

Amendment No. 3 to HB0105

**McDonald
Signature of Sponsor**

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Date _____
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Clerk _____
Comm. Amdt. _____

AMEND Senate Bill No. 1879

House Bill No. 105*

by deleting all language after the enacting clause of the bill as amended and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 68-221-409, is amended by designating the present language as subsection (a) and by adding the following language as new subsection (b):

(b)

(1)

(A) To be eligible for approval by the department pursuant to this part as a soil consultant or a person who may perform a percolation test, any person shall file with the commissioner a cash, surety or property bond or an irrevocable letter of credit in the amount of thirty thousand dollars (\$30,000), or proof of liability insurance coverage in an amount no less than five hundred thousand dollars (\$500,000), for the benefit of any person who hires the soil consultant or percolation tester, and is damaged because of any negligence or fraud by the soil consultant or percolation tester.

(B) The governing body of any county may require, by a two-thirds vote, that any person applying for a permit as an installer of subsurface sewage disposal systems within such county, shall file with the commissioner a cash, surety or property bond or an irrevocable letter of credit in the amount of thirty thousand dollars (\$30,000), or proof of liability insurance coverage

in an amount no less than five hundred thousand dollars (\$500,000), for the benefit of any person who hires the installer and is damaged because of any negligence or fraud by the installer. Upon written notification by a county's governing body pursuant to this subdivision, the department shall require such surety of any person seeking approval pursuant to this part as an installer of subsurface sewage disposal systems within such county.

(2) Any person damaged because of the negligence or fraud by the soil consultant, percolation tester, or installer as required by subdivision (1)(B), may sue directly on the bond without assignment thereof. The bond may not be construed to require any surety to be responsible for the completion of work under any contract entered into by the principal on the bond. The liability of the surety under any bond may not exceed in the aggregate the amount of the bond. If the bond ceases to be in effect, the approval of the soil consultant or the percolation tester, or the permit of an installer as required by subdivision (1)(B), shall become null and void, subject to reinstatement if a new bond is provided.

SECTION 2. Tennessee Code Annotated, Section 68-221-409, is amended by adding the following language at the end of the existing language:

The department shall review its list of approved soil consultants at least annually to ensure compliance with applicable requirements including the bond requirement of subsection (b) and may promulgate rules setting forth the process for such review and an annual fee sufficient to cover the costs involved.

SECTION 3. This act shall take effect January 1, 2006, the public welfare requiring it.