



1 which shall be deposited appropriations made by the legislature  
2 to the fund. Moneys in the special fund shall be used for the  
3 purposes of this section.

4 (c) The cesspool compliance grant program shall provide  
5 grants to lessees in an amount no greater than \$10,000 per  
6 tract.

7 (d) The department may adopt rules pursuant to chapter 91  
8 to effectuate and carry out the purposes of this section.

9 (e) The department of Hawaiian home lands shall be exempt  
10 from section 235-116 and may periodically share with the  
11 department of taxation the cesspool compliance grant recipient's  
12 tax identification number and other information necessary to  
13 ensure cesspool compliance grant recipients do not also claim  
14 the cesspool upgrade, conversion, and connection income tax  
15 credit established in section 235-16.5.

16 (f) For purposes of this section:

17 "Aerobic treatment unit system" has the same meaning as in  
18 section 235-16.5.

19 "Cesspool has the same meaning as in section 235-16.5.



1 "Lessee" means an individual who holds a lease for a tract  
2 pursuant to section 207 of the Hawaiian Homes Commission Act,  
3 1920, as amended.

4 "Septic system" has the same meaning as in section  
5 235-16.5.

6 "Tract" means any parcel of Hawaiian home lands leased  
7 pursuant to section 207 of the Hawaiian Homes Commission Act,  
8 1920, as amended."

9 PART II

10 SECTION 2. Section 235-16.5, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 **"§235-16.5 Cesspool upgrade, conversion, or connection;**  
13 **income tax credit.** (a) There shall be allowed to each taxpayer  
14 subject to the tax imposed under this chapter, a cesspool  
15 upgrade, conversion, or connection income tax credit that shall  
16 be deductible from the taxpayer's net income tax liability, if  
17 any, imposed by this chapter for the taxable year in which the  
18 credit is properly claimed.

19 (b) In the case of a partnership, S corporation, estate,  
20 or trust, the tax credit allowable is for qualified expenses  
21 incurred by the entity for the taxable year. The expenses upon



1 which the tax credit is computed shall be determined at the  
2 entity level. Distribution and share of credit shall be  
3 determined by rule.

4 (c) The cesspool upgrade, conversion, or connection income  
5 tax credit shall be equal to the qualified expenses of the  
6 taxpayer, up to a maximum of \$10,000; provided that, in the case  
7 of a qualified cesspool that is a residential large capacity  
8 cesspool, the amount of the credit shall be equal to the  
9 qualified expenses of the taxpayer, up to a maximum of \$10,000  
10 per residential dwelling connected to the cesspool, as certified  
11 by the department of health pursuant to subsection (e). There  
12 shall be allowed a maximum of one cesspool upgrade, conversion,  
13 or connection income tax credit per qualified cesspool or per  
14 tax map key number where more than one residence is connected to  
15 a residential large-capacity cesspool. The cesspool upgrade,  
16 conversion, or connection income tax credit shall be available  
17 only for the taxable year in which the taxpayer's qualified  
18 expenses are certified by the appropriate government agency.

19 (d) The total amount of tax credits allowed under this  
20 section shall not exceed \$5,000,000 for all taxpayers in any  
21 taxable year; provided that any taxpayer who is not eligible to



1 claim the credit in a taxable year due to the \$5,000,000 cap  
2 having been exceeded for that taxable year shall be eligible to  
3 claim the credit in the subsequent taxable year.

4 (e) The department of health shall:

5 (1) Certify all qualified cesspools for the purposes of  
6 this section; provided that, as a pilot program, the  
7 department of health, in its discretion, may certify  
8 no more than two residential large capacity cesspools  
9 as qualified cesspools;

10 (2) Collect and maintain a record of all qualified  
11 expenses certified by an appropriate government agency  
12 for the taxable year; and

13 (3) Certify to each taxpayer the amount of credit the  
14 taxpayer may claim; provided that if, in any year, the  
15 annual amount of certified credits reaches \$5,000,000  
16 in the aggregate, the department of health shall  
17 immediately discontinue certifying credits and notify  
18 the department of taxation.

19 The director of health may adopt rules under chapter 91 as  
20 necessary to implement the certification requirements under this  
21 section.



