

# D R A F T

## SUMMARY

Authorizes Environmental Quality Commission to develop low-interest loan program for on-site septic system repairs, replacements, upgrades or evaluations. Authorizes commission to adopt rules for administration of loan program by Department of Environmental Quality.

Establishes On-site Septic System Loan Fund. Continuously appropriates moneys in fund to department for purposes of loan program. Directs department to use moneys in fund to provide loans for repair, replacement, upgrade or evaluation of on-site septic systems and to pay administrative costs.

Authorizes department to contract with other persons to administer or operate all or any part of loan program.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

Relating to on-site septic system financing; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

### **SECTION 1. As used in sections 1 to 5 of this 2016 Act:**

**(1)(a) “On-site septic system” means a subsurface on-site sewage treatment and disposal system, including, but not limited to, alternative sewage disposal systems, nonwater-carried sewage disposal facilities and subsurface sewage disposal systems as those terms are defined in ORS 454.605.**

**(b) “On-site septic system” does not include any system that is designed to treat and dispose of industrial waste.**

**(2) “Person” means a natural person capable of being legally bound, a sole proprietorship, a corporation, a partnership, a limited liability company or partnership, a limited partnership, a for-profit or nonprofit unincorporated association, a business trust, two or more**

1 persons having a joint or common economic interest, any other person  
2 with legal capacity to contract or a public body as that term is defined  
3 in ORS 174.109.

4 **SECTION 2.** The Legislative Assembly declares it to be the policy  
5 of this state to assist the people of this state in protecting public  
6 health and safety and the quality of the waters of this state by making  
7 loans available for the repair, replacement, upgrade or evaluation of  
8 residential or small business on-site septic systems. The Legislative  
9 Assembly also declares it to be the policy of this state to offer afford-  
10 able loans to assist residents to remain in their homes and thereby  
11 promote long-term home ownership and sustainable housing opportu-  
12 nities.

13 **SECTION 3.** (1) The Environmental Quality Commission may adopt  
14 rules necessary for the Department of Environmental Quality to ad-  
15 minister an on-site septic system loan program consistent with  
16 sections 1 to 5 of this 2016 Act. In adopting rules under this subsection,  
17 the commission shall develop a low-interest loan program that prior-  
18 itizes, but is not limited to, providing loans to low and moderate in-  
19 come and small business applicants that are unable to obtain  
20 traditional financing for on-site septic system repairs, replacements,  
21 upgrades or evaluations.

22 (2) The rules adopted by the commission must limit participation  
23 of lenders in the loan program to lenders that agree to subordinate  
24 their liens to the borrowers' consensual mortgage liens.

25 (3) The department may:

26 (a) To the maximum extent feasible and consistent with prudent  
27 financial controls, contract with any person to administer or operate  
28 all or any part of the loan program authorized under sections 1 to 5  
29 of this 2016 Act; and

30 (b) As part of the loan program, provide grants to carry out pro-  
31 grams consistent with the loan program authorized under sections 1

1 to 5 of this 2016 Act.

2 **SECTION 4. (1) The On-site Septic System Loan Fund is established**  
3 **in the State Treasury, separate and distinct from the General Fund.**  
4 **Interest earned by the On-site Septic System Loan Fund shall be**  
5 **credited to the fund. Moneys in the fund are continuously appropriated**  
6 **to the Department of Environmental Quality to be used for the pur-**  
7 **poses described in section 5 of this 2016 Act.**

8 **(2) The On-site Septic System Loan Fund shall consist of all moneys**  
9 **credited to the fund, including:**

10 **(a) Moneys appropriated to the fund by the Legislative Assembly;**

11 **(b) Any other revenues derived from gifts, grants or bequests**  
12 **pledged to the state for the purpose of providing financial assistance**  
13 **for on-site septic system repairs, replacements, upgrades or evalu-**  
14 **ations; and**

15 **(c) The repayment of financial assistance, including interest**  
16 **earnings, provided by moneys from the fund.**

17 **(3) Moneys in the fund may, with the approval of the State Treas-**  
18 **urer, be invested as provided by ORS 293.701 to 293.857, and the**  
19 **earnings from the investments shall be credited to the fund.**

