than thirteen thousand seventy-five but less than  
7 thirteen thousand one hundred seventy-five inhabitants,] any county of the first classification

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

8 with more than two hundred forty thousand three hundred but less than two hundred forty  
9 thousand four hundred inhabitants, [any county of the third classification without a township  
10 form of government and with more than nine thousand four hundred fifty but less than nine  
11 thousand five hundred fifty inhabitants,] any county of the third classification without a township  
12 form of government and with more than twenty-eight thousand six hundred but less than  
13 twenty-eight thousand seven hundred inhabitants, **and** any county of the first classification with  
14 more than thirty-nine thousand seven hundred but less than thirty-nine thousand eight hundred  
15 inhabitants, [any county of the third classification without a township form of government and  
16 with more than thirty-one thousand but less than thirty-one thousand one hundred inhabitants,  
17 and any county of the third classification without a township form of government and with more  
18 than seventeen thousand nine hundred but less than eighteen thousand inhabitants,] the Upper  
19 White River Basin Watershed Improvement District. The watershed improvement district is  
20 authorized to own, install, operate, and maintain decentralized or individual on-site wastewater  
21 treatment plants. The watershed improvement district created under this section shall be a body  
22 corporate and a political subdivision of the state of Missouri, shall be capable of suing and being  
23 sued in contract in its corporate name, and shall be capable of holding such real and personal  
24 property necessary for corporate purposes. The district shall implement procedures to regulate  
25 the area within the district and to educate property owners within the district about the  
26 requirements imposed by the district.

27 **2. Any county of the third classification without a township form of government and**  
28 **with more than thirteen thousand seventy-five but fewer than thirteen thousand one**  
29 **hundred seventy-five inhabitants, any county of the third classification without a township**  
30 **form of government and with more than nine thousand four hundred fifty but fewer than**  
31 **nine thousand five hundred fifty inhabitants, or any county of the third classification**  
32 **without a township form of government and with more than seventeen thousand nine**  
33 **hundred but fewer than eighteen thousand inhabitants shall not be included again in a**  
34 **watershed improvement district under this section without a majority vote of the qualified**  
35 **voters of such county.**

36 [2.] **3.** The watershed improvement district created under this section shall have the  
37 power to borrow money and incur indebtedness and evidence the same by certificates, notes, or  
38 debentures, to issue bonds and use any one or more lawful funding methods the district may  
39 obtain for its purposes at such rates of interest as the district may determine. Any bonds, notes,  
40 and other obligations issued or delivered by the district may be secured by mortgage, pledge, or  
41 deed of trust of any or all of the property within the district. Every issue of such bonds, notes,  
42 or other obligations shall be payable out of property and revenues of the district and may be  
43 further secured by other property within the district, which may be pledged, assigned, mortgaged,

44 or a security interest granted for such payment, without preference or priority of the first bonds  
45 issued, subject to any agreement with the holders of any other bonds pledging any specified  
46 property or revenues. Such bonds, notes, or other obligations shall be authorized by resolution  
47 of the district board, and shall bear such date or dates, and shall mature at such time or times, but  
48 not in excess of thirty years, as the resolution shall specify. Such bonds, notes, or other  
49 obligations shall be in such denomination, bear interest at such rate or rates, be in such form,  
50 either coupon or registered, be issued as current interest bonds, compound interest bonds,  
51 variable rate bonds, convertible bonds, or zero coupon bonds, be issued in such manner, be  
52 payable in such place or places, and be subject to redemption as such resolution may provide,  
53 notwithstanding section 108.170, RSMo. The bonds, notes, or other obligations may be sold at  
54 either public or private sale, at such interest rates, and at such price or prices as the district shall  
55 determine.

56 [3.] 4. The county commission of any county located within the watershed improvement  
57 district may authorize individual properties to be served by the district by adoption of a  
58 resolution or upon the filing of a petition signed by at least twenty percent of the property owners  
59 of the proposed area. The resolution or petition shall describe generally the size and location of  
60 the proposed area.

61 [4.] 5. In the event that any property within the watershed improvement district proposed  
62 under this section lies within or is serviced by any existing sewer district formed under this  
63 chapter, chapter 204, or chapter 250, RSMo, the property shall not become part of the watershed  
64 improvement district formed under this section unless the existing sewer district agrees to refrain  
65 from providing service or to discontinue service to the property. No property shall become part  
66 of the watershed district until the owner of that property has paid in full all outstanding costs  
67 owed to an existing sewer district formed under this chapter, chapter 204, or chapter 250, RSMo.

