

HOUSE No. 5125

Section 137 contained in the engrossed Bill making appropriations for the fiscal year 2023 (see House, No. 5050), which had been returned by His Excellency the Governor with recommendation of amendment (for message, see Attachment T of House, No. 5132). July 28, 2022.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to providing for the repair, replacement or upgrade of certain septic systems.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide for the repair, replacement or upgrade of certain septic systems, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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. (a) For the purposes of this section, “nitrogen waste standard” shall, for a
2 domestic septic system, mean any properly functioning identifying septic system that is approved
3 for the intended domestic use pursuant to title 5 of the state environmental code established in
4 310 CMR 15.00; provided, however, that “nitrogen waste standard” for a domestic septic system
5 located in a city or town that established a more effective nitrogen waste standard that decreases
6 the amount of nitrogen waste shall mean any properly functioning identifying septic system that
7 is approved for the intended domestic use pursuant to the nitrogen waste standard established by
8 the city or town pursuant to subsection (d).

9 (b) Notwithstanding chapter 29C of the General Laws or any other general or special law
10 to the contrary, to reduce environmental impacts of nitrogen pollution in vulnerable
11 communities, a local or regional board of health may enter into agreements with residential
12 owners to provide for the repair, replacement or upgrade of certain septic systems pursuant to
13 subsections (c) and (e).

14 (c)(1) When an existing domestic septic system fails to properly treat for nitrogen and
15 conform to the applicable nitrogen waste standard, a local or regional board of health may enter
16 into an agreement with the residential owner pursuant to section 127B^{1/2} of chapter 111 of the
17 General Laws to finance by loan the repair, replacement or upgrade of the system to meet the
18 standard.

19 (2) To qualify for such loan assistance, a domestic septic system shall be located within:
20 (i) a watershed area of a nitrogen impaired water body as identified in the latest United States
21 Environmental Protection Agency approved final listing of the latest state Integrated List of
22 Waters for the commonwealth; (ii) a nitrogen sensitive area as defined in 310 CMR 15.002; or
23 (iii) a watershed area of a water body subject to the latest state established total maximum daily
24 load for total nitrogen pollution that is approved by the United States Environmental Protection
25 Agency.

26 (3) The repair, replacement or upgrade, including installation, of a shared domestic
27 septic system that treats for nitrogen located in an area described in paragraph (2) may qualify
28 for such loan assistance; provided, that the: (i) shared system replaces or services at least 2
29 existing domestic septic systems that otherwise would fail to properly treat for nitrogen; and (ii)
30 the combined shared septic system, including its components, has a discharge volume of less

31 than 10,000 gallons per day that meets the applicable nitrogen waste standard. For loan
32 assistance pursuant to paragraph (1), each affected residential owner benefiting directly from the
33 shared system shall enter into an agreement with the local or regional board of health in the city
34 or town where such system is located for the repayment of the owner's proportionate share of the
35 costs and expenses incurred by the local or regional board of health for the repair, replacement or
36 upgrade of any part of the shared system.

37 (d) Notwithstanding any general or special law to the contrary, a city or town may
38 establish a nitrogen waste standard for domestic septic systems by: (i) the adoption of a rule or
39 regulation by its local or regional board of health; or (ii) a zoning by-law or ordinance approved
40 by the governing body of the city or town; provided, however, that the nitrogen waste standard
41 established shall meet all the minimum requirements of title 5 of the state environmental code
42 established in 310 CMR 15.00.

43 (e) Notwithstanding any general or special law to the contrary, a local or regional board
44 of health may enter into an agreement for loan assistance with a residential owner to promote the
45 voluntary upgrade or replacement of the owner's functioning domestic septic system to meet the
46 applicable nitrogen waste standard.

47 SECTION 2. This act shall take effect on July 1, 2022.