

Chapter 461

(House Bill 131)

AN ACT concerning

Environment – Bay Restoration Fund – Septic System Upgrade Program

FOR the purpose of ~~authorizing the Department of the Environment to establish performance-based funding levels for best available nitrogen removal technologies for on-site sewage disposal systems using a certain evaluation and ranking process; requiring the Department to make certain eligible funding levels available in a certain manner; altering priorities for funding the repair or replacement of certain on-site sewage disposal systems; expanding certain funding eligibility criteria for on-site sewage disposal systems and community sewerage systems; exempting procurements by the Department of certain best available nitrogen removal technologies for on-site sewage disposal systems from certain provisions of the general procurement law; and generally relating to on-site sewage disposal systems.~~

BY repealing and reenacting, ~~with~~ without amendments,

Article – Environment

~~Section 9-1108.1 and 9-1605.2(h)(2) through (5)~~ Section 9-1605.2(a)(1) and (h)(1)

Annotated Code of Maryland

(2014 Replacement Volume and 2024 Supplement)

BY repealing and reenacting, ~~without~~ with amendments,

Article – Environment

~~Section 9-1605.2(a)(1) and (h)(1)~~ 9-1605.2(h)(2) through (5)

Annotated Code of Maryland

(2014 Replacement Volume and 2024 Supplement)

~~BY repealing and reenacting, with amendments,~~~~Article – State Finance and Procurement~~~~Section 11-203(a)(1)(xviii) and (xix)~~~~Annotated Code of Maryland~~~~(2021 Replacement Volume and 2024 Supplement)~~~~BY adding to~~~~Article – State Finance and Procurement~~~~Section 11-203(a)(1)(xx)~~~~Annotated Code of Maryland~~~~(2021 Replacement Volume and 2024 Supplement)~~~~BY repealing and reenacting, without amendments,~~~~Article – State Finance and Procurement~~~~Section 11-203(a)(2) and (3)~~~~Annotated Code of Maryland~~

~~(2021 Replacement Volume and 2024 Supplement)~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Environment

~~9-1108.1.~~

~~(a) (1) In this section the following words have the meanings indicated:~~

~~(2) “Nitrogen removal technology” has the meaning stated in § 9-1108 of this subtitle.~~

~~(3) “On-site sewage disposal system” has the meaning stated in § 9-1108 of this subtitle.~~

~~(4) “Vendor” means a person that sells, offers for sale, or distributes on-site sewage disposal systems that utilize nitrogen removal technology.~~

~~(b) (1) In accordance with subsection (c) of this section, the Department shall evaluate and rank all best available nitrogen removal technologies for on-site sewage disposal systems to advise local governments and residents of the State of approved technologies that qualify for funding under § 9-1605.2(h)(2) of this title.~~

~~(2) THE DEPARTMENT MAY USE THE EVALUATION AND RANKING UNDER PARAGRAPH (1) OF THIS SUBSECTION TO ESTABLISH PERFORMANCE-BASED FUNDING LEVELS FOR EACH BEST AVAILABLE NITROGEN REMOVAL TECHNOLOGY FOR ON-SITE SEWAGE DISPOSAL SYSTEMS THAT QUALIFIES FOR FUNDING UNDER § 9-1605.2(h)(2) OF THIS TITLE.~~

~~(3) The Department shall:~~

~~(i) Make available the evaluation [and], ranking, AND ELIGIBLE FUNDING LEVELS of all best available nitrogen removal technologies required under this section on the Department’s [Web site] WEBSITE; and~~

~~(ii) Provide the evaluation [and], ranking, AND ELIGIBLE FUNDING LEVELS of all best available nitrogen removal technologies to a county, municipality, or resident of the State in any correspondence relating to approved technologies that qualify for funding under § 9-1605.2(h)(2) of this title.~~

~~(c) The Department shall evaluate and rank all best available nitrogen removal technologies for on-site sewage disposal systems based on:~~

- ~~(1) The total amount of nitrogen reduction the technology can achieve;~~
 - ~~(2) The total cost of the technology, including the estimated annual cost of operation and maintenance, including electricity costs;~~
 - ~~(3) The cost per pound of the nitrogen reduction; and~~
 - ~~(4) Any other information the Department determines is necessary.~~
- ~~(d) Beginning June 1, 2011, and every 2 years thereafter, the Department shall request information from vendors necessary to carry out the requirements of this section.~~

9-1605.2.

- (a) (1) There is a Bay Restoration Fund.

