

COSTS OF REPAIRS OR UPGRADES

\$ The nature of the problem **\$ Soil conditions**
\$ The location of the system **\$ Site restrictions**
\$ The size of the system

Homeowners can call the local board of health to inquire about typical costs in their community. On average, a simple repair may cost \$500; more extensive repairs and upgrades may cost up to \$12,000 or more.

FOR FINANCIAL ASSISTANCE...

To help finance the cost of the repair or upgrade of your septic system or cesspool consider the following options:

BETTERMENT FUNDS

Eligible towns can make low-interest 20-year loans to low-to-moderate income homeowners, repaid by adding an annual "betterment" to their tax bill. Call your local board of health to see if your town participates in the Betterment Fund Program.

HOME IMPROVEMENT LOAN PROGRAM

HILP loans are available for owner occupied residential dwellings for amounts from \$2,500 to \$15,000. Monthly loan payments are generally lower than conventional loans because no points are charged, the loan is recorded subject to any first or second mortgage and debt-to-income ratios are flexible. You can apply for HILP loans at Mass. Home Financing Agency affiliated local rehabilitation programs.

RURAL ECONOMIC DEVELOPMENT SERVICE LOANS

RECD loans are low-interest loans available to elderly or low-income homeowners living in rural areas. Eligibility information and applications are available from RECD.

HOMEOWNER SEPTIC LOAN PROGRAM

Local banks and mortgage companies may utilize the FHA Title I loan program to provide loans for septic repairs. Contact your lender or DEP for details.

CONVENTIONAL LENDERS

Contact various banks and lending institutions to inquire about private financing options.

TAX CREDIT

An owner of a residential property located in Massachusetts who occupies the property as his or her primary residence is allowed a tax credit of up to \$1,500 per tax year for expenses incurred from the repair or replacement of a failed cesspool or septic system. This credit is effective for any tax year beginning on or after January 1, 1997. Contact the Dept. of Revenue, or your tax preparer for additional information.

PROTECT YOURSELF...

Tips to comply with TITLE 5 in a cost effective manner:

- If a TITLE 5 inspection is required, time the inspection so that costs of the inspection and necessary repairs or upgrades are determined before closing.
- Even if you do not intend to sell your property, consider having a "voluntary inspection" performed to assess the system's condition. The results of voluntary inspections are not reported to the local board of health or DEP. Such an inspection may allow you to voluntarily correct a problem before it worsens; but first be sure to have any voluntary correction approved by the local board of health.
- Determine the physical location of your system and get all records, plans, certificates of compliance, past permits, inspection reports and water table and usage records pertaining to your system from your local board of health before hiring an inspector.
- Get a list of approved system inspectors and soil evaluators from your board of health. Only hire soil evaluators whose names appear on the list. Hire only inspectors from the list or certified health officers, registered sanitarians or professional engineers who are qualified automatically even though their names may not be on the list.
- To prevent an unscrupulous inspector from failing your system to generate repair business, consider hiring one person to inspect and another to design and install any repairs or upgrades.
- Avoid the quick fix; if a solution seems too inexpensive or too good to be true, it most probably is.
- For repairs or upgrades, get more than one estimate. If costs seem excessive, talk to your system designer and local board of health to see if the design can be modified and still provide adequate protection of public health and the environment.
- Before signing a contract for a repair, upgrade or installation, ask for references and consult them. Make sure the contract specifies exactly the work to be performed, the costs, the payment schedule, any guarantees, and that the contractor will obtain all required permits.
- If you are selling or buying a home, be sure to negotiate and specify who will pay for the cost of

the inspection and any necessary repairs or upgrades. Explore financing options. Consider consulting a lawyer who is familiar with TITLE 5.

- Once your system is in compliance, protect the environment and your investment by maintaining your system properly.
- Have your system pumped every 3 years, or annually if you have a garbage disposal system, and maintain all pumping records for future reference.

NOTE: Be sure your system is in compliance with not only TITLE 5, but also all board of health ordinances regulating septic systems and cesspools. TITLE 5 -- LIKE ANY REGULATION-- MAY CHANGE.

FOR MORE INFORMATION...

For further information on TITLE 5, septic systems and cesspools, financing the repair or upgrade of your system, or to file a complaint, please contact:

DEPT. OF ENVIRONMENTAL PROTECTION TITLE 5 Hotline

(800) 266-1122 or (617) 292-5886

LOCAL BOARDS OF HEALTH

Contact your town clerk's office for the correct telephone number.

OFFICE OF THE ATTORNEY GENERAL

Consumer Complaint & Information Line
(617) 727-8400

MASS. BETTER BUSINESS BUREAU

(617) 426-9000
(413) 734-3114
(508) 755-2548

NATIONAL SMALL FLOWS CLEARINGHOUSE

The Clearinghouse provides literature and answers questions about all areas of human waste management.
(800) 624-8301

MA HOUSING FINANCE AGENCY (HILP LOANS)

Consumer Information Line
(617) 854-1020

RURAL ECONOMIC DEVELOPMENT SERVICE LOANS (RECD LOANS)

(413) 253-4330

STATE HOUSE BOOK STORE

(617) 727-2834 or (413) 784-1376
For a copy of the TITLE 5 regulations (\$9.65 + shipping)

TITLE 5

FACTS FOR CONSUMERS

Important Information Regarding Changes in Septic System Regulations



Brought to you as a public service by:

**Attorney General Tom Reilly
and the Massachusetts Association
of Realtors**

Improperly functioning sewage systems and cesspools are a major cause of the pollution of our coastal waters, rivers and water supply. As of March 31, 1995, the state environmental code governing septic systems, commonly known as TITLE 5 regulations, requires inspections of septic systems and cesspools before a home is sold or enlarged. In most instances, systems that fail inspection must be repaired within 2 years. In most cases, applications to install new systems or to upgrade existing systems submitted after January 1, 1996, will require that the soil evaluation test be performed by a DEP-approved soil evaluator. The regulations were revised on November 3, 1995, to encourage compliance with the regulations and to minimize financial hardships and delays for homeowners.

