



GOV. MSG. NO. 1220

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

June 12, 2015

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Twenty-Eighth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Eighth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Souki, and Members of the Legislature:

This is to inform you that on June 12, 2015, the following bill was signed into law:

HB1140 HD1 SD2 CD1

RELATING TO CESSPOOLS
ACT 120 (15)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

RECEIVED
SENATE
OFFICE OF THE PRESIDENT

'15 JUN 12 P4:11

RECEIVED
THE SENATE
CLERK'S OFFICE
STATE OF HAWAII

'15 JUN 12 P5:12

A BILL FOR AN ACT

RELATING TO CESSPOOLS.

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

1 SECTION 1. The legislature finds that the State's streams,
2 groundwater, and ocean are being harmed by water pollution from
3 nonpoint contamination sources that flow off the land directly,
4 rather than through pipes or ditches. Cesspools constitute a
5 nonpoint contamination source of grave concern. These
6 substandard systems are essentially holes in the ground that
7 discharge raw, untreated sewage. Groundwater, drinking water
8 sources, streams, and the ocean are contaminated by cesspool
9 pollution from systems that do not treat wastewater, but merely
10 dispose of it.

11 The legislature further finds that cesspools in Hawaii
12 release approximately 55,000,000 gallons of untreated sewage
13 into the ground each day. There are approximately 90,000
14 cesspools in the State, with nearly 50,000 located on Hawaii
15 island, approximately 14,000 on Kauai, over 12,000 on Maui, over
16 11,000 on Oahu, and over 1,400 on Molokai. Reducing the number
17 of cesspools in the State is a matter of great importance. The
18 legislature additionally finds that cesspools near drinking



1 water wells or within two hundred feet of surface waters and
2 cesspools that are connected to multiple residential dwellings
3 present a higher risk of harm to public health and the
4 environment and should be prioritized by the department of
5 health for upgrade. The department of health indicates that
6 there are approximately 6,860 cesspools in those priority
7 locations.

8 Priority should be given to cesspool owners who request
9 financial assistance to upgrade, convert, or connect cesspools
10 that: affect public drinking water wells; are within two
11 hundred feet of the shoreline, streams, or wetlands; or are
12 connected to multiple residential dwellings.

13 The purpose of this Act is to offer financial assistance to
14 owners of cesspools who:

15 (1) Upgrade or convert a qualified cesspool into a septic
16 system or an aerobic treatment unit system; or

17 (2) Connect a qualified cesspool to a sewer system,
18 by establishing a cesspool upgrade, conversion, or connection
19 income tax credit.



1 SECTION 2. Chapter 235, Hawaii Revised Statutes, is
2 amended by adding a new section to part I to be appropriately
3 designated and to read as follows:

4 "§235- Cesspool upgrade, conversion, or connection;
5 income tax credit. (a) There shall be allowed to each taxpayer
6 subject to the tax imposed under this chapter, a cesspool
7 upgrade, conversion, or connection income tax credit that shall
8 be deductible from the taxpayer's net income tax liability, if
9 any, imposed by this chapter for the taxable year in which the
10 credit is properly claimed.

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

17 (c) The cesspool upgrade, conversion, or connection income
18 tax credit shall be equal to the qualified expenses of the
19 taxpayer, up to a maximum of \$10,000; provided that, in the case
20 of a qualified cesspool that is a residential large capacity
21 cesspool, the amount of the credit shall be equal to the



1 qualified expenses of the taxpayer, up to a maximum of \$10,000
2 per residential dwelling connected to the cesspool, as certified
3 by the department of health pursuant to subsection (e). There
4 shall be allowed a maximum of one cesspool upgrade, conversion,
5 or connection income tax credit per qualified cesspool. The
6 cesspool upgrade, conversion, or connection income tax credit
7 shall be available only for the taxable year in which the
8 taxpayer's qualified expenses are certified by the appropriate
9 government agency.

10 (d) The total amount of tax credits allowed under this
11 section shall not exceed \$5,000,000 for all taxpayers in any
12 taxable year; provided that any taxpayer who is not eligible to
13 claim the credit in a taxable year due to the \$5,000,000 cap
14 having been exceeded for that taxable year shall be eligible to
15 claim the credit in the subsequent taxable year.

16 (e) The department of health shall:

17 (1) Certify all qualified cesspools for the purposes of
18 this section; provided that, as a pilot program, the
19 department of health, in its discretion, may certify
20 no more than two residential large capacity cesspools
21 as qualified cesspools;



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

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

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

13 (f) The director of taxation:

14 (1) Shall prepare any forms that may be necessary to claim
15 a tax credit under this section;

16 (2) May require the taxpayer to furnish reasonable
17 information to ascertain the validity of the claim for
18 the tax credit made under this section; and

19 (3) May adopt rules under chapter 91 necessary to
20 effectuate the purposes of this section.



1 (g) If the tax credit under this section exceeds the
2 taxpayer's income tax liability, the excess of the credit over
3 liability may be used as a credit against the taxpayer's income
4 tax liability in subsequent years until exhausted. All claims
5 for the tax credit under this section, including amended claims,
6 shall be filed on or before the end of the twelfth month
7 following the close of the taxable year for which the credit may
8 be claimed. Failure to comply with the foregoing provision
9 shall constitute 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.

12 (i) As used in this section:

13 "Aerobic treatment unit system" means an individual
14 wastewater system that consists of an aerobic treatment unit
15 tank, aeration device, piping, and a discharge method that is in
16 accordance with rules adopted by the department of health
17 relating to household aerobic units.

18 "Cesspool" means an individual wastewater system consisting
19 of an excavation in the ground whose depth is greater than its
20 widest surface dimension, which receives untreated wastewater,
21 and retains or is designed to retain the organic matter and



1 solids discharged into it, but permits the liquid to seep
2 through its bottom or sides to gain access to the underground
3 geographic formation.

4 "Qualified cesspool" means a cesspool that is certified by
5 the department of health as being:

6 (1) Located within:

7 (A) Two hundred feet of a shoreline, perennial
8 stream, or wetland; or

9 (B) A source water assessment program area (two year
10 time of travel from a cesspool to a public
11 drinking water source); or

12 (2) A residential large capacity cesspool.

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

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



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

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

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

11 SECTION 3. New statutory material is underscored.

12 SECTION 4. This Act shall take effect on July 1, 2015, and
13 shall apply to taxable years beginning after December 31, 2015;
14 provided that this Act shall be repealed on December 31, 2020.

APPROVED this 12 day of JUN , 2015

David Y. Ige

GOVERNOR OF THE STATE OF HAWAII

