

CHAPTER 280

(Senate Bill 554)

AN ACT concerning

Chesapeake Bay Nitrogen Reduction Act of 2009

FOR the purpose of prohibiting the installation of an on-site sewage disposal system in the Chesapeake and Atlantic Coastal Bays Critical Area to service a newly constructed building unless the system utilizes nitrogen removal technology; prohibiting the ~~repair or~~ replacement of an on-site sewage disposal system in the Chesapeake and Atlantic Coastal Bays Critical Area unless the ~~repaired or~~ replacement on-site sewage disposal system utilizes nitrogen removal technology; requiring the Department of the Environment to assist homeowners in paying for certain costs under certain circumstances; establishing ~~a~~ certain ~~penalty~~ penalties and enforcement mechanisms for a certain violation; requiring the Department to adopt certain regulations; defining certain terms; providing a subtraction modification under the Maryland income tax for certain costs related to certain disposal systems that exceed the amount of assistance the Department provides; providing for the application of certain provisions of this Act; and generally relating to on-site sewage disposal systems with nitrogen removal technology.

BY adding to

Article – Environment
Section 9-1108
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,

Article – Tax – General
Section 10-208(a)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY adding to

Article – Tax – General
Section 10-208(q)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article - Environment

9-1108.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "NITROGEN REMOVAL TECHNOLOGY" MEANS THE BEST AVAILABLE TECHNOLOGY FOR THE REMOVAL OF NITROGEN.

(3) "ON-SITE SEWAGE DISPOSAL SYSTEM" MEANS A SEWAGE TREATMENT UNIT, COLLECTION SYSTEM, DISPOSAL AREA, AND RELATED APPURTENANCES.

(B) A PERSON MAY NOT ~~INSTALL~~:

(1) INSTALL, OR HAVE INSTALLED, ON PROPERTY A PERSON OWNS IN THE STATE IN THE CHESAPEAKE AND ATLANTIC COASTAL BAYS CRITICAL AREA, AN ON-SITE SEWAGE DISPOSAL SYSTEM IN THE STATE TO SERVICE A NEWLY CONSTRUCTED BUILDING, UNLESS THE ON-SITE SEWAGE DISPOSAL SYSTEM UTILIZES NITROGEN REMOVAL TECHNOLOGY; OR

(2) ~~REPAIR OR REPLACE, OR HAVE REPAIRED OR REPLACE OR HAVE REPLACED, AN EXISTING ON-SITE SEWAGE DISPOSAL SYSTEM ON PROPERTY A PERSON OWNS IN THE STATE IN THE CHESAPEAKE AND ATLANTIC COASTAL BAYS CRITICAL AREA, UNLESS THE REPAIRED OR REPLACEMENT ON-SITE SEWAGE DISPOSAL SYSTEM UTILIZES NITROGEN REMOVAL TECHNOLOGY.~~

(C) IN ACCORDANCE WITH § 9-1605.2(H) OF THIS TITLE, THE DEPARTMENT SHALL ASSIST HOMEOWNERS IN PAYING THE COST DIFFERENCE BETWEEN A CONVENTIONAL ON-SITE SEWAGE DISPOSAL SYSTEM AND A SYSTEM THAT UTILIZES NITROGEN REMOVAL TECHNOLOGY WITH MONEY FROM THE BAY RESTORATION FUND, IF SUFFICIENT FUNDS ARE AVAILABLE.

(D) (1) A SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS ~~GUilty OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000.~~ SUBJECT TO THE CIVIL AND ADMINISTRATIVE PENALTIES AND THE ENFORCEMENT MECHANISMS PROVIDED IN §§ 9-334 THROUGH 9-342 OF THIS TITLE.

(2) THE PENALTIES IMPOSED UNDER THIS SECTION MAY NOT EXCEED \$1,000 PER DAY \$8,000.

~~(3) EACH DAY THAT A VIOLATION CONTINUES IS A SEPARATE OFFENSE UNDER THIS SECTION.~~

(E) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

(2) THE REGULATIONS ADOPTED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE PROVISIONS TO ENSURE THAT APPROPRIATE MANAGEMENT MEASURES ARE PROVIDED FOR THE OPERATION AND MAINTENANCE OF NITROGEN REMOVAL TECHNOLOGY.

Article - Tax - General

10-208.

(a) In addition to the modification under § 10-207 of this subtitle, the amounts under this section are subtracted from the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

(Q) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(II) "NITROGEN REMOVAL TECHNOLOGY" HAS THE MEANING STATED IN § 9-1108 OF THE ENVIRONMENT ARTICLE.

(III) "ON-SITE SEWAGE DISPOSAL SYSTEM" HAS THE MEANING STATED IN § 9-1108 OF THE ENVIRONMENT ARTICLE.

(2) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES THE AMOUNT BY WHICH THE COST DIFFERENCE BETWEEN A CONVENTIONAL ON-SITE SEWAGE DISPOSAL SYSTEM AND A SYSTEM THAT UTILIZES NITROGEN REMOVAL TECHNOLOGY EXCEEDS THE AMOUNT OF ASSISTANCE THE DEPARTMENT OF THE ENVIRONMENT PROVIDES THE HOMEOWNER UNDER § 9-1108 OF THE ENVIRONMENT ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009. The subtraction modification under § 10-208(q) of the Tax - General Article, as enacted by this Act, shall be applicable to all taxable years beginning after December 31, 2009.

Approved by the Governor, May 7, 2009.