

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill in section 2 by striking out all of the last blocked paragraph (page 2, lines 9 to 16 in L.D.) and inserting the following:

~~'For purposes of this subsection, "annual income" means the sum of all the property owner's federal taxable income for the previous year for single family dwellings, gross profits for the previous year for commercial establishments and gross rents for the previous year for rental properties, as listed on the relevant federal income tax returns.~~

For purposes of this subsection, annual income is determined separately for residential property owners and commercial establishments. For a residential property owner, including a trust, "annual income" means the sum of the taxable incomes of each owner of the property if it is jointly owned or of each beneficiary and grantor if the property owner is a trust for the previous year as listed on the relevant federal income tax returns for the previous year. For a commercial establishment, "annual income" means taxable income or ordinary business income for the previous year as listed on the relevant federal income tax return plus any depreciation or other noncash expense that was deducted to compute taxable or ordinary business income on that return. A rental property must be considered a commercial establishment or as contributing to annual income depending on how it is reported on the overboard discharge owner's federal income tax return from the previous year.'

Amend the bill in section 4 in subsection 3-A in the first paragraph by striking out all of the last sentence (page 3, lines 6 to 9 in L.D.) and inserting the following: 'For purposes of this subsection, "significant action" means a single construction project performed on a primary residence with an overboard discharge when the total material and labor cost of the construction project exceeds \$50,000. "Significant action" does not include construction that makes the residence accessible to a person with a disability who resides in or regularly uses the residence or reconstruction performed in response to an event beyond the control of the owner, such as a hurricane, flood, fire or the unanticipated physical destruction of the residence.'

Amend the bill in section 4 in subsection 3-A by striking out all of paragraph B (page 3, lines 20 to 44 and page 4, lines 1 to 3 in L.D.) and inserting the following:

'B. If there is a transfer, or if a significant action is proposed, the owner of an overboard discharge must conduct an alternatives analysis and may be required to remove the overboard discharge system as provided in this paragraph.

(1) Except when it has been demonstrated within 5 years prior to a transfer, or some other time period acceptable to the department, that there is no technologically proven alternative to an overboard discharge, prior to transfer of ownership of property containing an overboard discharge, the parties to the transfer shall determine the feasibility of technologically proven

alternatives to the overboard discharge that are consistent with the plumbing standards adopted by the Department of Health and Human Services pursuant to Title 22, section 42.

(2) Except when it has been demonstrated within 5 years prior to the significant action, or some other time period acceptable to the department, that there is no technologically proven alternative to an overboard discharge, prior to the significant action the owner of the overboard discharge shall determine the feasibility of a technologically proven alternative to the overboard discharge that is consistent with the plumbing standards adopted by the Department of Health and Human Services pursuant to Title 22, section 42.

(3) The determination concerning whether there is a technologically proven alternative to an overboard discharge must be based on documentation from a licensed site evaluator provided by the applicant and approved by the Department of Environmental Protection that the system constitutes a best practicable treatment under section 414-A, subsection 1-B. If an alternative to the overboard discharge is identified, the alternative system must be installed within 90 days of property transfer or significant action, except that, if soil conditions are poor due to seasonal weather, the alternative may be installed as soon as soil conditions permit. The installation of an alternative to the overboard discharge may be eligible for funding under section 411-A. On a property transfer, a commercial establishment may request an extension of the 90-day period based on information that an extension is necessary due to technical, economic or environmental considerations. The department may authorize an extension for a commercial establishment for as short an additional period as the department considers reasonable but in no case may an extension be authorized to continue beyond the expiration of the current waste discharge license or 2 years from the property transfer, whichever is later. Within 10 business days of receipt of a complete extension request, the department shall issue a written decision approving or denying the extension.

Nothing in this paragraph requires a municipality to withhold a local permit or approval associated with a significant action until the provisions of this paragraph have been met.'

Amend the bill in section 5 in subsection 1-B in paragraph A by inserting after subparagraph (3) the following:

(4) If a technologically proven alternative system for an overboard discharge from a residence is identified and is not eligible for grant funding according to the cost-share schedule under section 411-A, subsection 2A and the overboard discharge is subject to a license that expires on or after July 2, 2010 and prior to July 2, 2012, the department may not require the alternative to be installed earlier than July 2, 2012.

(5) If a technologically proven alternative system for an overboard discharge from a commercial establishment is identified and is not eligible for grant funding according to the cost-share schedule under section 411-A, subsection 2A and the overboard discharge is subject to a license that expires on or after July 2, 2010 and prior to July 2, 2012, the department may not require the alternative to be installed earlier than July 2, 2012.

Amend the bill in section 5 in subsection 1-B by inserting after paragraph E the following:

'F. For the purposes of this subsection, the department may not require the installation or use of an identified technologically proven alternative system unless the department finds that the identified alternative constitutes best practicable treatment under subsection 1, paragraph D.'

Amend the bill in section 6 in subsection 2 in the 5th line (page 5, line 27 in L.D.) by inserting after the following: "tide." the following: 'If a marina serves vessels year-round, the provisions of this subsection apply to the marina year-round.'

SUMMARY

The amendment amends the definition of "annual income" for purposes of determining eligibility for grants to pay a portion of the cost of an alternative to an overboard discharge system. It amends the definition of "significant action." It allows commercial establishments to request an extension of time to install an alternative to an overboard discharge when transferring ownership and requires the Department of Environmental Protection to approve or deny the extension request within 10 business days. It provides that the law does not require a municipality to withhold a local permit or approval associated with a significant action. It prohibits the Department of Environmental Protection from requiring an identified alternative to an overboard discharge to be installed earlier than July 2, 2012 if a residential or commercial establishment has an overboard discharge that is not eligible for a grant and has a license that expires on or before July 2, 2010 and prior to July 2, 2012. It prohibits the Department of Environmental Protection from requiring an identified alternative to an overboard discharge to be installed unless the alternative constitutes best practicable treatment. It requires marinas that serve vessels year-round to provide pump-out services year-round.

FISCAL NOTE REQUIRED

(See attached)