

HOUSE BILL 1083

M3, Q3

9lr0813

By: **Delegates Schuh and V. Clagett**

Introduced and read first time: February 13, 2009

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Environment – On-Site Sewage Disposal Systems – Requirements**

3 FOR the purpose of requiring persons who are engaged in the business of inspecting
4 on-site sewage disposal systems under certain circumstances to make certain
5 certifications to the Department of the Environment; requiring persons who are
6 engaged in the business of inspecting on-site sewage disposal systems under
7 certain circumstances to make certain information available to persons
8 contracting for the inspection service; requiring persons who are engaged in the
9 business of inspecting on-site sewage disposal systems under certain
10 circumstances to register with a certain county prior to conducting certain
11 inspections; requiring the Department to make available a certain list of
12 persons on the Department's website; authorizing the Department to establish a
13 certain fee under certain circumstances; requiring a county, on or before a
14 certain date, to adopt a certain on-site sewage disposal management plan and
15 include the plan in the county's water and sewer plan; requiring the
16 Department to adopt certain regulations relating to nitrogen removal
17 requirements, inspection requirements, and repair and replacement
18 requirements for on-site sewage disposal systems; requiring the Department to
19 define a certain term under certain conditions; authorizing the Department to
20 adopt certain regulations; requiring a county to provide certain notice to certain
21 owners of on-site sewage disposal systems; authorizing a county to establish a
22 certain fee under certain circumstances; requiring certain owners to have an
23 on-site sewage disposal system inspected, repaired, or replaced under certain
24 circumstances; exempting certain owners from certain repair or replacement
25 requirements under certain circumstances; establishing certain civil penalties
26 for certain violations; requiring the Comptroller to deposit a certain percentage
27 of certain funds for reimbursement of certain costs; providing a tax credit for
28 certain costs under certain circumstances; defining certain terms; and generally
29 relating to on-site sewage disposal systems.

30 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Environment
 2 Section 9–217.1, 9–505(a)(18)(iii) and (19), and 9–1605.2(g) and (h)(1) and (2)
 3 Annotated Code of Maryland
 4 (2007 Replacement Volume and 2008 Supplement)

5 BY adding to
 6 Article – Environment
 7 Section 9–505(20); 9–11A–01 through 9–11A–05 to be under the new subtitle
 8 “Subtitle 11A. On–Site Sewage Disposal Systems”; and 9–1605.2(i)(2)(x)
 9 Annotated Code of Maryland
 10 (2007 Replacement Volume and 2008 Supplement)

11 BY adding to
 12 Article – Tax – General
 13 Section 10–728
 14 Annotated Code of Maryland
 15 (2004 Replacement Volume and 2008 Supplement)

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

18 **Article – Environment**

19 9–217.1.

20 (a) [After July 1, 1999, every] **A** person engaged in the business of inspecting
 21 an on–site sewage disposal system for a transfer of property **OR UNDER SUBTITLE**
 22 **11A OF THIS TITLE** must certify to the Department of the Environment that the
 23 person has completed a course of instruction, approved by the Department, in the
 24 proper inspection of on–site sewage disposal systems.

25 (b) [Every] **A** person engaged in the business of inspecting an on–site sewage
 26 disposal system for a transfer of property **OR UNDER SUBTITLE 11A OF THIS TITLE**
 27 shall make available to persons contracting for the inspection service evidence of
 28 completion of the course of instruction.

29 (c) **A PERSON ENGAGED IN THE BUSINESS OF INSPECTING AN ON–SITE**
 30 **SEWAGE DISPOSAL SYSTEM FOR PURPOSES ESTABLISHED UNDER SUBTITLE 11A**
 31 **OF THIS TITLE SHALL REGISTER WITH A COUNTY PRIOR TO CONDUCTING AN**
 32 **INSPECTION IN A COUNTY.**

33 [(c)] (D) The Department shall [adopt]:

34 (1) **ADOPT** regulations to implement the provisions of this section;
 35 **AND**

