

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 2224

6
7 H.P. 1678

House of Representatives, March 12, 1984

8 Approved for introduction by the Legislative Council pursuant to Joint
9 Rule 26.

10 Referred to the Committee on Energy and Natural Resources. Sent up
for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Holloway of Edgecomb.

Cosponsor: Senator Sewall of Lincoln.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FOUR
16

17 AN ACT to Provide for a Surety Bond for
18 Soil Analysts.
19

20 Be it enacted by the People of the State of Maine as
21 follows:

22 22 MRSA §42, sub-§3, as amended by PL 1981, c.
23 376, §§1, 2 and 3, is further amended by adding at
24 the end a new paragraph to read:

25 The rules shall provide that, before a permit is is-
26 ssued for installation of a subsurface sewage disposal
27 system for use by a commercial or institutional es-
28 tablishment, the person or firm responsible for the
29 design of the system shall furnish proof to the issu-
30 ing authority of a bond covering that person or firm
31 and conditioned on the proper design of the system
32 for its intended use. The rules shall specify the
33 form of the bond required and shall require the bond
34 to be in an amount reasonably calculated to cover the
35 costs of determining the existence of the defect and

1 correcting it. In any action, other than an action
2 seeking only injunctive relief, brought for violation
3 of this subsection or of a municipal ordinance
4 adopted pursuant to Title 30, section 3221, if it ap-
5 pears that the alleged violation is the result of a
6 defect in design of the system, the action shall be
7 taken against the bond or the person or firm respon-
8 sible for the design of the system.

9 STATEMENT OF FACT

10 The purpose of this bill is to require designers
11 of subsurface sewage disposal systems to provide a
12 bond covering designs of systems made for commercial
13 or institutional establishments. Design flaws may be
14 the source of very expensive evaluation and recon-
15 struction costs, especially for the owner of a com-
16 mercial enterprise or an institution such as a nurs-
17 ing or boarding home. Since designers and their pro-
18 posed designs are subject to governmental approval,
19 owners tend to rely on their expertise. Unfortunate-
20 ly, when their confidence turns out to be unfounded,
21 it is the same government regulators who enforce the
22 law against the owners, rather than the designers.
23 The intent of this measure is to place primary re-
24 sponsibility for design errors on those who make
25 them.

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