(h) (1) With regard to the funds collected under subsection (b)(1)(i)1 of this section from users of an on-site sewage disposal system or holding tank that receive a water bill and subsection (b)(1)(i)2 and 3 of this section, beginning in fiscal year 2006, the Comptroller shall:

- (i) Establish a separate account within the Bay Restoration Fund;
- and
- (ii) Disburse the funds as provided under paragraph (2) of this subsection.

- (2) The Comptroller shall:

- (i) Deposit 60% of the funds in the separate account to be used for:

1. Subject to paragraphs (3), (4), (5), and (6) of this subsection, with priority first given to failing systems and holding tanks located in the Chesapeake and Atlantic Coastal Bays Critical Area [and then], **SECOND** to failing systems that **ARE LOCATED WITHIN THE WATERSHED OF A NITROGEN-IMPAIRED BODY OF WATER, AND THIRD A MARYLAND CHESAPEAKE BAY 8-DIGIT WATERSHED THAT HAS A RELATIVE EFFECTIVENESS FOR TOTAL NITROGEN REDUCTION OF 9.24 OR HIGHER BASED ON THE CHESAPEAKE BAY WATERSHED MODEL, THIRD TO FAILING SYSTEMS THAT ARE LOCATED WITHIN THE 500-YEAR FLOODPLAIN, AND FOURTH TO FAILING SYSTEMS THAT** the Department determines are a threat to public health or water quality, grants or loans for up to 100% of:

A. The costs attributable to upgrading an on-site sewage disposal system to the best available technology for the removal of nitrogen;

B. The cost difference between a conventional on-site sewage disposal system and a system that utilizes the best available technology for the removal of nitrogen;

C. The cost of repairing or replacing a failing on-site sewage disposal system with a system that uses the best available technology for nitrogen removal;

D. The cost, up to the sum of the costs authorized under item B of this item for each individual system, of replacing multiple on-site sewage disposal systems located in the same community with a new community sewerage system that is owned by a local government and that meets enhanced nutrient removal standards; or

E. The cost, up to the sum of the costs authorized under item C of this item for each individual system, of connecting a property using an on-site sewage disposal system to an existing municipal wastewater facility that is achieving, or has signed a funding agreement with the Department and is under construction to achieve, enhanced nutrient removal or biological nutrient removal level treatment, including payment of the principal, but not interest, of debt issued by a local government for such connection costs;

2. The reasonable costs of the Department, not to exceed 8% of the funds deposited into the separate account, to:

A. Implement an education, outreach, and upgrade program to advise owners of on-site sewage disposal systems and holding tanks on the proper maintenance of the systems and tanks and the availability of grants and loans under item 1 of this item;

B. Review and approve the design and construction of on-site sewage disposal system or holding tank upgrades;

C. Issue grants or loans as provided under item 1 of this item;
and

D. Provide technical support for owners of upgraded on-site sewage disposal systems or holding tanks to operate and maintain the upgraded systems;

3. A portion of the reasonable costs of a local public entity that has been delegated by the Department under § 1-301(b) of this article to administer and enforce environmental laws, not to exceed 10% of the funds deposited into the separate account, to implement regulations adopted by the Department for on-site sewage disposal systems that utilize the best available technology for the removal of nitrogen;

4. Subject to paragraph (7) of this subsection, financial assistance to low-income homeowners, as defined by the Department, for up to 50% of the

cost of an operation and maintenance contract of up to 5 years for an on-site sewage disposal system that utilizes nitrogen removal technology;

5. Subject to paragraph (8) of this subsection, a local jurisdiction to provide financial assistance to eligible homeowners for the reasonable cost of pumping out an on-site sewage disposal system, at least once every 5 years, unless a more frequent pump out schedule is recommended during an inspection, not to exceed 10% of the funds allocated to the local jurisdiction; and

6. In fiscal years 2020 and 2021, financial assistance to a local jurisdiction for the development of a septic stewardship plan that meets the requirements under paragraph (8)(iii)2 of this subsection; and

(ii) Transfer 40% of the funds to the Maryland Agriculture Water Quality Cost Share Program in the Department of Agriculture in order to fund cover crop activities.