1 **(2) MAKE AVAILABLE ON THE DEPARTMENT'S WEBSITE A LIST OF**
2 **PERSONS WHO HAVE:**

3 **(I) COMPLETED A COURSE OF INSTRUCTION IN**
4 **ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION; AND**

5 **(II) REGISTERED WITH A COUNTY IN ACCORDANCE WITH**
6 **SUBSECTION (C) OF THIS SECTION.**

7 **(E) (1) THE DEPARTMENT MAY REQUIRE A PERSON ENGAGED IN THE**
8 **BUSINESS OF INSPECTING AN ON-SITE SEWAGE DISPOSAL SYSTEM PAY A**
9 **CERTIFICATION FEE TO THE DEPARTMENT.**

10 **(2) A FEE ESTABLISHED UNDER THIS SUBSECTION SHALL BE SET**
11 **TO PRODUCE FUNDS THAT DO NOT EXCEED THE COSTS INCURRED BY THE**
12 **DEPARTMENT IN ADMINISTERING THE REQUIREMENTS OF THIS SECTION.**

13 9-505.

14 (a) In addition to the other requirements of this subtitle, each county plan
15 shall:

16 (18) For a county with a population greater than 150,000 according to
17 the latest Department of Planning projections, include a recycling plan by July 1, 1990
18 that:

19 (iii) Requires full implementation of the recycling plan by
20 January 1, 1994; [and]

21 (19) For a county with a population less than 150,000 according to the
22 latest Department of Planning projections, include a recycling plan by July 1, 1990
23 that:

24 (i) Provides for a reduction through recycling of at least 15
25 percent of the county's solid waste stream or submit adequate justification, including
26 economic and other specific factors, as to why the 15 percent reduction cannot be met;

27 (ii) Provides for recycling of the solid waste stream to the extent
28 practical and economically feasible, but in no event may less than a 5 percent
29 reduction be submitted; and

30 (iii) Requires full implementation of the recycling plan by
31 January 1, 1994; **AND**

1 (2) ESTABLISH INSPECTION STANDARDS FOR INSPECTIONS
2 REQUIRED UNDER THIS SUBTITLE, INCLUDING A REQUIREMENT THAT A DYE
3 TEST BE PERFORMED AS A PART OF AN INSPECTION;

4 (3) SUBJECT TO SUBSECTION (B) OF THIS SECTION, ESTABLISH
5 CONDITIONS FOR REQUIRING REPAIR OR REPLACEMENT OF AN
6 ON-SITE SEWAGE DISPOSAL SYSTEM;

7 (4) SUBJECT TO SUBSECTION (C) OF THIS SECTION, PROVIDE A
8 DEFINITION FOR A FAILING ON-SITE SEWAGE DISPOSAL SYSTEM; AND

9 (5) ENSURE THE APPROPRIATE MAINTENANCE OF NITROGEN
10 REMOVING TECHNOLOGY, INCLUDING A METHOD FOR MAINTENANCE BY A
11 HOMEOWNER.

12 (B) THE DEPARTMENT MAY NOT ADOPT REGULATIONS THAT REQUIRE
13 THE REPLACEMENT OF AN ON-SITE SEWAGE DISPOSAL SYSTEM UNLESS:

14 (1) A NEW DRAIN FIELD IS REQUIRED; OR

15 (2) A THREAT TO PUBLIC HEALTH EXISTS.

16 (C) THE DEPARTMENT MAY NOT ADOPT REGULATIONS THAT DEFINE A
17 FAILING ON-SITE SEWAGE DISPOSAL SYSTEM AS A SYSTEM THAT DOES NOT
18 HAVE NITROGEN REMOVAL TECHNOLOGY.

19 (D) THE DEPARTMENT MAY ADOPT REGULATIONS THAT ESTABLISH A
20 MAXIMUM FEE FOR INSPECTIONS REQUIRED UNDER THIS SUBTITLE.

