

Chapter 413

**(House Bill 1035)**

AN ACT concerning

**Bay Restoration Fund – Use of Funds – Municipal Wastewater Facilities**

FOR the purpose of expanding the authorized uses of the Bay Restoration Fund to include for certain costs associated with the connection of a property using an on-site sewage disposal system to an existing municipal wastewater facility that has signed a funding agreement with the Department of the Environment and is under construction to achieve enhanced nutrient removal or biological nutrient removal level treatment; specifying that these costs may be provided only if certain conditions are met; providing for the termination of this Act; and generally relating to the Bay Restoration Fund.

BY repealing and reenacting, without amendments,  
Article – Environment  
Section 9–1605.2(h)(1)  
Annotated Code of Maryland  
(2014 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, with amendments,  
Article – Environment  
Section 9–1605.2(h)(2) and (5)  
Annotated Code of Maryland  
(2014 Replacement Volume and 2019 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.

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

- and
- (i) Establish a separate account within the Bay Restoration Fund;
  - (ii) Disburse the funds as provided under paragraph (2) of this subsection.

## (2) The Comptroller shall:

## (i) Deposit 60% of the funds in the separate account to be used for:

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

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

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

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

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

E. The cost, up to the sum of the costs authorized under item C of this item for each individual system, of connecting a property using an on-site sewage disposal system to an existing municipal wastewater facility that is achieving, **OR HAS SIGNED A FUNDING AGREEMENT WITH THE DEPARTMENT AND IS UNDER CONSTRUCTION TO ACHIEVE**, enhanced nutrient removal or biological nutrient removal level treatment, including payment of the principal, but not interest, of debt issued by a local government for such connection costs;

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

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

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

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

and

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

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

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

5. Subject to paragraph (8) of this subsection, a local jurisdiction to provide financial assistance to eligible homeowners for the reasonable cost of pumping out an on-site sewage disposal system, at least once every 5 years, unless a more frequent pump out schedule is recommended during an inspection, not to exceed 10% of the funds allocated to the local jurisdiction; and

6. In fiscal years 2020 and 2021, financial assistance to a local jurisdiction for the development of a septic stewardship plan that meets the requirements under paragraph (8)(iii)2 of this subsection; and

(ii) Transfer 40% of the funds to the Maryland Agriculture Water Quality Cost Share Program in the Department of Agriculture in order to fund cover crop activities.

(5) Funding for the costs identified in paragraph (2)(i)1E of this subsection may be provided only if all of the following conditions are met:

(i) The environmental impact of the on-site sewage disposal system is documented by the local government and confirmed by the Department;

(ii) It can be demonstrated that:

1. The replacement of the on-site sewage disposal system with service to an existing municipal wastewater facility that is achieving, **OR HAS SIGNED A FUNDING AGREEMENT WITH THE DEPARTMENT AND IS UNDER CONSTRUCTION TO ACHIEVE**, enhanced nutrient removal or biological nutrient removal level treatment is more cost-effective for nitrogen removal than upgrading the individual on-site sewage disposal system; or

2. The individual replacement of the on-site sewage disposal system is not feasible;

(iii) The project is consistent with the county's comprehensive plan and water and sewer master plan;

(iv) 1. The on-site sewage disposal system was installed as of October 1, 2008, and the property the system serves is located in a priority funding area, in accordance with § 5-7B-02 of the State Finance and Procurement Article; or

2. The on-site sewage disposal system was installed as of October 1, 2008, the property the system serves is not located in a priority funding area, and the project meets the requirements under § 5-7B-06 of the State Finance and Procurement Article and is consistent with a public health area of concern:

A. Identified in the county water and sewer plan; or

B. Certified by a county environmental health director with concurrence by the Department and, if funding is approved, subsequently added to the county water and sewer plan within a time frame jointly agreed on by the Department and the county that takes into consideration the county's water and sewer plan update and amendment process; and

(v) The funding agreement for a project that meets the conditions for funding under subparagraph (iv)2 of this paragraph includes provisions to ensure:

1. Denial of access for any future connections that are not included in the project's proposed service area; and

2. That the project will not unduly impede access to funding for upgrading individual on-site sewage disposal systems in the county with best available technology for nitrogen removal.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2020. It shall remain effective for a period of 4 years and, at the end of ~~September~~ June 30, 2024, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

**Enacted under Article II, § 17(c) of the Maryland Constitution, May 8, 2020.**