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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 tax credit or rebate  
7 program, to offset qualified expenses incurred by low-income  
8 households.

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

15           (c) Rebate amounts and other program specifications for  
16 the tax credit or rebate program shall be established by the



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

3 (d) The department shall adopt rules pursuant to chapter  
4 91 to effectuate this section.

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

12 (f) Persons shall not qualify for any other similar credit  
13 other than what is provided in this section.

14 (g) As used in this section:

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

20 "Cesspool" means an individual wastewater system consisting  
21 of an excavation in the ground whose depth is greater than its



1 widest surface dimension, which receives untreated wastewater,  
2 and retains or is designed to retain the organic matter and  
3 solids discharged into it, but permits the liquid to seep  
4 through its bottom or sides to gain access to the underground  
5 geographic formation.

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

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

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

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

20 "[+]§235-16.5[+] Cesspool upgrade, conversion, or  
21 connection; income tax credit. (a) There shall be allowed to



1 each taxpayer subject to the tax imposed under this chapter, a  
2 cesspool upgrade, conversion, or connection income tax credit  
3 that shall be deductible from the taxpayer's net income tax  
4 liability, if any, imposed by this chapter for the taxable year  
5 in which the credit is properly claimed.

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

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



1 cesspool upgrade, conversion, or connection income tax credit  
2 shall be available only for the taxable year in which the  
3 taxpayer's qualified expenses are certified by the appropriate  
4 government agency.

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

11 (e) The department of health shall:

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

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

20 ~~[-(3)]~~ (2) Certify to each taxpayer the amount of credit the  
21 taxpayer may claim; provided that if the taxpayer has



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

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

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

17          (f) The director of taxation:

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



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

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

6 (g) 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 (h) This section shall not apply to taxable years beginning  
16 after December 31, 2020.

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

19 (1) A taxpayer filing a single return or a married person  
20 filing separately with an adjusted gross income of  
21 \$ \_\_\_\_\_ or more;



1       (2) A taxpayer filing as a head of household with an  
2       adjusted gross income of \$ \_\_\_\_\_ or more; or

3       (3) A taxpayer filing a joint return or as a surviving  
4       spouse with an adjusted gross income of \$ \_\_\_\_\_ or  
5       more.

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

13       ~~(i)~~ (k) As used in this section:

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

19       "Cesspool" means an individual wastewater system consisting  
20       of an excavation in the ground whose depth is greater than its  
21       widest surface dimension, which receives untreated wastewater,





1 and retains or is designed to retain the organic matter and  
2 solids discharged into it, but permits the liquid to seep  
3 through its bottom or sides to gain access to the underground  
4 geographic formation.

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

7 ~~(1) Located within:~~

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

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

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

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

20 "Residential large capacity cesspool" means a cesspool that  
21 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. This Act does not affect rights and duties that  
12 matured, penalties that were incurred, and proceedings that were  
13 begun before its effective date.

14 SECTION 4. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 5. This Act shall take effect upon its approval;  
17 provided that:

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



**Report Title:**

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

**Description:**

Authorizes the Department of Health to establish a cesspool upgrade, conversion, or connection tax credit or 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, are not subject to penalty. (HB1983 HD1)

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

