

HOUSE No. 4042

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, November 20, 2017.

The committee on Environment, Natural Resources and Agriculture to whom were referred the petition (accompanied by bill, House, No. 2941) of Paul A. Schmid, III and others relative to loans for failed septic systems, and the petition (accompanied by bill, House, No. 2942) of Paul A. Schmid, III and others that coastal estuary or embayment watersheds impaired due to nitrogen pollution be deemed to be nitrogen sensitive areas, reports recommending that the accompanying bill (House, No. 4042) ought to pass.

For the committee,

SMITTY PIGNATELLI.

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**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to failed septic systems.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The first paragraph of section 127B $\frac{1}{2}$ of chapter 111 of the General Laws,
2 as appearing in the 2016 Official Edition, is hereby amended by striking out, in line 6, the words
3 “twenty-one A requires”, and inserting in place thereof the following words:- twenty-one A, or a
4 rule or regulation of a board of health in a city or town, requires or establishes standards for

5 SECTION 2. Said section 127B $\frac{1}{2}$ of chapter 111, as so appearing, is hereby further
6 amended by inserting after the fifth paragraph the following paragraph:-

7 A board of health in a city or town shall be authorized pursuant to this section to enter
8 into agreements with residential owners to provide for the repair, replacement or upgrade of
9 certain septic systems as provided under section 127B $\frac{3}{4}$.

10 SECTION 3. Said Chapter 111 of the General Laws is hereby amended by inserting after
11 section 127B $\frac{1}{2}$ the following section:-

12 Section 127B³/₄. When an existing domestic septic system fails to properly treat for
13 nitrogen and conform to the applicable nitrogen waste standard, the board of health may enter
14 into an agreement with the residential owner under section 127B¹/₂ to finance by loan, the repair,
15 replacement or upgrade of the system to meet the standard.

16 A domestic septic system to qualify for such loan assistance pursuant this section, shall
17 be located within a (i) watershed area of a nitrogen impaired waterbody as identified on the latest
18 U.S. Environmental Protection Agency approved final listing of the latest state Integrated List of
19 Waters for the commonwealth, (ii) nitrogen sensitive area as defined in the state environmental
20 code, or (iii) watershed area of a waterbody subject to the latest state established Total Maximum
21 Daily Load for total nitrogen pollution that is approved by the U.S. Environmental Protection
22 Agency.

23 The repair, replacement or upgrade, including installation, of a shared domestic septic
24 system that treats for nitrogen located in an area described in the prior paragraph, may qualify for
25 such loan assistance, provided the shared system replaces or services at least 2 existing domestic
26 septic systems that otherwise would fail to properly treat for nitrogen, and the combined shared
27 septic system, including its components, has a discharge volume of less than 10,000 gallons per
28 day that meets the applicable nitrogen waste standard. For such loan assistance, each affected
29 residential owner benefiting directly from the shared system shall be required to enter into an
30 agreement with the board of health for the repayment of the owner's proportionate share of the
31 costs and expenses incurred by the board of health for the repair, replacement or upgrade of any
32 part of the shared system.

33 For the purposes of this section, the applicable nitrogen waste standard for domestic
34 septic systems, shall mean any properly functioning denitrifying septic system that is approved
35 for the intended domestic use pursuant to the state environmental code; except if the existing or
36 planned upgraded domestic septic system is in a city or town that has established a more
37 effective standard that decreases the amount of nitrogen waste, then such system shall conform
38 to this standard.

39 A city or town may establish a nitrogen waste standard for domestic septic systems by the
40 adoption of, a rule or regulation by its board of health, or a zoning by-law or ordinance by its
41 town meeting or city council.

42 Notwithstanding any other general law to the contrary, a board of health may also enter
43 into an agreement for such loan assistance with a residential owner to promote the voluntary
44 upgrade or replacement of the owner's functioning domestic septic system to meet the applicable
45 nitrogen standard under this section.

46 The board of health in a city or town shall be authorized to make findings regarding the
47 condition of domestic septic systems to meet applicable nitrogen waste standards for the purpose
48 of entering into agreements for financial assistance loans under section 127B½.