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## A BILL FOR AN ACT

RELATING TO CESSPOOLS.

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

1           SECTION 1. Chapter 342D, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§342D-           Cesspool upgrade, conversion, or connection;  
5 rebate; establishment. (a) The department may establish a  
6 cesspool upgrade, conversion, or connection rebate program, to  
7 offset qualified expenses incurred by low-income households,  
8 upon evaluating the costs and benefits of a rebate program and  
9 determining that a rebate program is in the public interest.

10           (b) To qualify for the rebate program, applicants shall  
11 comply with requirements and conditions established by the  
12 department; provided that the rebate program shall only be  
13 available to persons whose family income is no more than  
14 per cent of the federal poverty level.

15           (c) Rebate amounts and other program specifications for  
16 the rebate program shall be established by the department;



1 provided that the dollar amount of a rebate shall not exceed  
2 \$10,000 per cesspool.

3 (d) The department shall effectuate the purposes of this  
4 section by rules adopted pursuant to chapter 91.

5 (e) Notwithstanding any law to the contrary, any cesspool  
6 found to be in noncompliance with chapter 321, 322, or 342E, or  
7 this chapter, or rules adopted thereunder, as a result of any  
8 inspection or other action conducted by state or county  
9 personnel pursuant to a person applying for a rebate under this  
10 section, shall not be subject to any penalty imposed by those  
11 chapters or rules.

12 (f) 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 relating to  
17 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 expenses" means costs that are necessary and  
5 directly incurred by the applicant for upgrading or converting a  
6 cesspool into a septic system or an aerobic treatment unit  
7 system, or connecting a cesspool to a sewer system, and that are  
8 certified as such by the appropriate government agency.

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

13 "Sewer system" means a system of piping, with  
14 appurtenances, for collecting and conveying wastewater from  
15 source to discharge following treatment."

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

18 "[+]§235-16.5[+] Cesspool upgrade, conversion, or  
19 connection; income tax credit. (a) There shall be allowed to  
20 each taxpayer subject to the tax imposed under this chapter, a  
21 cesspool upgrade, conversion, or connection income tax credit



1 that shall be deductible from the taxpayer's net income tax  
2 liability, if any, imposed by this chapter for the taxable year  
3 in which the credit is properly claimed.

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

10 (c) The cesspool upgrade, conversion, or connection income  
11 tax credit shall be equal to the qualified expenses of the  
12 taxpayer, up to a maximum of \$10,000; provided that, in the case  
13 of a [~~qualified~~] cesspool that is a residential large capacity  
14 cesspool, the amount of the credit shall be equal to the  
15 qualified expenses of the taxpayer, up to a maximum of \$10,000  
16 per residential dwelling connected to the cesspool, as certified  
17 by the department of health pursuant to subsection (e). There  
18 shall be allowed a maximum of one cesspool upgrade, conversion,  
19 or connection income tax credit per [~~qualified~~] cesspool. The  
20 cesspool upgrade, conversion, or connection income tax credit  
21 shall be available only for the taxable year in which the



1 taxpayer's qualified expenses are certified by the appropriate  
2 government agency.

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

9 (e) The department of health shall:

10 ~~[(1) Certify all qualified cesspools for the purposes of~~  
11 ~~this section; provided that, as a pilot program, the~~  
12 ~~department of health, in its discretion, may certify~~  
13 ~~no more than two residential large capacity cesspools~~  
14 ~~as qualified cesspools;~~

15 ~~+(2)]~~ (1) Collect and maintain a record of all qualified  
16 expenses certified by an appropriate government agency  
17 for the taxable year; and

18 ~~+(3)]~~ (2) Certify to each taxpayer the amount of credit the  
19 taxpayer may claim; provided that if the taxpayer has  
20 received a rebate under section 342D- for the  
21 cesspool upon which the claim for credit under this



1           section is based, fifty per cent of the dollar amount  
2           of the rebate received by the taxpayer under section  
3           342D- shall be deducted from the amount of credit  
4           the taxpayer may claim; provided further that if, in  
5           any year, the annual amount of certified credits  
6           reaches \$5,000,000 in the aggregate, the department of  
7           health shall immediately discontinue certifying  
8           credits and notify the department of taxation.

9           The department of health, as a pilot program, may certify  
10          no more than two residential large capacity cesspools as  
11          eligible for the tax credit under this section.

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

15           (f) The director of taxation:

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

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



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

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

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

14           (i) The tax credit under this section shall not be  
15 available to the following:

16           (1) A taxpayer filing a single return or a married person  
17           filing separately with an adjusted gross income of  
18           \$300,000 or more;

19           (2) A taxpayer filing as a head of household with an  
20           adjusted gross income of \$450,000 or more; or



1       (3) A taxpayer filing a joint return or as a surviving  
2           spouse with an adjusted gross income of \$600,000 or  
3           more.

4       (j) Notwithstanding any other law to the contrary, any  
5       cesspool found to be in noncompliance with chapter 321, 322,  
6       342D, or 342E, or rules adopted thereunder, as a result of any  
7       inspection or other action conducted by state or county  
8       personnel pursuant to a taxpayer claiming a credit under this  
9       section, shall not be subject to any penalty imposed by those  
10       chapters or rules.

11       [~~(i)~~] (k) As used in this section:

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

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





1 through its bottom or sides to gain access to the underground  
2 geographic formation.

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

5 ~~(1) Located within:~~

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

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

11 ~~(2) A residential large capacity cesspool.]~~

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  
15 treatment unit system, or connecting a [qualified] cesspool to a  
16 sewer 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 SECTION 3. This Act does not affect rights and duties that  
10 matured, penalties that were incurred, and proceedings that were  
11 begun before its effective date.

12 SECTION 4. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 5. This Act shall take effect upon its approval;  
15 provided that:

- 16 (1) Section 1 shall be repealed on December 31, 2020; and
- 17 (2) Section 2 shall apply to taxable years beginning after  
18 December 31, 2015.

19

INTRODUCED BY:

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# H.B. NO. 1983

**Report Title:**

Income Tax Credit; Cesspool Upgrade, Conversion, or Connection;  
Rebate Program

**Description:**

Authorizes that department of health to establish a cesspool upgrade, conversion, or connection rebate program. Disallows the tax credit for cesspool upgrade, conversion, or connection for taxpayers whose adjusted gross income exceeds certain amounts. Applies tax credit to all cesspools, regardless of location. Provides that cesspools found to be illegal, as a result of an inspection conducted due to a person applying for a rebate or taxpayer claiming a credit, shall not be subject to penalty.

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

