
A BILL FOR AN ACT

RELATING TO CESSPOOLS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

PART I

SECTION 1. Section 235-16.5, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) and (b) to read:

"(a) There shall be allowed to each taxpayer subject to the tax imposed under this chapter, a cesspool upgrade, conversion, or connection income tax credit that shall be deductible from the taxpayer's net income tax liability, if any, imposed by this chapter for the taxable year in which the credit is properly claimed. A taxpayer eligible to claim a tax credit under this section may assign all or a portion of a tax credit under this section to any assignee. An assignee may subsequently assign a tax credit or any portion of a tax credit assigned under this subsection to one or more assignees. A taxpayer may claim a portion of a tax credit and assign the remaining tax credit amount. A tax credit assignment under this subsection shall be irrevocable. The tax credit assignment



1 under this subsection shall be made on a form prescribed by the
2 department of taxation. A taxpayer claiming a tax credit under
3 this section shall submit a copy of the completed assignment
4 form to the department in the tax year in which the assignment
5 is made and shall attach a copy of the form to the tax return on
6 which the tax credit is claimed.

7 (b) In the case of a partnership, S corporation, estate,
8 or trust, the tax credit allowable is for qualified expenses
9 incurred by the entity for the taxable year. The expenses upon
10 which the tax credit is computed shall be determined at the
11 entity level. Distribution and share of credit shall be
12 determined by rule.

13 If a taxpayer is awarded a grant under section 342D-B, no
14 tax credit shall be allowed for that portion of qualified
15 expenses paid for by grant moneys."

16 2. By amending subsection (e) to read:

17 "(e) The department of health shall:

18 (1) Certify all qualified cesspools for the purposes of
19 this section; ~~[provided that, as a pilot program, the~~
20 ~~department of health, in its discretion, may certify~~



1 ~~no more than two residential large capacity cesspools~~
2 ~~as qualified cesspools,]~~

3 (2) Collect and maintain a record of all qualified
4 expenses certified by an appropriate government agency
5 for the taxable year; and

6 (3) Certify to each taxpayer the amount of credit the
7 taxpayer may claim; provided that if, in any year, the
8 annual amount of certified credits reaches \$5,000,000
9 in the aggregate, the department of health shall
10 immediately discontinue certifying credits and notify
11 the department of taxation.

12 The director of health may adopt rules under chapter 91 as
13 necessary to implement the certification requirements under this
14 section."

15 3. By amending subsections (g) and (h) to read:

16 "(g) If the tax credit under this section exceeds the
17 taxpayer's income tax liability, the excess of the credit over
18 liability [~~may be used as a credit against the taxpayer's income~~
19 ~~tax liability in subsequent years until exhausted.] shall be
20 refunded to the taxpayer; provided that tax credits properly
21 claimed by an individual who has no income tax liability shall~~



1 be paid to the individual; and provided further that no refunds
2 or payment on account of the tax credits allowed by this section
3 shall be made for amounts less than \$1. All claims for the tax
4 credit under this section, including amended claims, shall be
5 filed on or before the end of the twelfth month following the
6 close of the taxable year for which the credit may be claimed.
7 Failure to comply with the foregoing provision shall constitute
8 a waiver of the right to claim the credit.

9 (h) This section shall not apply to taxable years beginning
10 after December 31, [~~2020-~~] 2022."

11 4. By amending the definition of "qualified cesspool" in
12 subsection (i) to read:

13 "Qualified cesspool" means a cesspool that is [~~certified~~]:

14 (1) Certified by the department of health [~~as being~~] to
15 be:

16 [~~(1)~~] (A) Located within:

17 [~~(A)~~] (i) [~~Two~~] Five hundred feet of a shoreline,
18 perennial stream, or wetland; or

19 [~~(B)~~] (ii) A source water assessment program area (two
20 year time of travel from a cesspool to a
21 public drinking water source); [~~or~~]



1 (B) Shown to impact drinking water supplies or
2 recreational waters; or
3 ~~[(2)]~~ (C) A residential large capacity cesspool[-]; or
4 (2) Certified by a county or private sewer company to be
5 appropriate for connection to its existing sewer
6 system."