68 [5.] 6. Upon the creation of the watershed improvement district as authorized by this  
69 section, a board of trustees for the district consisting of nine members shall be appointed. The  
70 governing body of each county shall appoint one member to serve on the board. No trustee shall  
71 reside in the same county as another trustee. Of the initial trustees appointed, five shall serve  
72 terms of one year, and four shall serve terms of two years, as determined by lot. After the initial  
73 appointments of the trustees, the successor trustees shall reside in the same county as the prior  
74 trustee and be elected by the resident property owners of their county within the district. Each  
75 trustee may be elected to no more than five consecutive two-year terms. Vacancies shall be filled  
76 by the board. Each trustee shall serve until a successor is elected and sworn. The trustees shall  
77 not receive compensation for their services, but may be reimbursed for their actual and necessary  
78 expenses. The board shall elect a chair and other officers necessary for its membership. The  
79 board shall enter into contracts with any person or entity for the maintenance, administrative, or

80 support work required to administer the district. The board may charge reasonable fees and  
81 submit proposals to levy and impose property taxes to fund the operation of the district to the  
82 qualified voters in the district, but such proposals shall not become effective unless a majority  
83 of the qualified voters in the district voting on the proposals approve the proposed levy and rate  
84 of tax. The board may adopt resolutions necessary to the operation of the district.

85 [6.] 7. No service shall be initiated to any property lying within the watershed  
86 improvement district created under this section unless the property owner elects to have the  
87 service provided by the district.

88 [7.] 8. Any on-site wastewater treatment system installed on any property that  
89 participates in the watershed improvement district formed under this section shall meet all  
90 applicable standards for such on-site wastewater treatment systems under sections 701.025 to  
91 701.059, RSMo, and as required by rules or regulations promulgated by the board of trustees and  
92 the appropriate state agencies.

93 [8.] 9. Property owners participating in the watershed improvement district formed under  
94 this section shall be required as a condition of continued participation to have a maintenance plan  
95 approved by the watershed improvement district for the on-site wastewater treatment systems  
96 on their properties. Such property owners shall also execute a utilities easement to allow the  
97 district access to the system for maintenance purposes and inspections. The property owner shall  
98 provide satisfactory proof that periodic maintenance is performed on the sewage system. At a  
99 minimum the system shall be installed and maintained according to the manufacturer's  
100 recommendations. The level of satisfactory proof required and the frequency of periodic proof  
101 shall be determined by the board of trustees.

102 [9.] 10. A district established under this section may, at a general or primary election,  
103 submit to the qualified voters within the district boundaries a real property tax that shall not  
104 exceed five cents per one hundred dollars assessed valuation to fund the operation of the district.  
105 The ballot of submission shall be in substantially the following form:

106 Shall the ..... (name of district) impose a real property tax within the district at a rate  
107 of not more than ..... (insert amount) dollars per hundred dollars of assessed valuation to fund  
108 the operation of the district?

109  YES  NO

110

111 If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed  
112 to the question, place an "X" in the box opposite "NO".

113

114 If a majority of the votes cast in each county that is part of the district favor the proposal, then  
115 the real property tax shall become effective in the district on the first day of the year following



152 **in the county oppose the proposal submitted under this subsection, the county shall not be**  
153 **included within the district.**

2 [249.1152. 1. Upon the adoption of a resolution by the governing body  
3 of any county of the third classification located within any watershed in this state,  
4 or upon the filing of a petition by the property owners residing within the portion  
5 of the watershed that is located within the county's boundaries, a watershed  
6 improvement district may be proposed as authorized in this section. The  
7 resolution or the petition shall contain the following information:

8 (1) The specific description of the watershed, which shall be identical to  
9 any United States geological survey designated watershed, and the proposed  
10 district within the county including a map illustrating the boundaries of both the  
11 watershed and the proposed district;

12 (2) The name of the proposed district;

13 (3) If the creation of the district is proposed by petition filed by property  
14 owners, the name and residence of each petitioner; and

15 (4) The purpose of the district.