21 **9-11A-03.**

22 (A) (1) ON OR BEFORE JANUARY 1, 2011, EACH COUNTY SHALL
23 ADOPT AN ON-SITE SEWAGE DISPOSAL SYSTEM MANAGEMENT PLAN THAT:

24 (I) REQUIRES NEW AND REPLACEMENT ON-SITE SEWAGE
25 DISPOSAL SYSTEMS TO USE NITROGEN REMOVAL TECHNOLOGY IN ACCORDANCE
26 WITH REGULATIONS ADOPTED UNDER § 9-11A-02 OF THIS SUBTITLE; AND

27 (II) ESTABLISHES AN INSPECTION SCHEDULE FOR ON-SITE
28 SEWAGE DISPOSAL SYSTEMS IN ACCORDANCE WITH REGULATIONS ADOPTED
29 UNDER § 9-11A-02 OF THIS SUBTITLE.

1 (2) AN INSPECTION SCHEDULE ESTABLISHED UNDER
2 PARAGRAPH (1) OF THIS SUBSECTION MAY INCLUDE AN INITIAL PHASE-IN
3 SCHEDULE THAT FOR EACH YEAR INCLUDES APPROXIMATELY ONE-TENTH OF
4 THE TOTAL NUMBER OF THE ON-SITE SEWAGE DISPOSAL SYSTEMS LOCATED IN
5 THE COUNTY.

6 (B) A COUNTY SHALL NOTIFY EACH OWNER THAT THE INSPECTION OF
7 AN ON-SITE SEWAGE DISPOSAL SYSTEM IS REQUIRED.

8 (C) (1) A COUNTY MAY ESTABLISH A REGISTRATION FEE FOR
9 PERSONS REQUIRED TO REGISTER WITH A COUNTY UNDER § 9-217.1 OF THIS
10 TITLE.

11 (2) A FEE ESTABLISHED UNDER THIS SUBSECTION SHALL BE SET
12 TO PRODUCE FUNDS THAT DO NOT EXCEED THE COSTS INCURRED BY A COUNTY
13 IN ADMINISTERING THE REQUIREMENTS OF THIS SUBTITLE.

14 (D) A COUNTY SHALL PROVIDE THE DEPARTMENT WITH A LIST OF
15 PERSONS THAT HAVE REGISTERED WITH A COUNTY IN ACCORDANCE WITH §
16 9-217.1 OF THIS TITLE.

17 **9-11A-04.**

18 (A) AN OWNER IS REQUIRED TO HAVE AN ON-SITE SEWAGE DISPOSAL
19 SYSTEM INSPECTED IN ACCORDANCE WITH THIS SUBTITLE.

20 (B) (1) ANY PERSON CONDUCTING AN INSPECTION REQUIRED BY
21 THIS SUBTITLE SHALL SUBMIT AN INSPECTION REPORT INDICATING THE
22 RESULTS OF THE INSPECTION TO THE COUNTY AND THE OWNER.

23 (2) AN INSPECTION REPORT SUBMITTED UNDER PARAGRAPH (1)
24 OF THIS SUBSECTION SHALL INCLUDE WHETHER THE ON-SITE SEWAGE
25 DISPOSAL SYSTEM:

26 (I) IS FAILING;

27 (II) IS A THREAT TO THE PUBLIC HEALTH;

28 (III) REQUIRES REPLACEMENT; OR

29 (IV) REQUIRES REPAIR.

30 (C) THE COUNTY SHALL NOTIFY THE OWNER IF REPAIR OR
31 REPLACEMENT OF AN ON-SITE SEWAGE DISPOSAL SYSTEM IS REQUIRED.

1 (D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND IN
2 ACCORDANCE WITH THE NOTICE PROVIDED UNDER SUBSECTION (C) OF THIS
3 SECTION, AN OWNER SHALL REPAIR OR REPLACE AN ON-SITE SEWAGE
4 DISPOSAL SYSTEM.

5 (2) (I) AN OWNER WHO IS AT LEAST 65 YEARS OF AGE AT THE
6 TIME OF A SCHEDULED INSPECTION REQUIRED BY THIS SUBTITLE IS EXEMPT
7 FROM ANY REPAIR AND REPLACEMENT REQUIREMENTS UNDER THIS SECTION,
8 UNLESS THE SYSTEM POSES A THREAT TO THE PUBLIC HEALTH.

