

HOUSE No. 4598

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, March 28, 2022.

The committee on Environment, Natural Resources and Agriculture to whom was referred the petition (accompanied by bill, House, No. 1009) of Paul A. Schmid, III and others relative to loans for failed septic systems, reports recommending that the accompanying bill (House, No. 4598) ought to pass.

For the committee,

MINDY DOMB.

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

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. (a) Notwithstanding chapter 29C of the General Laws, chapter 275 of the
2 acts of 1989, or any other general or special law to the contrary, to reduce environmental impacts
3 of nitrogen pollution in vulnerable communities, a board of health in a city or town shall be
4 authorized pursuant to this section to enter into agreements with residential owners to provide for
5 the repair, replacement or upgrade of certain septic systems as provided in subsection (b).

6 (b) When an existing domestic septic system fails to properly treat for nitrogen and
7 conform to the applicable nitrogen waste standard, the board of health may enter into an
8 agreement with the residential owner under section 127B½ of chapter 111 of the General Laws
9 to finance by loan, the repair, replacement or upgrade of the system to meet the standard.

10 A domestic septic system to qualify for such loan assistance pursuant this section, shall
11 be located within a (i) watershed area of a nitrogen impaired water body as identified on the
12 latest U.S. Environmental Protection Agency approved final listing of the latest state Integrated
13 List of Waters for the commonwealth, (ii) nitrogen sensitive area as defined in the state

14 environmental code, or (iii) watershed area of a water body subject to the latest state established
15 Total Maximum Daily Load for total nitrogen pollution that is approved by the U.S.
16 Environmental Protection Agency.

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

27 For the purposes of this section, the applicable nitrogen waste standard for domestic
28 septic systems, shall mean any properly functioning identifying septic system that is approved
29 for the intended domestic use pursuant to the state environmental code; except if the existing or
30 planned upgraded domestic septic system is in a city or town that has established a more
31 effective standard that decreases the amount of nitrogen waste as provided in subsection (c), then
32 such system shall conform to this standard.

33 (c) Notwithstanding any general or special law to the contrary, a city or town may
34 establish a nitrogen waste standard for domestic septic systems by the adoption of, a rule or
35 regulation by its board of health, or a zoning by-law or ordinance by its town meeting or city

36 council; provided, that the standard established meets all the minimum requirements of the state
37 environmental code.

38 (d) Notwithstanding any other general law to the contrary, a board of health may also
39 enter into an agreement for such loan assistance with a residential owner to promote the
40 voluntary upgrade or replacement of the owner's functioning domestic septic system to meet the
41 applicable nitrogen standard established in subsection (c).