16 2. Upon the adoption of a resolution proposing the creation of the district  
17 under this section, the governing body of the county shall, by order or ordinance,  
18 provide a hearing on the creation of the district. The order or ordinance  
19 providing a hearing on the creation of such a district shall contain the following  
20 information:

21 (1) A description of the boundaries of the proposed district; and

22 (2) The time and place of a hearing to be held to consider establishment  
23 of the proposed district.

24 3. Whenever a hearing is held as provided by this section, the governing  
25 body of the county approving the proposed district shall:

26 (1) Publish notice of the hearing on two separate occasions in at least one  
27 newspaper of general circulation in each county located within the proposed  
28 district, with the first publication to occur not more than thirty days before the  
29 hearing, and the second publication to occur not more than fifteen days or less  
30 than ten days before the hearing. The purpose of the district shall be published  
31 in the hearing notice;

32 (2) Hear all protests and receive evidence for or against the establishment  
33 of the proposed district; and

34 (3) Rule upon all protests, which determinations shall be final.

35 4. Following the hearing, if the governing body of any county located  
36 within the proposed district decides to establish the proposed district, the county  
37 shall adopt an order to that effect. If the governing body of any county located  
38 within the proposed district receives a petition signed by at least twenty percent  
39 of the property owners in the proposed district requesting establishment of the  
40 proposed district then the county shall adopt an order to that effect. An order  
adopted under this subsection shall contain the following:

41 (1) The description of the boundaries of the watershed, which shall be  
42 identical to any United States geological survey designated watershed, and the  
43 boundaries of the district within the county;

44 (2) A statement that a watershed improvement district has been  
45 established;

46 (3) The name of the district;

47 (4) A declaration that the district is a political subdivision of the state;  
48 and

49 (5) The purpose of the district.

50 5. A district established under this section may, at a general or primary  
51 election, submit to the qualified voters within the district boundaries a real  
52 property tax that shall not exceed five cents per one hundred dollars assessed  
53 valuation to fund the operation of the district. The ballot of submission shall be  
54 in substantially the following form:

55 Shall the ..... (name of district) impose a real property tax within the  
56 district at a rate of not more than ..... (insert amount) dollars per hundred  
57 dollars of assessed valuation to fund the operation of the district?

58  YES  NO

59  
60 If you are in favor of the question, place an "X" in the box opposite "YES". If  
61 you are opposed to the question, place an "X" in the box opposite "NO".  
62

63 If a majority of the votes cast in each county that is part of the district favor the  
64 proposal, then the real property tax shall become effective in the district on the  
65 first day of the year following the year of the election. If a majority of the votes  
66 cast in each county that is a part of the district oppose the proposal, then that  
67 county shall not impose the real property tax authorized in this section until after  
68 the county governing body has submitted another such real property tax proposal  
69 and the proposal is approved by a majority of the qualified voters voting thereon.  
70 However, if a real property tax proposal is not approved, the governing body of  
71 the county shall not resubmit a proposal to the voters under this section sooner  
72 than twelve months from the date of the last proposal submitted under this  
73 section.

74 6. The real property tax authorized by this section is in addition to all  
75 other real property taxes allowed by law.

76 7. Once the real property tax authorized by this section is abolished or  
77 terminated by any means, all funds remaining in the trust fund shall be used  
78 solely for the purposes approved in the ballot question authorizing the tax. The  
79 tax shall not be abolished or terminated while the district has any financing or  
80 other obligations outstanding. Any funds in the trust fund which are not needed  
81 for current expenditures may be invested by the district in the securities described  
82 in subdivisions (1) to (12) of subsection 1 of section 30.270, RSMo, or  
83 repurchase agreements secured by such securities.

84                   8. There is hereby created a board of trustees to administer any district  
85 created and the expenditure of revenue generated under this section. The board  
86 shall consist of at least three but not more than ten individuals from the district.  
87 The board shall be appointed by the governing body of each county in the district.  
88 The membership of the board shall to the extent practicable be in proportion to  
89 the number of people living in the watershed in each county. Each county located  
90 within the district shall be represented on the board by at least one trustee. Of the  
91 initial trustees appointed from each county, a majority shall serve terms of one  
92 year, and the remainder shall serve terms of two years, as determined by lot.  
93 After the initial appointments of the trustees, the trustees shall be elected by the  
94 property owners within the district. Each trustee may be elected to no more than  
95 five consecutive two-year terms. Vacancies shall be filled by the board. Each  
96 trustee shall serve until a successor is elected and sworn. The trustees shall not  
97 receive compensation for their services, but may be reimbursed for their actual  
98 and necessary expenses. The board shall elect a chair and other officers  
99 necessary for its membership.