9 (II) AN OWNER THAT DEMONSTRATES SUBSTANTIAL
10 FINANCIAL HARDSHIP IS EXEMPT FROM ANY REPAIR OR REPLACEMENT
11 REQUIREMENTS UNDER THIS SECTION IF THE OWNER APPLIES FOR BUT DOES
12 NOT RECEIVE ASSISTANCE UNDER § 9-1605.2(H) OF THIS TITLE.

13 (E) IN ACCORDANCE WITH § 9-1605.2(I) OF THIS TITLE, AN OWNER OF
14 AN ON-SITE SEWAGE DISPOSAL SYSTEM MAY APPLY TO THE DEPARTMENT FOR
15 REIMBURSEMENT FOR THE COST OF AN INSPECTION REQUIRED UNDER THIS
16 SUBTITLE.

17 **9-11A-05.**

18 (A) AN OWNER IS SUBJECT TO A CIVIL PENALTY OF \$100 FOR EACH
19 VIOLATION, IF AN OWNER FAILS TO:

20 (1) INITIATE AN INSPECTION REQUIRED UNDER THIS SUBTITLE
21 WITHIN 90 DAYS FROM THE DATE OF NOTICE;

22 (2) COMPLETE AN INSPECTION REQUIRED UNDER THIS SUBTITLE
23 WITHIN 180 DAYS FROM THE DATE OF NOTICE;

24 (3) INITIATE A REPAIR OR REPLACEMENT REQUIRED UNDER THIS
25 SUBTITLE WITHIN 180 DAYS FROM THE DATE OF NOTICE;

26 (4) COMPLETE A REPAIR REQUIRED UNDER THIS SUBTITLE
27 WITHIN 1 YEAR FROM THE DATE OF NOTICE; OR

28 (5) COMPLETE A REPLACEMENT REQUIRED UNDER THIS
29 SUBTITLE WITHIN 2 YEARS FROM THE DATE OF NOTICE.

30 (B) EACH 30-DAY PERIOD CONSTITUTES A SEPARATE VIOLATION.

1 (C) ANY PENALTY COLLECTED UNDER THIS SECTION SHALL BE
2 DEPOSITED INTO THE BAY RESTORATION FUND ESTABLISHED UNDER §
3 9-1605.2 OF THIS TITLE.

4 9-1605.2.

5 (g) There shall be deposited in the Bay Restoration Fund:

6 (1) Funds received from the restoration fee;

7 (2) Net proceeds of bonds issued by the Administration;

8 (3) Interest or other income earned on the investment of money in the
9 Bay Restoration Fund; [and]

10 (4) ANY PENALTY IMPOSED UNDER § 9-11A-05 OF THIS TITLE;
11 AND

12 [(4)] (5) Any additional money made available from any sources,
13 public or private, for the purposes for which the Bay Restoration Fund has been
14 established.

15 (h) (1) With regard to the funds collected under subsection (b)(1)(i), from
16 users of an onsite sewage disposal system or holding tank that receive a water bill, (ii),
17 and (iii) of this section, beginning in fiscal year 2006, the Comptroller shall:

18 (i) Establish a separate account within the Bay Restoration
19 Fund; and

20 (ii) Disburse the funds as provided under paragraph (2) of this
21 subsection.

22 (2) The Comptroller shall:

23 (i) Deposit [60%] 40% of the funds in the separate account to
24 be used for:

25 1. Subject to paragraph (3) of this subsection, with
26 priority first given to failing systems and holding tanks located in the Chesapeake and
27 Atlantic Coastal Bays Critical Area [and] then to failing systems that the Department
28 determines are a threat to public health or water quality, AND THEN TO
29 HOMEOWNERS THAT DEMONSTRATE A FINANCIAL HARDSHIP AND ARE
30 REQUIRED TO REPLACE A FAILING SYSTEM IN ACCORDANCE WITH SUBTITLE
31 11A OF THIS TITLE, grants or loans for up to 100% of:

1 A. The costs attributable to upgrading an onsite sewage
2 disposal system to the best available technology for the removal of nitrogen;

3 B. The cost difference between a conventional onsite
4 sewage disposal system and a system that utilizes the best available technology for the
5 removal of nitrogen;

6 C. The cost of repairing or replacing a failing onsite
7 sewage disposal system with a system that uses the best available technology for
8 nitrogen removal; or

9 D. The cost, up to the sum of the costs authorized under
10 item 1B of this item for each individual system, of replacing multiple onsite sewage
11 disposal systems located in the same community with a new community sewerage
12 system that is owned by a local government and that meets enhanced nutrient
13 removal standards.

14 2. The reasonable costs of the Department, not to exceed
15 8% of the funds deposited into the separate account, to:

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

20 B. Review and approve the design and construction of
21 onsite sewage disposal system or holding tank upgrades;

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

24 D. Provide technical support for owners of upgraded
25 onsite sewage disposal systems or holding tanks to operate and maintain the upgraded
26 systems; [and]

27 **(ii) DEPOSIT 20% OF THE FUNDS IN THE SEPARATE**
28 **ACCOUNT TO BE USED FOR REIMBURSEMENT OF COSTS INCURRED BY AN**
29 **OWNER OF AN ONSITE SEWAGE DISPOSAL SYSTEM FOR AN INSPECTION THAT IS**
30 **REQUIRED UNDER SUBTITLE 11A OF THIS TITLE.**

31 [(ii)] **(iii)** Transfer 40% of the funds to the Maryland
32 Agriculture Water Quality Cost Share Program in the Department of Agriculture in
33 order to fund cover crop activities.

34 **Article - Tax - General**

35 **10-728.**

1 **(A) SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, AN**
2 **INDIVIDUAL OR A CORPORATION REPAIRING, REPLACING, OR UPGRADING AN**
3 **EXISTING ON-SITE SEWAGE DISPOSAL SYSTEM MAY CLAIM A CREDIT AGAINST**
4 **THE STATE INCOME TAX FOR A TAXABLE YEAR IN THE AMOUNT EQUAL TO 10%**
5 **OF:**

6 **(1) THE COSTS ATTRIBUTABLE TO UPGRADING AN ON-SITE**
7 **SEWAGE DISPOSAL SYSTEM TO THE BEST AVAILABLE TECHNOLOGY FOR THE**
8 **REMOVAL OF NITROGEN;**

9 **(2) THE COST DIFFERENCE BETWEEN A CONVENTIONAL ON-SITE**
10 **SEWAGE DISPOSAL SYSTEM AND A SYSTEM THAT UTILIZES THE BEST AVAILABLE**
11 **TECHNOLOGY FOR THE REMOVAL OF NITROGEN; OR**

12 **(3) THE COST OF REPAIRING OR REPLACING A FAILING ON-SITE**
13 **SEWAGE DISPOSAL SYSTEM WITH A SYSTEM THAT USES THE BEST AVAILABLE**
14 **TECHNOLOGY FOR NITROGEN REMOVAL OR ANOTHER WASTEWATER**
15 **TREATMENT SYSTEM.**

16 **(B) THE CREDIT ALLOWED UNDER THIS SECTION MAY BE CLAIMED BY**
17 **AN INDIVIDUAL OR CORPORATION FOR UP TO 10 CONSECUTIVE TAXABLE YEARS.**

18 **(C) THE COSTS USED TO DETERMINE THE CREDIT AMOUNT ALLOWED**
19 **UNDER SUBSECTION (A) OF THIS SECTION SHALL BE REDUCED BY THE AMOUNT**
20 **OF ANY FEDERAL, STATE, OR LOCAL GRANT RECEIVED BY THE INDIVIDUAL OR**
21 **CORPORATION FOR THE PURPOSE OF PURCHASING OR INSTALLING THE BEST**
22 **AVAILABLE TECHNOLOGY FOR NITROGEN REMOVAL.**

23 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
24 **October 1, 2009.**