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# A BILL FOR AN ACT

RELATING TO ABANDONED WELLS.

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

1           SECTION 1. The legislature finds that wells in a state of  
2 disuse or disrepair can become conduits for contaminants to be  
3 introduced into ground water. Abandoned wells can also become  
4 receptacles for the disposal of waste, potentially resulting in  
5 additional contamination and associated risk to public health  
6 and the environment.

7           The legislature further finds that the commission on water  
8 resource management has developed minimum standards relating to  
9 water wells, including their sealing and abandonment, in order  
10 to protect the quality and quantity of the State's ground water  
11 resources.

12           The purpose of this Act is to:

13           (1) Establish an income tax credit for taxpayers who are  
14                 required to seal abandoned wells on their real  
15                 property;

16           (2) Require an owner of an abandoned well to repair or  
17                 seal the well at the owner's expense; and



1 (3) Appropriate funds for the following positions in the  
2 commission on water resource management:

3 (A) Either:

4 (i) Two full-time equivalent engineering  
5 technician positions; or

6 (ii) Two full-time equivalent environmental  
7 health specialist positions; and

8 (B) One full-time equivalent clerical position.

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

12 **"§235- Well abandonment compliance income tax credit.**

13 (a) There shall be allowed to each taxpayer a well abandonment  
14 compliance income tax credit that shall be deductible from the  
15 taxpayer's net income tax liability, if any, imposed by this  
16 chapter for the taxable year in which the credit is properly  
17 claimed.

18 (b) The cost upon which the tax credit is computed shall  
19 be determined at the entity level. In the case of a  
20 partnership, S corporation, estate, trust, or other pass through



1 entity, distribution and share of the credit shall be determined  
2 by rule.

3 (c) The well abandonment compliance income tax credit  
4 shall be equal to \_\_\_\_\_ per cent of the qualified compliance  
5 costs incurred by the taxpayer, up to a maximum of \$ \_\_\_\_\_ .

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

15 (e) The director of taxation:  
16 (1) Shall prepare any forms that may be necessary to claim  
17 a credit under this section;  
18 (2) May require the taxpayer to furnish information to  
19 ascertain the validity of the claim for credit made  
20 under this section; and



1       (3) May adopt rules pursuant to chapter 91 to effectuate  
2       this section.

3       (f) The commission on water resource management shall:

4       (1) Maintain records of the total amount of qualified  
5       compliance costs for each taxpayer claiming a credit;

6       (2) Verify the amount of the qualified compliance costs  
7       claimed;

8       (3) Total all qualified compliance costs claimed; and

9       (4) Certify the total amount of the tax credit for each  
10       taxable year.

11       Upon each determination, the commission on water resource  
12       management shall issue a certificate to the taxpayer verifying  
13       the qualified compliance costs and the credit amount certified  
14       for each taxable year. For a taxable year, the commission on  
15       water resource management may certify a credit for a taxpayer  
16       who could have claimed the credit in a previous taxable year,  
17       but chose not to because the maximum annual credit amount under  
18       subsection (g) was reached in that taxable year.

19       The taxpayer shall file the certificate with the taxpayer's  
20       tax return with the department of taxation. Notwithstanding the  
21       commission on water resource management's certification



1 authority under this section, the director of taxation may audit  
2 and adjust the certification to conform to the facts.

3 Notwithstanding any other law to the contrary, the  
4 information required by this subsection shall be available for  
5 public inspection and dissemination under chapter 92F.

6 (g) If in any taxable year the annual amount of certified  
7 credits reaches \$ \_\_\_\_\_ in the aggregate, the commission on  
8 water resource management shall immediately discontinue  
9 certifying credits and notify the department of taxation. In no  
10 instance shall the commission on water resource management  
11 certify a total amount of credits exceeding \$ \_\_\_\_\_ per  
12 taxable year. To comply with this restriction, the commission  
13 on water resource management shall certify credits on a first  
14 come, first served basis.

15 The department of taxation shall not allow the aggregate  
16 amount of credits claimed to exceed that amount per taxable  
17 year.

18 (h) As used in this section:

19 "Abandoned well" shall have the same meaning as defined in  
20 section 174C-81.



1       "Net income tax liability" means income tax liability  
2 reduced by all other credits allowed under this chapter.

3       "Qualified compliance costs" means construction costs that  
4 are necessary and directly incurred by the taxpayer to seal an  
5 abandoned well in compliance with section 174C-87.

6       "Well" shall have the same meaning as defined in section  
7 174C-3."

8       SECTION 3. Section 174C-81, Hawaii Revised Statutes, is  
9 amended by amending the definition of "abandoned well" to read  
10 as follows:

11       "Abandoned well" means any well ~~[that]~~, the purpose or use  
12 of which has been permanently discontinued. Any well shall be  
13 deemed abandoned ~~[which is]~~ whenever the well has served its  
14 purpose, the well use has been permanently discontinued, the  
15 well is not properly maintained, the physical condition of the  
16 well is causing a waste of ground water or is impairing or  
17 threatens to impair the quality of the ground water resources,  
18 or the well is in such a state of disrepair that its continued  
19 use ~~[for the purpose of obtaining ground water]~~ is  
20 impractical~~[-]~~ or poses a hazard to public health or safety."



1 SECTION 4. Section 174C-87, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "~~§174C-87 [Abandonment]~~ Sealing of wells. (a) When a  
4 well is abandoned, the owner shall [~~fill and~~] seal the well in a  
5 manner approved by the commission. Before [~~abandonment,~~]  
6 sealing, the owner shall file with the commission [~~a report~~  
7 ~~showing the owner's name and address; the water use permit~~  
8 ~~number, if any; the name and address of the well driller who~~  
9 ~~will be employed to perform the work required for abandonment;~~  
10 ~~the reason for abandonment; a description of the work to be~~  
11 ~~performed to effect the abandonment;~~] an application for a well  
12 sealing permit signed by a driller licensed to do the work and  
13 such other information as the commission may require.

14 (b) The owner of an abandoned well shall repair or seal  
15 the well at the owner's expense, as provided by the well  
16 construction and pump installation standards.

17 (c) Notwithstanding any other law to the contrary, if the  
18 owner of real property that includes an abandoned well transfers  
19 ownership of the real property, the owner shall notify the  
20 commission on water resource management of that transfer before  
21 entering escrow."



1 SECTION 5. There is appropriated out of the general  
2 revenues of the State of Hawaii the sum of \$ or so  
3 much thereof as may be necessary for fiscal year 2022-2023 for  
4 the following positions in the commission on water resource  
5 management:

6 (1) Either:

7 (A) Two full-time equivalent (2.0 FTE) engineering  
8 technician positions; or

9 (B) Two full-time equivalent (2.0 FTE) environmental  
10 health specialist positions; and

11 (2) One full-time equivalent (1.0 FTE) clerical position.

12 The sum appropriated shall be expended by the department of  
13 land and natural resources for the purposes of this Act.

14 SECTION 6. 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 7. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 8. This Act shall take effect on July 1, 2050;  
20 provided that section 2 of this Act shall apply to taxable years  
21 beginning after December 31, 2021.





**Report Title:**

Water; Abandoned Wells; Income Tax Credit; Appropriation

**Description:**

Establishes an income tax credit for taxpayers who are required to seal abandoned wells on their real property. Clarifies the definition of the term "abandoned well". Requires an owner of an abandoned well to seal the well at the owner's expense. Appropriates funds for three full-time equivalent (3.0 FTE) positions under the Commission on Water Resource Management. Effective 7/1/2050. (HD1)

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

