



Senate Bill 165 – Environment – On-Site Wastewater Systems – Requirements for Inspection and Pumping Services and Implementation Dates

Position: Unfavorable

The REALTORS® oppose SB 165 which seeks to require an inspection and pump out of a septic system before sale or lease of the property. The REALTORS® appreciate efforts last year to exempt certain transactions but believe the legislation should mandate disclosure and let the parties determine how to proceed.

SB 165 requires a single-family rental property to be subject to a septic inspection and pump out at least once every three years. The legislation also requires a buyer of single-family property to have a septic system inspected and pumped out as a condition of sale. Settlement may not occur until a report is issued verifying performance of the inspection and pump out. The “for sale” transfer inspection is also good for three years.

The REALTORS® believe that buyers have a responsibility to exercise due diligence in purchasing a property. If the condition of a septic system is important, the buyer has the right to request inspection of the system. This issue, like many others, becomes a point of negotiation between the seller and buyer. SB 165 forces a decision on both parties and potentially stops settlement until the inspection and the report of the inspection are finished. The REALTORS® believe most decisions regarding the property should remain negotiable by the parties.

As an alternative, the REALTORS® have submitted language which would create a disclosure for home sales rather than a mandate. The disclosure would require the seller to inform the buyer if an inspection had been conducted as well as give the buyer the EPA Septicsmart brochure. After disclosure, the parties would then determine whether an inspection would be conducted just as the parties negotiate other matters related to the property.

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Senate Bill 165
(First Reading File Bill)

Amendment 1:

On page 3, after line 28, add:

(1) THE REAL PROPERTY IS EXEMPT UNDER REAL PROPERTY 10-702 (B)(1)

On page 3, line 29, strike “(1)” and insert “(2)”

On page 4, strike lines 11 and 12

Amendment 2:

On page 4, line 16, strike “ENSURE THAT THE SYSTEM HAS BEEN” and insert:
“IS PROVIDED WITH THE U.S. ENVIRONMENTAL PROTECTION AGENCY SEPTICSMART HOMEOWNER’S BROCHURE AND NOTIFIED WHETHER THE ON-SITE WASTEWATER SYSTEM HAS BEEN PUMPED AND INSPECTED WITHIN THE LAST 5 YEARS AND PROVIDED THE RESULTS OF THE INSPECTION.”

On pages 4 and 5, strike lines 17 through 5 on page 5, and insert:

“(2) IF A BUYER AND SELLER AGREE TO INSPECT AND PUMP OUT THE ON-SITE WASTEWATER SYSTEM, THE INSPECTION AND PUMP OUT SHALL BE CONDUCTED BY AN INDIVIDUAL WHO IS LICENSED UNDER TITLE 9, SUBTITLE 11A OF THE ENVIRONMENT ARTICLE.”

On page 5, line 6, strike “(E)” and insert “(D)”