7 SECTION 2. Act 120, Session Laws of Hawaii 2015, is
8 amended by amending section 4 to read as follows:

9 "SECTION 4. This Act shall take effect on July 1, 2015,
10 and shall apply to taxable years beginning after December 31,
11 2015; provided that this Act shall be repealed on December 31,
12 ~~[2020-]~~ 2022."

13 PART II

14 SECTION 3. Chapter 342D, Hawaii Revised Statutes, is
15 amended by adding two new sections to part IV to be
16 appropriately designated and to read as follows:

17 "§342D-A Cesspools; mandatory upgrade, conversion, or
18 connection. (a) Prior to January 1, 2050, every cesspool in
19 the State shall be:

20 (1) Upgraded or converted to a septic system or aerobic
21 treatment unit system; or



1 (2) Connected to a sewerage system.

2 (b) As used in this section:

3 "Aerobic treatment unit system" means an individual
4 wastewater system that consists of an aerobic treatment unit
5 tank, aeration device, piping, and a discharge method that is in
6 accordance with rules adopted by the department relating to
7 household aerobic units.

8 "Cesspool" means an individual wastewater system consisting
9 of an excavation in the ground whose depth is greater than its
10 widest surface dimension, which receives untreated wastewater,
11 and retains or is designed to retain the organic matter and
12 solids discharged into it, but permits the liquid to seep
13 through its bottom or sides to gain access to the underground
14 geographic formation.

15 "Septic system" means an individual wastewater system that
16 typically consists of a septic tank, piping, and a drainage
17 field where there is natural biological decontamination as
18 wastewater discharged into the system is filtered through soil.

19 §342D-B Cesspool compliance grant program. (a) There is
20 established in the department the cesspool compliance grant
21 program to assist homeowners in meeting the costs of:



1 (1) Upgrading or converting a cesspool to a septic system
2 or aerobic treatment unit system; or

3 (2) Connecting a cesspool to a sewerage system,
4 in compliance with section 342D-A.

5 (b) No grant under this section shall be awarded to a
6 homeowner who is:

7 (1) A taxpayer filing a single return or a married person
8 filing separately with a federal adjusted gross income
9 of \$ or more;

10 (2) A taxpayer filing as a head of household with a
11 federal adjusted gross income of \$ or more; or

12 (3) A taxpayer filing a joint return or as a surviving
13 spouse with a federal adjusted gross income of
14 \$ or more.

15 (c) The department shall adopt rules to carry out the
16 purposes of the grant program. Rules adopted pursuant to this
17 section shall include a method of calculating a sliding scale
18 grant amount based on the federal adjusted gross income of the
19 homeowner."

20 SECTION 4. There is appropriated out of the general
21 revenues of the State of Hawaii the sum of \$ or so much



1 thereof as may be necessary for fiscal year 2017-2018 for
2 deposit into the water pollution control revolving fund.

3 SECTION 5. There is appropriated out of the water
4 pollution control revolving fund the sum of \$ or so much
5 thereof as may be necessary for fiscal year 2017-2018 to
6 implement the cesspool compliance grant program.

7 The sum appropriated shall be expended by the department of
8 health for the purposes of this part.

9 PART III

10 SECTION 6. In codifying the new sections added by section
11 3 of this Act, the revisor of statutes shall substitute
12 appropriate section numbers for the letters used in designating
13 the new sections in this Act.

14 SECTION 7. This Act does not affect rights and duties that
15 matured, penalties that were incurred, and proceedings that were
16 begun before its effective date.

17 SECTION 8. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 9. This Act shall take effect on July 1, 2090;
20 provided that:



- 1 (1) Section 1 shall apply to taxable years beginning after
2 December 31, 2016; and
3 (2) Sections 4 and 5 shall take effect on July 1, 2017.



Report Title:

Cesspools; Tax Credit; Upgrade, Conversion, or Connection;
Grant; Appropriation;

Description:

Amends the cesspool upgrade, conversion, or connection income tax credit to make it assignable and refundable, applicable to more cesspools, and applicable through 12/31/2022. Requires upgrade, conversion, or connection to the sewer system of all cesspools in the State before 2050. Establishes a grant program to mitigate costs. Appropriates funds. (HB1244 HD1)

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