

**HOUSE . . . . . No. 4042**

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninetieth General Court  
(2017-2018)**  
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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<sup>1</sup>/<sub>2</sub> 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<sup>1</sup>/<sub>2</sub> 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<sup>3</sup>/<sub>4</sub>.

10          SECTION 3. Said Chapter 111 of the General Laws is hereby amended by inserting after  
11 section 127B<sup>1</sup>/<sub>2</sub> the following section:-

12           Section 127B<sup>3/4</sup>. 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 127B<sup>1/2</sup> 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.