

# HOUSE BILL 361

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CF SB 314

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By: **The Speaker (By Request – Administration) and Delegates Adams, Afzali, Anderton, Arentz, Buckel, Carozza, Cassilly, Ciliberti, Clark, Cluster, Fisher, Flanagan, Folden, Ghrist, Glass, Hornberger, S. Howard, Jacobs, Kipke, Kittleman, Krebs, Long, Malone, Mautz, McComas, McDonough, McKay, Metzgar, Miele, Morgan, Otto, Parrott, Reilly, Rey, Rose, Shoemaker, Szeliga, Vogt, and West**

Introduced and read first time: January 24, 2018

Assigned to: Environment and Transportation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Bay Restoration Fund – Fee Exemption, Disbursements, and Financial**  
3 **Assistance**  
4 **(Septic Stewardship Act of 2018)**

5 FOR the purpose of exempting a user of an on–site sewage disposal system from paying the  
6 Bay Restoration Fee under certain circumstances; altering the percentage of certain  
7 funds from the Bay Restoration Fund that are disbursed to fund certain costs  
8 relating to on–site sewage disposal systems; altering the percentage of certain funds  
9 from the Bay Restoration Fund that are disbursed to fund cover crop activities;  
10 authorizing certain fee revenue deposited in the Bay Restoration Fund to be used for  
11 financial assistance to certain homeowners for the reasonable cost of pumping out  
12 on–site sewage disposal systems at certain intervals; specifying that financial  
13 assistance under this Act may be provided only if the homeowner resides in a local  
14 jurisdiction that has developed a certain septic stewardship plan that meets certain  
15 conditions; and generally relating to the Bay Restoration Fund.

16 BY repealing and reenacting, without amendments,  
17 Article – Environment  
18 Section 9–1605.2(a) and (h)(1)  
19 Annotated Code of Maryland  
20 (2014 Replacement Volume and 2017 Supplement)

21 BY repealing and reenacting, with amendments,  
22 Article – Environment  
23 Section 9–1605.2(c) and (h)(2)  
24 Annotated Code of Maryland

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2014 Replacement Volume and 2017 Supplement)

BY adding to

Article – Environment

Section 9–1605.2(h)(8)

Annotated Code of Maryland

(2014 Replacement Volume and 2017 Supplement)

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

**Article – Environment**

9–1605.2.

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

(2) It is the intent of the General Assembly that the Bay Restoration Fund  
be:

(i) Used, in part, to provide the funding necessary to upgrade any of  
the wastewater treatment facilities that are located in the State or used by citizens of the  
State in order to achieve enhanced nutrient removal where it is cost-effective to do so; and

(ii) Available for treatment facilities discharging into the Atlantic  
Coastal Bays or other waters of the State, but that priority be given to treatment facilities  
discharging into the Chesapeake Bay.

(3) The Bay Restoration Fund shall be maintained and administered by the  
Administration in accordance with the provisions of this section and any rules or program  
directives as the Secretary or the Board may prescribe.

(4) There is established a Bay Restoration Fee to be paid by any user of a  
wastewater facility, an on-site sewage disposal system, or a holding tank that:

(i) Is located in the State; or

(ii) Serves a Maryland user and is eligible for funding under this  
subtitle.

(c) (1) A user of a wastewater facility is exempt from paying the restoration  
fee if:

[(1)] (i) 1. **A.** The user's wastewater facility's average annual  
effluent nitrogen and phosphorus concentrations, as reported in the facility's State  
discharge monitoring reports for the previous calendar year, demonstrate that the facility  
is achieving enhanced nutrient removal, as defined under § 9–1601(n) of this subtitle; or

1                   [2.] B.       The Department has determined that the  
2 wastewater facility does not discharge nitrogen or phosphorus and is not required to  
3 monitor for nitrogen or phosphorus in its discharge permit; and

4                   [(ii)] 2.       The user's wastewater facility has not received a State or  
5 federal grant for that facility;