Homes that are not connected to a sewer system use septic systems or cesspools, both of which are regulated by the state Department of Environmental Protection (DEP) and local boards of health. A septic system has a tank, a distribution box, and soil absorption system commonly known as a "leach field." A cesspool has a pipe carrying waste from the home to a pit which distributes the liquid waste.

MANDATORY INSPECTIONS OF SEPTIC SYSTEMS OR CESSPOOLS

TITLE 5 REQUIRES INSPECTIONS:

- Within 2 years before the sale of a home or transfer of title (different rules apply for "shared systems" and condominiums), or
- In certain inheritance situations; for example, when a child inherits a house from his or her parent, or
- In certain insolvency proceedings; for example, sometimes in bankruptcy, tax taking or foreclosure, or
- When the use of the home is changed; for example, from residential to commercial use, or
- When the footprint or the house is changed, or

- When the home is expanded and a building or occupancy permit is required: for example, a bedroom is added to your home.
- If weather prevents an inspection at sale or transfer, the inspection must occur as soon as weather permits, but no later than six (6) months after the sale or transfer.

NOTE: All septic systems and cesspools must meet the TITLE 5 requirements, but they must also comply with local board of health ordinances which can be more stringent than TITLE 5.

Even if you sell or transfer title to your home...

TITLE 5 does not require inspections when:

- A mortgage is refinanced, or
- The system was inspected within 3 years before the sale and you have records proving that your system was pumped annually since the inspection, or
- Title to the house is transferred from one spouse to another or placed in certain family trusts, or
- The local board of health issued a certificate of compliance within 2 years before the time of transfer of title, or
- The community has adopted a comprehensive plan approved by DEP requiring periodic inspections and the system was inspected at the most recent time required by the plan, or
- The homeowner has entered into an enforceable agreement, binding on subsequent buyers, with the board of health requiring an upgrade of the system or connection to the municipal sewer system within 2 years of transfer or sale.

SIGNS A SEPTIC SYSTEM OR CESSPOOL MAY FAIL A TITLE 5 INSPECTION

- Backups of raw sewage
- Discharges of raw sewage to the ground surface
- System requires pumping 4 or more times per year
- The cesspool or leach field is below high ground water elevation
- System located too close to a drinking water supply, unless the local board of health says the system is adequate to protect public health and the environment
- System has a metal septic tank more than 20 years old

NOTE: Title 5 imposes stricter requirements on cesspools and privies.

TITLE 5 INSPECTIONS

Only inspectors and soil evaluators approved under the regulations can perform required system inspections and soil tests. A list of DEP-approved soil evaluators and system inspectors is available from your local board of health. Certified health officers, registered sanitarians, and professional engineers qualify automatically as system inspectors under the regulations, and their names may or may not appear on the DEP-approved list.

INSPECTIONS

The regulations allow for the inspection to be done in the least intrusive manner possible. As part of the inspection process, a cesspool must be pumped out and examined. A septic tank may be pumped, but it is not required--a leach field is usually not dug up.

If a system passes, the inspector is required to submit an approved system inspection form to the local board of health within 30 days, and the homeowner must provide a copy to the buyer.

Prospective buyers and lending institutions may also require a copy of the approved inspection form.

If a system **fails a required inspection**, the inspector is required to submit the form to the local board of health within 30 days, and the homeowner must provide a copy to the buyer. The system must be repaired or upgraded within 2 years following inspection, regardless of whether the property is sold.

HOWEVER,

- In certain circumstances, DEP or the local board of health may approve a longer schedule in order to achieve maximum feasible compliance with TITLE 5. For example, commitments to extend municipal sewers or to install shared systems within 5 years combined with adequate interim measures and an enforceable schedule, may mean a property owner does not have to install a new system or upgrade the existing system within the next 2 year period. **CHECK WITH DEP OR YOUR LOCAL BOARD OF HEALTH TO SEE IF YOU QUALIFY.**

- If the defect to the system is minor, a "conditional pass" may be issued, whereby once the defect is repaired or replaced with local board of health approval, the system passes inspection.

NOTES: The local board of health or DEP may impose a shorter period of time if a system presents an imminent public health hazard.

Failure to comply with the requirements of TITLE 5 could result in penalties.

INSPECTION COSTS

The price of an inspection is not regulated. On average, expect to pay \$300 to \$500 for a TITLE 5 inspection.

RESPONSIBILITY FOR PAYMENT

The owner of the property is responsible for compliance with TITLE 5. However, the seller, the buyer, and the mortgage lender may decide who will pay for the costs of the repair or upgrade, which can be negotiated as a part of the sales agreement. Mortgage lenders may require any repair or upgrade to be completed before closing or that funds for the cost of repair be placed in escrow before closing.