

# STATE OF NEW YORK

8254--A

Cal. No. 1603

## IN SENATE

April 23, 2018

Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- committee discharged and said bill committed to the Committee on Rules -- reported favorably from said committee, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the town law, in relation to authorizing towns in the Peconic Bay region to establish septic system replacement loan programs

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (e) of subdivision 1 of section 64-e of the town  
2 law, as added by chapter 551 of the laws of 2015, is amended to read as  
3 follows:

4 (e) "Water quality improvement project" means: (1) wastewater treat-  
5 ment improvement projects; (2) non-point source abatement and control  
6 program projects developed pursuant to section eleven-b of the soil and  
7 water conservation districts law, title 14 of article 17 of the environ-  
8 mental conservation law, section 1455b of the federal coastal zone  
9 management act, or article forty-two of the executive law; (3) aquatic  
10 habitat restoration projects; (4) pollution prevention projects~~[, and]~~;  
11 (5) the operation of the Peconic Bay National Estuary Program, as desig-  
12 nated by the United States Environmental Protection Agency; and (6) a  
13 septic system replacement loan program, pursuant to section sixty-four-  
14 ee of the town law. Such projects shall have as their purpose the  
15 improvement of existing water quality to meet existing specific water  
16 quality standards. Projects which have as a purpose to permit or accom-  
17 modate new growth shall not be included within this definition.

18 § 2. The town law is amended by adding a new section 64-ee to read as  
19 follows:

20 § 64-ee. Peconic Bay region septic system replacement loan program. 1.  
21 As used in this section, the following words and terms shall have the  
22 following meanings:

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[~~-~~] is old law to be omitted.

LBD15334-02-8

1 (a) "Peconic Bay region" means the towns of East Hampton, Riverhead,  
2 Shelter Island, Southampton and Southold.

3 (b) "Cesspool" means a drywell that receives untreated sanitary waste  
4 containing human excreta, which sometimes has an open bottom and/or  
5 perforated sides.

6 (c) "Septic system" means a system that provides for the treatment  
7 and/or disposition of the combination of human and sanitary waste with  
8 water not exceeding one thousand gallons per day, serving a single  
9 parcel of land.

10 (d) "Septic system project" means the replacement of a cesspool with a  
11 septic system, the installation, replacement or upgrade of a septic  
12 system or septic system components, or installation of enhanced treat-  
13 ment technologies, including an advanced nitrogen removal system, to  
14 significantly and quantifiably reduce environmental and/or public health  
15 impacts associated with effluent from a cesspool or septic system to  
16 groundwater used as drinking water, or a threatened or an impaired  
17 waterbody.

18 (e) "Fund" means the community preservation fund created pursuant to  
19 subdivision two of section sixty-four-e of this article.

20 2. The town board of any town in the Peconic Bay region may, by local  
21 law, establish a septic system replacement loan program using a portion  
22 of the water quality improvement monies from the fund, pursuant to para-  
23 graph (e) of subdivision three of section sixty-four-e of this article.

24 3. Such program may make loans to the owners of real property located  
25 within the town to finance the installation of septic system projects.  
26 The town shall establish priority areas within the town, which would  
27 receive water quality and public health benefits from the installation  
28 of septic system projects, for such loans in order to maximize environ-  
29 mental and public health benefits.

30 4. To be eligible for a loan pursuant to this section, the septic  
31 system project shall be listed as an approved water quality improvement  
32 project in the town's community preservation project plan pursuant to  
33 subdivision six of section sixty-four-e of this article and be proposed  
34 for real property located within an established priority area of the  
35 town. Monies from the fund may only be loaned for projects which have  
36 been included in such plan and shall not include costs associated with  
37 routine maintenance such as a pump out of a septic tank.

38 5. A local law establishing the septic system replacement loan program  
39 shall provide for the criteria for making such loans and the terms and  
40 conditions for repayment of such loans provided that:

41 (a) For loans made to an owner of real property that is a commercial  
42 entity, not-for-profit organization, or entity other than an individual,  
43 the town board shall have the authority by local law to impose require-  
44 ments on the maximum amount that may be borrowed through such loan,  
45 which may consider factors including but not limited to the property  
46 value, expected environmental and water quality benefit and existing  
47 indebtedness secured by such property.

48 (b) For loans made to an owner of real property who is an individual,  
49 the principal amount of each such loan, excluding interest, shall not  
50 exceed the lesser of ten percent of the appraised real property value or  
51 the actual cost of the septic system project including the costs of  
52 installation, necessary equipment, materials, and labor.

53 (c) No such loan shall be made unless such septic system project will  
54 significantly and quantifiably reduce environmental and/or public health  
55 impacts associated with effluent from a cesspool or septic system from

1 the proposed real property site to groundwater used as drinking water,  
2 or a threatened or an impaired waterbody.

3 6. Every loan made under the septic system replacement loan program  
4 shall be repaid over a term not to exceed ten years. The town shall set  
5 a fixed rate of interest for the repayment of the principal amount of  
6 each loan at the time the loan is made provided that no interest rate  
7 shall exceed two and one-half percent and no applicant shall receive a  
8 loan more than once in any five-year period.

9 7. The principal amount of each such loan, excluding interest, shall  
10 not exceed the actual cost of installing the septic system project,  
11 including the costs of necessary equipment, materials, and labor.

12 8. No such loan shall be made for a septic system replacement project  
13 unless such system is approved by the Suffolk County Department of  
14 Health Services.

15 9. The loan made under the septic system replacement loan program  
16 shall constitute a lien upon the real property benefitted by such loan.

17 10. The town may require the loan made under the septic system loan  
18 program to be repaid by the property owner through a charge on the real  
19 property benefitted by such loan. Such charge shall be on the real prop-  
20 erty and shall be levied and collected at the same time and in the same  
21 manner as town taxes, provided that such charge shall be separately  
22 listed on the tax bill, and provided further that in the event such  
23 charge should not be paid in a timely manner, no other municipal corpo-  
24 ration shall be required to credit or otherwise guarantee the amount of  
25 such unpaid charge to the municipal corporation which authorized the  
26 loan, notwithstanding any provision of law to the contrary.

27 11. All revenues received by the town from the repayment of loans  
28 shall be deposited in the fund.

29 § 3. Severability. The provisions of this act shall be severable and  
30 if any portion thereof or the applicability thereof to any person or  
31 circumstances shall be held invalid, the remainder of this act and the  
32 application thereof shall not be affected thereby.

33 § 4. This act shall take effect immediately.