
A BILL FOR AN ACT

RELATING TO CESSPOOLS.

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

PART I

SECTION 1. Section 235-16.5, Hawaii Revised Statutes, is amended to read as follows:

"~~§~~235-16.5~~§~~ Cesspool upgrade, conversion, or connection; income tax credit. (a) There shall be allowed to each taxpayer subject to the tax imposed under this chapter, a cesspool upgrade, conversion, or connection income tax credit that shall be deductible from the taxpayer's net income tax liability, if any, imposed by this chapter for the taxable year in which the credit is properly claimed.

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



1 (c) The cesspool upgrade, conversion, or connection income
2 tax credit shall be equal to the qualified expenses of the
3 taxpayer, up to a maximum of \$10,000; provided that, in the case
4 of a qualified cesspool that is a residential large capacity
5 cesspool, the amount of the credit shall be equal to the
6 qualified expenses of the taxpayer, up to a maximum of \$10,000
7 per residential dwelling connected to the cesspool, as certified
8 by the department of health pursuant to subsection (e). There
9 shall be allowed a maximum of one cesspool upgrade, conversion,
10 or connection income tax credit per qualified cesspool [-] or per
11 tax map key number for residential large-capacity cesspools.

12 The cesspool upgrade, conversion, or connection income tax
13 credit shall be available only for the taxable year in which the
14 taxpayer's qualified expenses are certified by the appropriate
15 government agency.

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



- 1 (e) The department of health shall:
 - 2 (1) Certify all qualified cesspools for the purposes of
 - 3 this section; provided that, as a pilot program, the
 - 4 department of health, in its discretion, may certify
 - 5 no more than two residential large capacity cesspools
 - 6 as qualified cesspools;
 - 7 (2) Collect and maintain a record of all qualified
 - 8 expenses certified by an appropriate government agency
 - 9 for the taxable year; and
 - 10 (3) Certify to each taxpayer the amount of credit the
 - 11 taxpayer may claim; provided that if, in any year, the
 - 12 annual amount of certified credits reaches \$5,000,000
 - 13 in the aggregate, the department of health shall
 - 14 immediately discontinue certifying credits and notify
 - 15 the department of taxation.

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

- 19 (f) The director of taxation:
 - 20 (1) Shall prepare any forms that may be necessary to claim
 - 21 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 a federal adjusted gross income
21 of \$200,000 or more;



1 (2) A taxpayer filing as a head of household with a
2 federal adjusted gross income of \$300,000 or more; or

3 (3) A taxpayer filing a joint return or as a surviving
4 spouse with a federal adjusted gross income of
5 \$400,000 or more.

6 [~~i~~] (j) As used in this section:

7 "Aerobic treatment unit system" means an individual
8 wastewater system that consists of an aerobic treatment unit
9 tank, aeration device, piping, and a discharge method that is in
10 accordance with rules adopted by the department of health
11 relating to household aerobic units.

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

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

21 (1) Located within:



- 1 (A) Two hundred feet of a shoreline, perennial
- 2 stream, or wetland; or
- 3 (B) A source water assessment program area (two year
- 4 time of travel from a cesspool to a public
- 5 drinking water source); or
- 6 (2) A residential large capacity cesspool.

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

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

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

19 "Sewer system" means a system of piping, with
20 appurtenances, for collecting and conveying wastewater from
21 source to discharge following treatment.



1 "Wastewater" means any liquid waste, whether or not treated
2 and whether animal, mineral, or vegetable, including
3 agricultural, industrial, and thermal wastes."

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

7 "§342D- Cesspool upgrade, conversion, or connection;
8 rebate; establishment. (a) The department may establish a
9 cesspool upgrade, conversion, or connection tax credit or rebate
10 program, to offset qualified expenses incurred by low-income
11 households.

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

18 (c) Rebate amounts and other program specifications for
19 the tax credit or rebate program shall be established by the
20 department; provided that the dollar amount of a tax credit or
21 rebate shall not exceed \$10,000 per cesspool.



1 (d) The department shall adopt rules pursuant to chapter
2 91 to effectuate this section.

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

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

12 (g) 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 3. The department of health shall submit a report
17 to the legislature, including findings, recommendations, and
18 implementing draft legislation no later than twenty days prior
19 to the convening of the regular session of 2017 on the
20 following:



- 1 (1) Recommendations on how to incentivize or compel high-
2 income homeowners to convert; and
- 3 (2) Recommendations on how to incentivize middle- and low-
4 income homeowners to convert.

PART II

5
6 SECTION 4. Section 235-16.5, Hawaii Revised Statutes, is
7 amended by amending the definition of "qualified cesspool" in
8 subsection (i) to read as follows:

9 "Qualified cesspool" means a cesspool that is [~~certified~~]:

10 (1) Certified by the department of health as being:

11 [~~(1)~~] (A) Located within:

12 [~~(A)~~] (i) Two hundred feet of a shoreline, perennial
13 stream, or wetland; or

14 [~~(B)~~] (ii) A source water assessment program area (two
15 year time of travel from a cesspool to a public
16 drinking water source); or

17 [~~(2)~~] (B) A residential large capacity cesspool[~~]~~; or

18 (2) Certified by the county as being located within two
19 hundred feet of an existing sewer system."

20 SECTION 5. Section 235-16.5, Hawaii Revised Statutes, is
21 amended by amending subsection (c) to read as follows:



1 " (c) The cesspool upgrade, conversion, or connection
2 income tax credit shall be equal to the qualified expenses of
3 the taxpayer, up to a maximum of [~~\$10,000~~] \$ _____ ; provided
4 that, in the case of a qualified cesspool that is a residential
5 large capacity cesspool, the amount of the credit shall be equal
6 to the qualified expenses of the taxpayer, up to a maximum of
7 [~~\$10,000~~] \$ _____ per residential dwelling connected to the
8 cesspool, as certified by the department of health pursuant to
9 subsection (e). There shall be allowed a maximum of one
10 cesspool upgrade, conversion, or connection income tax credit
11 per qualified cesspool [-] or per tax map key, in the case of a
12 large capacity cesspool. The cesspool upgrade, conversion, or
13 connection income tax credit shall be available only for the
14 taxable year in which the taxpayer's qualified expenses are
15 certified by the appropriate government agency."

16 PART III

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

19 SECTION 7. This Act shall take effect on January 1, 2050;
20 provided that sections 1, 2, 3, and 5 shall apply to taxable
21 years beginning after December 31, 2015.



Report Title:

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

Description:

Amends the cesspool upgrade, conversion, or connection income tax credit by making high-income taxpayers ineligible to claim it, making it available for cesspools located near sewer systems, and amending the maximum credit amount. Authorizes DOH to establish a cesspool tax credit or rebate program to facilitate cesspool conversions or improvements by low-income residents. (SB3084 HD2)

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

