

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 32.1-165 of the Code of Virginia, relating to State Health*  
3 *Commissioner; State Board of Health; approved sewage system or nonconforming system.*

4 [H 648]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 32.1-165 of the Code of Virginia is amended and reenacted as follows:**8 **§ 32.1-165. Prior approval required before issuance of building permit; approved sewage system**  
9 **or nonconforming system.**

10 A. No county, city, town, or employee thereof shall issue a permit for a building designed for human  
11 occupancy without the prior written authorization of the Commissioner or his agent. The Commissioner  
12 or his agent shall authorize the issuance of such permit upon his finding that safe, adequate, and proper  
13 sewage treatment is or will be made available to such building, or upon finding that the issuance of said  
14 such permit has been approved by the Review Board. "Safe, adequate, and proper" means a treatment  
15 works that complies with applicable regulations of the Board of Health that are in effect at the time of  
16 application.

17 B. The Commissioner shall develop an application and procedure for evaluating an installed  
18 treatment works and to determine whether to authorize issuance of a permit for a building designed for  
19 human occupancy.

20 C. Nothing in this section shall be construed to prevent the Commissioner or his agent from  
21 approving the use of a nonconforming treatment works, provided the treatment works was installed in  
22 accordance with the Board of Health's applicable regulations in effect at the time of its installation, is  
23 not failing, and is designed and constructed for the sewage flow and strength expected from the  
24 building.

25 D. Nothing in this section shall be construed to prevent an owner of real property from receiving a  
26 voluntary upgrade pursuant to § 32.1-164.1:3, or other permit, as a condition of approval as a  
27 nonconforming treatment works.

28 E. The Board, Commissioner, and Department may accept a certified evaluation from (i) a  
29 professional engineer licensed pursuant to Chapter 4 of Title 54.1; (ii) an onsite soil evaluator, onsite  
30 sewage system operator, or onsite sewage system installer licensed pursuant to Chapter 23 of Title 54.1;  
31 (iii) or other individual with an appropriate certification from the National Sanitation Foundation, or  
32 equivalent. The Department may perform an inspection of the certified evaluation but shall not be  
33 required to perform a field check prior to the issuance of the written authorization in subsection A.