100                   9. A watershed improvement district created under this section is  
101 authorized to own, install, operate, and maintain decentralized or individual  
102 on-site wastewater treatment plants. A watershed improvement district created  
103 under this section shall be a body corporate and a political subdivision of the state  
104 of Missouri, shall be capable of suing and being sued in contract in its corporate  
105 name, and shall be capable of holding such real and personal property necessary  
106 for corporate purposes. The district shall implement procedures to regulate the  
107 area within and consistent with the purpose of the district and to educate property  
108 owners about the requirements imposed by the district.

109                   10. A watershed improvement district created under this section shall  
110 have the power to borrow money and incur indebtedness and evidence the same  
111 by certificates, notes, or debentures, to issue bonds and use any one or more  
112 lawful funding methods the district may obtain for its purposes at such rates of  
113 interest as the district may determine. Any bonds, notes, and other obligations  
114 issued or delivered by the district may be secured by mortgage, pledge, or deed  
115 of trust of any or all of the property within the district. Every issue of such  
116 bonds, notes, or other obligations shall be payable out of property and revenues  
117 of the district and may be further secured by other property within the district,  
118 which may be pledged, assigned, mortgaged, or a security interest granted for  
119 such payment, without preference or priority of the first bonds issued, subject to  
120 any agreement with the holders of any other bonds pledging any specified  
121 property or revenues. Such bonds, notes, or other obligations shall be authorized  
122 by resolution of the district board, and shall bear such date or dates, and shall  
123 mature at such time or times, but not in excess of thirty years, as the resolution  
124 shall specify. Such bonds, notes, or other obligations shall be in such  
125 denomination, bear interest at such rate or rates, be in such form, either coupon  
126 or registered, be issued as current interest bonds, compound interest bonds,



127 variable rate bonds, convertible bonds, or zero coupon bonds, be issued in such  
128 manner, be payable in such place or places, and be subject to redemption as such  
129 resolution may provide, notwithstanding section 108.170, RSMo. The bonds,  
130 notes, or other obligations may be sold at either public or private sale, at such  
131 interest rates, and at such price or prices as the district shall determine.

132 11. The county commission of any county located within a watershed  
133 improvement district may authorize individual properties to be served by the  
134 district by adoption of a resolution or upon the filing of a petition signed by at  
135 least twenty percent of the property owners of the proposed area. The resolution  
136 or petition shall describe generally the size and location of the proposed area.

137 12. In the event that any property within a watershed improvement  
138 district proposed under this section lies within or is serviced by any existing  
139 sewer district formed under this chapter, chapter 204, or chapter 250, RSMo, the  
140 property shall not become part of the watershed improvement district formed  
141 under this section unless the existing sewer district agrees to refrain from  
142 providing service or to discontinue service to the property. No property shall  
143 become part of the watershed district until the owner of that property has paid in  
144 full all outstanding costs owed to an existing sewer district formed under this  
145 chapter, chapter 204, or chapter 250, RSMo.

146 13. No service shall be initiated to any property lying within the  
147 watershed improvement district created under this section unless the property  
148 owner elects to have the service provided by the district.

149 14. Any on-site wastewater treatment systems installed on any property  
150 that participates in the watershed improvement district formed under this section  
151 shall meet all applicable standards for such on-site wastewater treatment systems  
152 under sections 701.025 to 701.059, RSMo, and as required by rules or regulations  
153 promulgated by the appropriate state agencies.

154 15. Property owners participating in the watershed improvement district  
155 formed under this section shall be required as a condition of continued  
156 participation to have a maintenance plan approved by the watershed improvement  
157 district for the on-site wastewater treatment systems on their properties. Such  
158 property owners shall also execute a utilities easement to allow the district access  
159 to the system for maintenance purposes and inspections. The property owner  
160 shall provide satisfactory proof that periodic maintenance is performed on the  
161 sewage system. The level of satisfactory proof required and the frequency of  
162 periodic proof shall be determined by the board of trustees.

