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# A BILL FOR AN ACT

RELATING TO CESSPOOLS.

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

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PART I

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

1. By amending subsection (b) to read:

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

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

2. By amending subsection (e) to read:

"(e) The department of health shall:

(1) Certify all qualified cesspools for the purposes of this section; ~~[provided that, as a pilot program, the~~



1 ~~department of health, in its discretion, may certify~~  
2 ~~no more than two residential large capacity cesspools~~  
3 ~~as qualified cesspools,]~~

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

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

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

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

17 "(g) If the tax credit under this section exceeds the  
18 taxpayer's income tax liability, the excess of the credit over  
19 liability [~~may be used as a credit against the taxpayer's income~~  
20 ~~tax liability in subsequent years until exhausted.] shall be  
21 refunded to the taxpayer; provided that tax credits properly~~



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

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

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

14 "Qualified cesspool" means a cesspool that is [~~certified~~]:  
15 (1) Certified by the department of health [~~as being~~] to  
16 be:

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





1 the State, excluding cesspools granted exemptions by the  
2 director of health pursuant to subsection (b), shall be:

3 (1) Upgraded or converted to a septic system or aerobic  
4 treatment unit system; or

5 (2) Connected to a sewerage system.

6 (b) The director of health may grant exemptions from the  
7 requirements of subsection (a) to property owners of cesspools  
8 that apply for an exemption and present documentation showing a  
9 legitimate reason that makes it infeasible to upgrade, convert,  
10 or connect the cesspools. For the purposes of this subsection,  
11 a legitimate reason shall include but not be limited to the  
12 following:

13 (1) Small lot size;

14 (2) Steep topography;

15 (3) Poor soils; and

16 (4) Accessibility issues.

17 (c) As used in this section:

18 "Aerobic treatment unit system" means an individual  
19 wastewater system that consists of an aerobic treatment unit  
20 tank, aeration device, piping, and a discharge method that is in



1 accordance with rules adopted by the department relating to  
2 household aerobic units.

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

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

14 §342D-B Cesspool compliance grant program. (a) There is  
15 established in the department the cesspool compliance grant  
16 program to assist homeowners in meeting the costs of:

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

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



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

3           (1) A taxpayer filing a single return or a married person  
4           filing separately with a federal adjusted gross income  
5           of \$ \_\_\_\_\_ or more;

6           (2) A taxpayer filing as a head of household with a  
7           federal adjusted gross income of \$ \_\_\_\_\_ or more;  
8           or

9           (3) A taxpayer filing a joint return or as a surviving  
10           spouse with a federal adjusted gross income of  
11           \$ \_\_\_\_\_ or more.

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

17           SECTION 4. There is appropriated out of the general  
18 revenues of the State of Hawaii the sum of \$ \_\_\_\_\_ or so  
19 much thereof as may be necessary for fiscal year 2017-2018 for  
20 deposit into the water pollution control revolving fund.

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

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

7 PART III

8 SECTION 6. In codifying the new sections added by section  
9 3 of this Act, the revisor of statutes shall substitute  
10 appropriate section numbers for the letters used in designating  
11 the new sections in this Act.

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

15 SECTION 8. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 9. This Act shall take effect on July 1, 2017;  
18 provided that section 1 shall apply to taxable years beginning  
19 after December 31, 2017.

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**Report Title:**

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

**Description:**

Amends the cesspool upgrade, conversion, or connection income tax credit for taxable years beginning after 12/31/17 to make it 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 unless exempted by the director of health. Establishes a grant program to mitigate costs. Appropriates funds for the grant program.  
(SD1)

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