

SENATE BILL NO. 401
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on General Laws
on _____)
(Patron Prior to Substitute—Senator Jordan)

A BILL to amend and reenact §§ 59.1-310.7 and 59.1-310.9 of the Code of Virginia, relating to authorized septic system inspectors; scope of services and requirements.

Be it enacted by the General Assembly of Virginia:

1. That §§ 59.1-310.7 and 59.1-310.9 of the Code of Virginia are amended and reenacted as follows:

§ 59.1-310.7. Definitions.

As used in this chapter, unless the context requires otherwise:

"Authorized septic system inspector" means a person who possesses the qualifications required by the provisions of this chapter.

"Inspection" means an examination of a septic system that is requested by a lending institution, real estate licensee, prospective homebuyer, or other impacted party as a condition of sale, refinancing, or transfer of title and that meets the minimum requirements in subsection B of § 59.1-310.9.

"Person" means an individual, partnership, corporation, association, or other entity.

"Readily accessible" means approachable, *openable*, or enterable for inspection without the risk of damage to any property or alteration of the accessible space, equipment, *system components*, or opening. *"Readily accessible" does not include removal of surface material exceeding 30 inches in depth to uncover septic tank access lids, distribution devices, or other inspection ports.*

"Septic system" means an onsite sewage treatment and disposal system designed to manage, treat, and dispose of wastewater, which may consist of septic tanks, collection piping, distribution devices, treatment units, pumps, and either a dispersal field or an authorized discharge point.

§ 59.1-310.9. Requirements for authorized septic system inspectors and minimum requirements for performance of septic system inspections.

A. Only individuals who hold a valid onsite sewage system operator, onsite sewage system installer, or onsite soil evaluator license pursuant to Chapter 23 (§ 54.1-2300 et seq.) of Title 54.1 shall be authorized to perform a septic system inspection in connection with any real estate transaction, including refinancings.

B. Minimum requirements for septic system inspections shall include the following:

1. Prior to conducting an onsite septic system inspection, the authorized septic system inspector shall

provide the client or his representative with a written, signed contract that describes the scope of services and associated costs, obtains permission to perform the inspection, and states that a complete inspection requires pumping the septic tank.

The contract shall document the client's decision to decline pumping, if applicable.

2. Authorized septic system inspectors shall inspect and report on all readily accessible and openable components, including septic tanks, pump tanks, distribution devices, treatment units, control panels, and dispersal fields. The inspection shall also include any components specified in the operation permit and any vegetation, grading, or signs of harmful water entry that may impact septic system function.

3. The authorized septic system inspector shall submit a written report to the client within 10 business days *from the start* of the inspection, *unless otherwise agreed to in writing by the parties*. The report shall identify all inspected components, specify any components not inspected with reasons for their omission, ~~and~~ document adverse conditions such as defective or damaged components, *and indicate whether the system is operating as intended*.

4. The report shall describe the consequences of any adverse conditions and recommend further evaluation or observation by licensed professionals as necessary.

Authorized septic system inspectors shall (i) report the system size or design capacity in gallons per day or bedroom count based on local health department records, ~~report the advertised bedroom count or design capacity as listed in the multiple listing service or written statement by the property owner~~, and, if such records are not available, provide recommendations to determine capacity and (ii) determine if the septic system requires a licensed operator, and the authorized septic system inspector shall refer the client to the local health department for operation and maintenance reports, if applicable.

5. No authorized septic system inspector shall (i) provide pass or fail determinations or graded assessments of functionality or (ii) perform a hydraulic load test to simulate peak daily flows.

6. No authorized septic system inspector shall be required to (i) identify property lines; (ii) offer warranties or guarantees of any kind; (iii) calculate the strength, adequacy, or efficiency of any septic system or component; (iv) operate any system or component that does not respond to normal operating controls; (v) move excessive vegetation, structures, personal items, panels, furniture, equipment, snow, ice, or debris that obstructs access to or visibility of the system and any related components; or (vi) determine the presence or absence of any suspected adverse environmental condition or hazardous substance, including toxins, carcinogens, noise, and contaminants in the building or in the soil, water, and air.

62 C. An inspection conducted pursuant to this section shall not constitute an evaluation of soil suitability.
63 Observations related to the soil condition at the dispersal field shall be limited to visible signs of saturation,
64 surfacing, or ponding.