20 **SECTION 5. (1) The Department of Environmental Quality shall use**  
21 **the moneys in the On-site Septic System Loan Fund to:**

22 **(a) Pay the costs of administering the loan program authorized**  
23 **under sections 1 to 5 of this 2016 Act, including, but not limited to,**  
24 **costs associated with community outreach, financial risk analyses,**  
25 **loan origination and servicing and development of related programs;**

26 **(b) Provide grants as authorized under section 3 of this 2016 Act;**

27 **(c) Provide loans to applicants under the loan program authorized**  
28 **under sections 1 to 5 of this 2016 Act; and**

29 **(d) Provide grants for performing evaluations to identify on-site**  
30 **septic systems likely to present a risk to public health and safety or**  
31 **the quality of the waters of this state.**

1       **(2) Loans provided to applicants under the loan program authorized**  
2 **under sections 1 to 5 of this 2016 Act must be used for at least one of**  
3 **the following purposes to address a public health and safety risk or to**  
4 **otherwise protect or maintain water quality in the waters of this state:**

5       **(a) To repair a damaged, malfunctioning or inoperable residential**  
6 **or small business on-site septic system.**

7       **(b) To replace a damaged, malfunctioning or inoperable residential**  
8 **or small business on-site septic system with:**

9       **(A) A new, used or reconditioned functional residential or small**  
10 **business on-site septic system;**

11       **(B) A new, used or reconditioned functional cluster on-site septic**  
12 **system; or**

13       **(C) A connection to sewer services, and to properly decommission**  
14 **and discontinue use of the on-site septic system.**

15       **(c) To upgrade a residential or small business on-site septic system**  
16 **with a newer or more advanced on-site septic system.**

17       **(d) To replace the waste disposal well or sewage drill hole of an**  
18 **otherwise functional residential or small business on-site septic sys-**  
19 **tem.**

20       **(e) To conduct an evaluation of a residential or small business on-**  
21 **site septic system to determine whether repair or replacement is nec-**  
22 **essary.**

23       **(3) In administering the loan program authorized under sections 1**  
24 **to 5 of this 2016 Act, the department shall:**

25       **(a) Seek to maximize the ability for the moneys in the On-site**  
26 **Septic System Loan Fund to provide a sustainable source of financing**  
27 **for residential and small business on-site septic system repairs, re-**  
28 **placements, upgrades and evaluations;**

29       **(b) Use accounting, auditing and fiscal procedures that conform to**  
30 **generally accepted government accounting standards; and**

31       **(c) Require that any person under a contract with the department**

1 to administer or operate all or any part of the loan program must use  
2 accounting, auditing and fiscal procedures that conform to generally  
3 accepted accounting standards.

4 (4) A loan provided to an applicant under the loan program au-  
5 thorized under sections 1 to 5 of this 2016 Act may be used only to  
6 repair, replace or upgrade an on-site septic system in a manner that  
7 meets the requirements of ORS 454.605 to 454.755 and the implementing  
8 rules of the Environmental Quality Commission.

9 SECTION 6. The Department of Environmental Quality shall submit  
10 annual reports on the On-site Septic System Loan Fund, in the man-  
11 ner provided by ORS 192.245, to the appropriate committees of the  
12 Legislative Assembly related to environmental quality during the 2017  
13 and 2018 regular legislative sessions.

14 SECTION 7. In addition to and not in lieu of any other appropri-  
15 ation, there is appropriated to the Department of Environmental  
16 Quality, for the biennium beginning July 1, 2015, out of the General  
17 Fund, the amount of \$250,000 to be deposited in the On-site Septic  
18 System Loan Fund, for the purposes of implementing and administer-  
19 ing the provisions of sections 1 to 5 of this 2016 Act and for the pur-  
20 poses described in section 5 of this 2016 Act.

21 SECTION 8. This 2016 Act being necessary for the immediate pres-  
22 ervation of the public peace, health and safety, an emergency is de-  
23 clared to exist, and this 2016 Act takes effect on its passage.

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