163 16. In the event that the district is dissolved or terminated by any means,  
164 the governing bodies of the counties in the district shall appoint a person to act  
165 as trustee for the district so dissolved or terminated. Before beginning the  
166 discharge of duties, the trustee shall take and subscribe an oath to faithfully  
167 discharge the duties of the office, and shall give bond with sufficient security,  
168 approved by the governing bodies of the counties, to the use of the dissolved or  
169 terminated district, for the faithful discharge of duties. The trustee shall have and

170 exercise all powers necessary to liquidate the district, and upon satisfaction of all  
171 remaining obligations of the district, shall pay over to the county treasurer of each  
172 county in the district and take receipt for all remaining moneys in amounts based  
173 on the ratio the levy of each county bears to the total levy for the district in the  
174 previous three years or since the establishment of the district, whichever time  
175 period is shorter. Upon payment to the county treasurers, the trustee shall deliver  
176 to the clerk of the governing body of any county in the district all books, papers,  
177 records, and deeds belonging to the dissolved district.]

2 [249.1154. The governing body of any county, by order or ordinance or  
3 upon the filing of a petition signed by at least twenty percent of the property  
4 owners in an area proposed for designation under this section, may designate  
5 groundwater depletion areas within a watershed improvement district created  
6 under section 249.1150 or 249.1152 and may require well volume monitoring.]

2 [249.1155. After August 28, 2004, any county within a watershed  
3 improvement district may require that all septic systems be maintained or  
4 pumped every five years by a licensed provider. In the event a county requires  
5 that all septic systems be so maintained or pumped the owner of any septic  
6 system shall submit proof of maintenance or pumping to the county department  
7 of health or the state department of health and senior services if appropriate  
8 which shall determine what shall constitute proof of compliance with the  
9 requirement. In addition, the county department of health or the state department  
10 of health and senior services if appropriate may charge septic tank owners a  
11 reasonable fee for monitoring compliance with the requirement.]

2 [640.635. Any person or laboratory performing an analysis of wastewater  
3 shall be licensed to perform the analysis by the department of natural resources.  
4 The department shall determine by rule or regulation the licensing criteria. Any  
5 rule or portion of a rule, as that term is defined in section 536.010, RSMo, that  
6 is created under the authority delegated in this section shall become effective only  
7 if it complies with and is subject to all of the provisions of chapter 536, RSMo,  
8 and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo,  
9 are nonseverable and if any of the powers vested with the general assembly under  
10 chapter 536, RSMo, to review, to delay the effective date, or to disapprove and  
11 annul a rule are subsequently held unconstitutional, then the grant of rulemaking  
12 authority and any rule proposed or adopted after August 28, 2004, shall be invalid  
13 and void. The department may require the person or laboratory obtaining a  
14 license under this section to pay a fee to the department for licensure. The fee  
15 shall be set at a level not to exceed the cost and expense of administering this  
16 section.]

644.076. 1. It is unlawful for any person to cause or permit any discharge of water  
2 contaminants from any water contaminant or point source located in Missouri in violation of  
3 sections 644.006 to 644.141, or any standard, rule or regulation promulgated by the commission.  
4 In the event the commission or the director determines that any provision of sections 644.006  
5 to 644.141 or standard, rules, limitations or regulations promulgated pursuant thereto, or permits  
6 issued by, or any final abatement order, other order, or determination made by the commission  
7 or the director, or any filing requirement pursuant to sections 644.006 to 644.141 or any other  
8 provision which this state is required to enforce pursuant to any federal water pollution control  
9 act, is being, was, or is in imminent danger of being violated, the commission or director may  
10 cause to have instituted a civil action in any court of competent jurisdiction for the injunctive  
11 relief to prevent any such violation or further violation or for the assessment of a penalty not to  
12 exceed ten thousand dollars per day for each day, or part thereof, the violation occurred and  
13 continues to occur, or both, as the court deems proper. A civil monetary penalty pursuant to this  
14 section shall not be assessed for a violation where an administrative penalty was assessed  
15 pursuant to section 644.079. The commission, the chair of a watershed district's board of trustees  
16 created under section 249.1150 [or 249.1152], or the director may request either the attorney  
17 general or a prosecuting attorney to bring any action authorized in this section in the name of the  
18 people of the state of Missouri. Suit may be brought in any county where the defendant's  
19 principal place of business is located or where the water contaminant or point source is located  
20 or was located at the time the violation occurred. Any offer of settlement to resolve a civil  
21 penalty pursuant to this section shall be in writing, shall state that an action for imposition of a  
22 civil penalty may be initiated by the attorney general or a prosecuting attorney representing the  
23 department pursuant to this section, and shall identify any dollar amount as an offer of settlement  
24 which shall be negotiated in good faith through conference, conciliation and persuasion.

