
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 present
2 a higher risk of harm to public health and the environment than
3 those farther from water and should be prioritized by the
4 department of health for upgrade. The department of health
5 indicates that there are approximately 6,860 cesspools in those
6 priority locations.

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

11 The purpose of this Act is to offer financial assistance to
12 owners of cesspools who:

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

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

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



1 "§235- Cesspool upgrade, conversion, or connection;
2 income tax credit. (a) There shall be allowed to each taxpayer
3 subject to the tax imposed under this chapter, a cesspool
4 upgrade, conversion, or connection income tax credit that shall
5 be deductible from the taxpayer's net income tax liability, if
6 any, imposed by this chapter for the taxable year in which the
7 credit is properly claimed.

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

14 (c) The cesspool upgrade, conversion, or connection income
15 tax credit shall be equal to the qualified expenses of the
16 taxpayer, up to a maximum of \$10,000. There shall be allowed a
17 maximum of one cesspool upgrade, conversion, or connection
18 income tax credit per qualified cesspool. The cesspool upgrade,
19 conversion, or connection income tax credit shall be available
20 only for the taxable year in which the taxpayer's qualified
21 expenses are certified by the appropriate government agency.



1 (d) The total amount of tax credits allowed under this
2 section shall not exceed \$ for all taxpayers in any
3 taxable year; provided that any taxpayer who is not eligible to
4 claim the credit in a taxable year due to the \$ cap
5 having been exceeded for that taxable year shall be eligible to
6 claim the credit in the subsequent taxable year.

7 (e) The department of health shall:

8 (1) Certify all qualified cesspools for the purposes of
9 this section;

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
16 \$ in the aggregate, the department of health
17 shall immediately discontinue certifying credits and
18 notify 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 deduction under this section;
- 4 (2) May require the taxpayer to furnish reasonable
- 5 information to ascertain the validity of the claim for
- 6 the deduction 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) As used in this section:



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

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

13 "Qualified cesspool" means a cesspool that is certified by
14 the department of health as being located within:

15 (1) Two hundred feet of a shoreline, perennial stream, or
16 wetland; or

17 (2) A source water assessment program area (two year time
18 of travel from a cesspool to a public drinking water
19 source).

20 "Qualified expenses" means costs that are necessary and
21 directly incurred by the taxpayer for upgrading or converting a



1 qualified cesspool into a septic system or an aerobic treatment
2 unit system, or connecting a qualified cesspool to a sewer
3 system, and that are certified as such by the appropriate
4 government agency.

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

9 "Sewer system" means a system of piping, with
10 appurtenances, for collecting and conveying wastewater from
11 source to discharge following treatment.

12 "Wastewater" means any liquid waste, whether or not treated
13 and whether animal, mineral, or vegetable, including
14 agricultural, industrial, and thermal wastes."

15 SECTION 3. New statutory material is underscored.

16 SECTION 4. This Act shall take effect on July 1, 2053, and
17 shall apply to taxable years beginning after December 31, 2015;
18 provided that this Act shall be repealed on December 31, 2020.



Report Title:

Income Tax Credit; Cesspool Upgrade, Conversion, or Connection

Description:

Provides a temporary income tax credit for the cost of upgrading or converting a cesspool to a septic system or an aerobic treatment unit system, or connecting to a sewer system. Effective 7/1/2053. Sunsets 12/31/2020. (SD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