- 1 (f) The director of taxation:
- 2 (1) Shall prepare any forms that may be necessary to claim
- 3 a tax credit under this section;
- 4 (2) May require the taxpayer to furnish reasonable
- 5 information to ascertain the validity of the claim for
- 6 the tax credit made under this section; and
- 7 (3) May adopt rules under chapter 91 necessary to
- 8 effectuate the purposes of this section.

9 (g) If the tax credit under this section exceeds the  
10 taxpayer's income tax liability, the excess of the credit over  
11 liability may be used as a credit against the taxpayer's income  
12 tax liability in subsequent years until exhausted. All claims  
13 for the tax credit under this section, including amended claims,  
14 shall be filed on or before the end of the twelfth month  
15 following the close of the taxable year for which the credit may  
16 be claimed. Failure to comply with the foregoing provision  
17 shall constitute a waiver of the right to claim the credit.

18 (h) This section shall not apply to taxable years beginning  
19 after December 31, 2020.

20 (i) The tax credit under this section shall not be  
21 available to a taxpayer who receives a grant pursuant to the



1 cesspool compliance grant program established under section  
2 342D- . If a taxpayer has claimed the credit established in  
3 this section, the taxpayer shall be ineligible for a grant made  
4 available under section 342D- .

5 [~~i~~] (j) As used in this section:

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

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

18 "Qualified cesspool" means a cesspool that is:

19 (1) Certified by the department of health to be:

20 (A) Located within:



- 1                   (i) Five hundred feet of a shoreline, perennial
- 2                   stream, or wetland; or
- 3                   (ii) A source water assessment program area (two
- 4                   year time of travel from a cesspool to a
- 5                   public drinking water source);
- 6                   (B) Shown to impact drinking water supplies or
- 7                   recreational waters; or
- 8                   (C) A residential large capacity cesspool; or
- 9                   (2) Certified by a county or private sewer company to be
- 10                   appropriate for connection to its existing sewer
- 11                   system.

12                   "Qualified expenses" means costs that are necessary and  
13 directly incurred by the taxpayer for upgrading or converting a  
14 qualified cesspool into a septic system or an aerobic treatment  
15 unit system, or connecting a qualified cesspool to a sewer  
16 system, and that are certified as such by the appropriate  
17 government agency.

18                   "Residential large capacity cesspool" means a cesspool that  
19 is connected to more than one residential dwelling.

20                   "Septic system" means an individual wastewater system that  
21 typically consists of a septic tank, piping, and a drainage





1 field where there is natural biological decontamination as  
2 wastewater discharged into the system is filtered through soil.

3 "Sewer system" means a system of piping, with  
4 appurtenances, for collecting and conveying wastewater from  
5 source to discharge following treatment.

6 "Wastewater" means any liquid waste, whether or not treated  
7 and whether animal, mineral, or vegetable, including  
8 agricultural, industrial, and thermal wastes."

9 **PART III**

10 SECTION 3. There is appropriated out of the general  
11 revenues of the State of Hawaii the sum of \$50,000,000 or so  
12 much thereof as may be necessary for fiscal year 2018-2019 for  
13 deposit into the cesspool compliance grant program special fund.

14 SECTION 4. There is appropriated out of the cesspool  
15 compliance grant program special fund the sum of \$50,000,000 or  
16 so much thereof as may be necessary for fiscal year 2018-2019 to  
17 implement the cesspool compliance grant program.

18 The sum appropriated shall be expended by the department of  
19 Hawaiian home lands for the purposes of this Act.

20 **PART IV**



1 SECTION 5. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect upon its approval;  
4 provided that:

5 (1) Part II shall apply to taxable years beginning after  
6 December 31, 2017; and

7 (2) Part III shall take effect of July 1, 2018.

8



**Report Title:**

Department of Hawaiian Home Lands; Cesspools; Upgrade,  
Conversion, or Connection; Grant Program; Appropriation

**Description:**

Establishes a grant program and special fund to assist beneficiaries on Hawaiian home lands with cesspool upgrade, conversion, or connection costs. Establishes that a recipient of a cesspool upgrade grant shall not be eligible for the cesspool upgrade, conversion, or connection income tax credit. Appropriates moneys for the grant program. (SD1)

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