6                   [(2) (i)] (II)   1.       The user's wastewater facility discharges to  
7 groundwater and the annual average nutrient concentrations in the wastewater prior to  
8 discharge to groundwater have not exceeded 3 milligrams per liter total nitrogen and 0.3  
9 milligrams per liter total phosphorus, as demonstrated by analysis of the groundwater from  
10 monitoring wells located on the property and as reported in discharge monitoring reports  
11 for the previous calendar year; and

12                   [(ii)] 2.       The user's wastewater facility has not received a federal  
13 or State grant for that facility; or

14                   [(3)] (III)   The Department determines that:

15                   [(i)] 1.       The user's wastewater facility discharges noncontact  
16 cooling water, water from dewatering operations, or reclaimed wastewater from a facility  
17 whose users pay in to the Fund; and

18                   [(ii)] 2.       The discharge does not result in a net increase in loading  
19 of nutrients compared to the intake water.

20                   (2)    **A USER OF AN ON-SITE SEWAGE DISPOSAL SYSTEM IS EXEMPT**  
21 **FROM PAYING THE RESTORATION FEE IF:**

22                   (i)    **THE USER'S ON-SITE SEWAGE DISPOSAL SYSTEM USES THE**  
23 **BEST AVAILABLE TECHNOLOGY FOR NITROGEN REMOVAL; AND**

24                   (ii)   **THE USER HAS NOT RECEIVED A STATE OR FEDERAL GRANT**  
25 **OR INCOME TAX SUBTRACTION MODIFICATION FOR THE ON-SITE SEWAGE DISPOSAL**  
26 **SYSTEM THAT USES THE BEST AVAILABLE TECHNOLOGY FOR NITROGEN REMOVAL.**

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

31                   (i)    Establish a separate account within the Bay Restoration Fund;  
32 and

33                   (ii)   Disburse the funds as provided under paragraph (2) of this

1 subsection.

2 (2) The Comptroller shall:

3 (i) Deposit ~~[60%]~~ **50%** of the funds in the separate account to be  
4 used for:

5 1. Subject to paragraphs (3), (4), (5), and (6) of this  
6 subsection, with priority first given to failing systems and holding tanks located in the  
7 Chesapeake and Atlantic Coastal Bays Critical Area and then to failing systems that the  
8 Department determines are a threat to public health or water quality, grants or loans for  
9 up to 100% of:

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

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

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

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

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

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

28 A. Implement an education, outreach, and upgrade program  
29 to advise owners of on-site sewage disposal systems and holding tanks on the proper  
30 maintenance of the systems and tanks and the availability of grants and loans under item  
31 1 of this item;

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

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

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

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

8 4. Subject to paragraph (7) of this subsection, financial  
9 assistance to low-income homeowners, as defined by the Department, for up to 50% of the  
10 cost of an operation and maintenance contract of up to 5 years for an on-site sewage  
11 disposal system that utilizes nitrogen removal technology; and

12 **5. SUBJECT TO PARAGRAPH (8) OF THIS SUBSECTION,**  
13 **FINANCIAL ASSISTANCE TO ELIGIBLE HOMEOWNERS FOR THE REASONABLE COST OF**  
14 **PUMPING OUT AN ON-SITE SEWAGE DISPOSAL SYSTEM ONCE EVERY 5 YEARS; AND**

15 (ii) Transfer [40%] **50%** of the funds to the Maryland Agriculture  
16 Water Quality Cost Share Program in the Department of Agriculture in order to fund cover  
17 crop activities.

18 **(8) FINANCIAL ASSISTANCE UNDER PARAGRAPH (2)(I)5 OF THIS**  
19 **SUBSECTION MAY BE PROVIDED ONLY IF THE HOMEOWNER RESIDES IN A LOCAL**  
20 **JURISDICTION THAT HAS DEVELOPED A SEPTIC STEWARDSHIP PLAN THAT**  
21 **INCLUDES PROVISIONS TO ENSURE THAT ON-SITE SEWAGE DISPOSAL SYSTEMS ARE**  
22 **OPERATED AND MAINTAINED, INCLUDING PROVISIONS FOR ROUTINE PUMP-OUTS**  
23 **AND INSPECTIONS OF ON-SITE SEWAGE DISPOSAL SYSTEMS.**

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
25 1, 2018.