25 2. Any person who knowingly makes any false statement, representation or certification  
26 in any application, record, report, plan, or other document filed or required to be maintained  
27 pursuant to sections 644.006 to 644.141 or who falsifies, tampers with, or knowingly renders  
28 inaccurate any monitoring device or method required to be maintained pursuant to sections  
29 644.006 to 644.141 shall, upon conviction, be punished by a fine of not more than ten thousand  
30 dollars, or by imprisonment for not more than six months, or by both.

31 3. Any person who willfully or negligently commits any violation set forth pursuant to  
32 subsection 1 of this section shall, upon conviction, be punished by a fine of not less than two  
33 thousand five hundred dollars nor more than twenty-five thousand dollars per day of violation,  
34 or by imprisonment for not more than one year, or both. Second and successive convictions for  
35 violation of the same provision of this section by any person shall be punished by a fine of not

36 more than fifty thousand dollars per day of violation, or by imprisonment for not more than two  
37 years, or both.

38 4. The liabilities which shall be imposed pursuant to any provision of sections 644.006  
39 to 644.141 upon persons violating the provisions of sections 644.006 to 644.141 or any standard,  
40 rule, limitation, or regulation adopted pursuant thereto shall not be imposed due to any violation  
41 caused by an act of God, war, strike, riot, or other catastrophe.

701.031. Property owners of all buildings where people live, work or assemble shall  
2 provide for the sanitary disposal of all domestic sewage. Except as provided in this section,  
3 sewage and waste from such buildings shall be disposed of by discharging into a sewer system  
4 regulated pursuant to chapter 644, RSMo, or shall be disposed of by discharging into an on-site  
5 sewage disposal system operated as defined by rules promulgated pursuant to sections 701.025  
6 to 701.059. [Any person installing on-site sewage disposal systems shall be registered to do so  
7 by the department of health and senior services.] The owner of a single-family residence lot  
8 consisting of three acres or more, or the owner of a residential lot consisting of ten acres or more  
9 with no single-family residence on-site sewage disposal system located within three hundred  
10 sixty feet of any other on-site sewage disposal system and no more than one single-family  
11 residence per each ten acres in the aggregate, except lots adjacent to lakes operated by the Corps  
12 of Engineers or by a public utility, shall be excluded from the provisions of sections 701.025 to  
13 701.059 and the rules promulgated pursuant to sections 701.025 to 701.059, including provisions  
14 relating to the construction, operation, major modification and major repair of on-site disposal  
15 systems, when all points of the system are located in excess of ten feet from any adjoining  
16 property line and no effluent enters an adjoining property, contaminates surface waters or  
17 groundwater or creates a nuisance as determined by a readily available scientific method. Except  
18 as provided in this section, any construction, operation, major modification or major repair of  
19 an on-site sewage disposal system shall be in accordance with rules promulgated pursuant to  
20 sections 701.025 to 701.059, regardless of when the system was originally constructed. The  
21 provisions of subdivision (2) of subsection 1 of section 701.043 shall not apply to lots located  
22 in subdivisions under the jurisdiction of the department of natural resources which are required  
23 by a consent decree, in effect on or before May 15, 1984, to have class 1, National Sanitation  
24 Federation (NSF) aerated sewage disposal systems.

701.038. 1. The department of health and senior services or any of its agents may not  
2 investigate a sewage complaint except when necessary as part of a communicable disease  
3 investigation unless the complaint is received from an aggrieved party **or**[,] an adjacent  
4 landowner [, or any two residents of the county]. The department of health and senior services  
5 or any of its agents may enter any adjoining property if necessary when they are making an  
6 inspection pursuant to this section. The necessity for entering such adjoining property shall be

7 stated in writing and the owner of such property shall be notified before the department or any  
8 of its agents may enter, except that, if an imminent health hazard exists, such notification shall  
9 be attempted but is not required.

10         2. If the department or its agents make an investigation pursuant to a complaint as  
11 described in subsection 1 of this section and find that a nuisance does exist, the property owner  
12 shall comply with state and local standards when repairing or replacing the on-site sewage  
13 disposal system.