(3) Funding for the costs identified in paragraph (2)(i)1 of this subsection shall be provided in the following order of priority:

(i) For owners of all levels of income, the costs identified in paragraph (2)(i)1A and B of this subsection; and

(ii) For **[low-income] LOW- AND MODERATE-INCOME** owners, as defined by the Department, the costs identified in paragraph (2)(i)1C of this subsection:

1. First, for best available technologies for nitrogen removal;
and

2. Second, for other wastewater treatment systems.

(4) Funding for the costs identified in paragraph (2)(i)1D of this subsection may be provided if:

(i) The environmental impact of the on-site sewage disposal system is documented by the local government and confirmed by the Department;

(ii) It can be demonstrated that:

1. The replacement of the on-site sewage disposal system with a new community sewerage system is more cost effective for nitrogen removal than upgrading each individual on-site sewage disposal system; or

2. The individual replacement of the on-site sewage disposal system is not feasible; and

(iii) The new community sewerage system will only serve lots that have received a certificate of occupancy, or equivalent certificate, [on or before October 1, 2008] **AT LEAST 15 YEARS BEFORE JULY 1 OF THE YEAR IN WHICH THE APPLICATION FOR FUNDING IS MADE.**

(5) Funding for the costs identified in paragraph (2)(i)1E of this subsection may be provided only if all of the following conditions are met:

(i) The environmental impact of the on-site sewage disposal system is documented by the local government and confirmed by the Department;

(ii) It can be demonstrated that:

1. The replacement of the on-site sewage disposal system with service to an existing municipal wastewater facility that is achieving, or has signed a funding agreement with the Department and is under construction to achieve, enhanced nutrient removal or biological nutrient removal level treatment is more cost-effective for nitrogen removal than upgrading the individual on-site sewage disposal system; or

2. The individual replacement of the on-site sewage disposal system is not feasible;

(iii) The project is consistent with the county's comprehensive plan and water and sewer master plan;

(iv) 1. The on-site sewage disposal system was installed [as of October 1, 2008] **AT LEAST 15 YEARS BEFORE JULY 1 OF THE YEAR IN WHICH THE APPLICATION FOR FUNDING IS MADE**, and the property the system serves is located in a priority funding area, in accordance with § 5-7B-02 of the State Finance and Procurement Article; or

2. The on-site sewage disposal system was installed [as of October 1, 2008] **AT LEAST 15 YEARS BEFORE JULY 1 OF THE YEAR IN WHICH THE APPLICATION FOR FUNDING IS MADE**, the property the system serves is not located in a priority funding area, and the project meets the requirements under § 5-7B-06 of the State Finance and Procurement Article and is consistent with a public health area of concern:

A. Identified in the county water and sewer plan; or

B. Certified by a county environmental health director with concurrence by the Department and, if funding is approved, subsequently added to the county water and sewer plan within a time frame jointly agreed on by the Department and the county that takes into consideration the county's water and sewer plan update and amendment process; and

(v) The funding agreement for a project that meets the conditions for funding under subparagraph (iv)2 of this paragraph includes provisions to ensure:

1. Denial of access for any future connections that are not included in the project's proposed service area; and
2. That the project will not unduly impede access to funding for upgrading individual on-site sewage disposal systems in the county with best available technology for nitrogen removal.

~~Article — State Finance and Procurement~~

~~11-203.~~

~~(a) Except as provided in subsection (b) of this section, this Division II does not apply to:~~

~~(1) procurement by:~~

~~(xviii) the Department of Natural Resources, for negotiating or entering into grants, agreements, or partnerships with nonprofit entities related to conservation service opportunities; [and]~~

~~(xix) the State Archives for preservation, conservation, proper care, restoration, and transportation of fine art or decorative art that is:~~

~~1. in the custody of the Commission on Artistic Property; and~~

~~2. owned by or loaned to the State; AND~~

~~(xx) THE DEPARTMENT OF THE ENVIRONMENT FOR BEST AVAILABLE NITROGEN REMOVAL TECHNOLOGIES FOR ON-SITE SEWAGE DISPOSAL SYSTEMS THAT QUALIFY FOR FUNDING UNDER § 9-1605(H)(2) OF THE ENVIRONMENT ARTICLE, INCLUDING:~~

~~1. REQUESTING INFORMATION FROM VENDORS;~~

~~2. RANKING AND EVALUATING BEST AVAILABLE TECHNOLOGIES; AND~~

~~3. ESTABLISHING PERFORMANCE-BASED FUNDING LEVELS AS PROVIDED IN § 9-1108.1 OF THE ENVIRONMENT ARTICLE;~~

~~(2) procurement by a unit from:~~

~~(i) another unit;~~

- ~~(ii) a political subdivision of the State;~~
 - ~~(iii) an agency of a political subdivision of the State;~~
 - ~~(iv) a government, including the government of another state, of the United States, or of another country;~~
 - ~~(v) an agency or political subdivision of a government; or~~
 - ~~(vi) a bistate, multistate, bicounty, or multicounty governmental agency; or~~
- ~~(3) procurement in support of enterprise activities for the purpose of:~~
- ~~(i) direct resale; or~~
 - ~~(ii) remanufacture and subsequent resale.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2026.

Approved by the Governor, May 13, 2025.