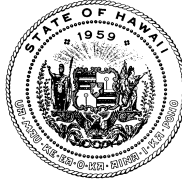


SB1181

Measure Title: RELATING TO CESSPOOLS.
Report Title: Cesspools; Mandatory Disclosure; Real Property
Description: Requires DOH to develop guidelines for the mandatory disclosure of cesspools on real property.
Companion: [HB489](#)
Package: None
Current Referral: CPH/AEN, WAM
Introducer(s): RIVIERE, HARIMOTO, INOUYE, KIDANI, S. Chang, Espero, Galuteria, Ihara, Nishihara, K. Rhoads, Wakai



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

**Testimony in SUPPORT of SB1181
RELATING TO CESSPOOLS**

SENATOR ROSALYN H. BAKER, CHAIR
SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

SENATOR MIKE GABBARD, CHAIR
COMMITTEE ON AGRICULTURE AND ENVIRONMENT

Hearing Date: February 10, 2017
Time: 1:15 p.m.

Room Number: 224

- 1 **Fiscal Implications:** None.
- 2 **Department Testimony:** The Department supports this measure. The existence of a cesspool and
- 3 certain Federal and State requirements for cesspools should be disclosed to buyers prior to the sale
- 4 or transfer of property in some circumstances.
- 5 The Department often receives phone calls from new property owners complaining that they were
- 6 not aware that they had to upgrade their cesspool as a result of current Federal and State
- 7 regulations. The Department also receives numerous complaints that properties with failing
- 8 cesspools under formal enforcement action were sold without any disclosure to the new property
- 9 owners.
- 10 Thank you for the opportunity to testify on this measure.



SB1181
RELATING TO CESSPOOLS

Senate Committee on Commerce, Consumer Protection, and Health
Senate Committee on Agriculture and Environment

February 10, 2017

1:15 p.m.

Conference Room 224

The Office of Hawaiian Affairs (OHA) Beneficiary Advocacy and Empowerment Committee will recommend that the Board of Trustees **COMMENT** on SB1181, which may help to encourage cesspool upgrades by landowners seeking to sell their property, and discourage the use of cesspools in new residential developments.

The prevalence and density of cesspools in Hawai'i have raised significant concerns regarding their potential environmental and public health impacts. These concerns have heightened in recent years, as the State has gained a greater awareness of the broad and long-term threats of our ubiquitous cesspool systems, as well as municipal injection wells.¹ With the large amount of residential development currently being planned for several islands, greater regulatory protections may be critical to not only mitigating the impacts of existing cesspools, but also to discouraging the even further proliferation of cesspools throughout our state.


Rules requiring a prospective seller of real property to disclose the presence of any cesspools on the property may encourage the seller to upgrade such cesspools to an alternative sewage disposal system, to avoid the disclosure mandate altogether. Mandatory disclosure rules may also incentivize developers to ensure that cesspools are not used for newly developed properties, to increase the properties' attractiveness to prospective buyers. OHA does note that an alternative approach to reducing cesspool impacts can be found in Department of Health (DOH) rules proposed in 2014; these rules would require cesspools to be upgraded to a septic or other alternative sewage disposal system, upon the sale of property containing them. Accordingly, OHA urges the Committee to also consider the rules already proposed by DOH, including with regards to whether such stronger requirements should be adopted, and whether this bill might conflict with or impede their implementation.


Mahalo for the opportunity to testify on this measure.

¹ See, e.g., ROBERT B. WHITTIER AND ALY I. EL-KADI, HUMAN AND ENVIRONMENTAL RISK RANKING OF ONSITE SEWAGE DISPOSAL SYSTEMS ES-1–ES-2 (2009); Michael L. Parsons et. al., *A multivariate assessment of the coral ecosystem health of two embayments on the lee of the island of Hawai'i*, 56 MARINE POLLUTION BULLETIN 1138 (2008); *Judge: Maui needs permit for Lahaina wastewater*, HONOLULU STAR-ADVERTISER, June 2, 2014; *Big Island effort targets cesspools to save reef*, HONOLULU STAR-ADVERTISER, February 4, 2014.



**Hawai'i
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 | 808-733-7060

 | 808-737-4977



1259 A'ala Street, Suite 300
Honolulu, HI 96817

February 10, 2017

The Honorable Rosalyn H. Baker, Chair

Senate Committee on Commerce, Consumer Protection, and Health

The Honorable Mike Gabbard, Chair

Senate Committee on Agriculture and Environment

State Capitol, Room 224

Honolulu, Hawaii 96813

RE: S.B. 1181, Relating to Cesspools

HEARING: Friday, February 10, 2017, at 1:15 p.m.

Aloha Chair Baker, Chair Gabbard, and Members of the Committees.

I am Myoung Oh, Director of Government Affairs, here to testify on behalf of the Hawai'i Association of REALTORS® (“HAR”), the voice of real estate in Hawai'i, and its 9,000 members. HAR **opposes** S.B. 1181 which requires the Department of Health to develop guidelines for the mandatory disclosure of cesspools on real property.

HAR's industry practice is to create forms that exceed what is called for via laws, rules and regulations. HAR's 5-page Seller's Real Property Disclosure Statement (“SRPDS”) is a comprehensive form that asks questions on various items that could be a material fact inasmuch as it measurably affects the value of the property. As part of those questions, our SRPDS already includes multiple questions related to wastewater or sewer systems of the subject property.

HAR believes that S.B. 1181 is unnecessary. HAR would be available to work with the Department of Health should there be specific items that they would like included in the form.

Mahalo for the opportunity to testify in opposition.



- YES NO NTMK NA**
- 33) [] [] [] [] [] Is the Property subject to a Homeowners' and/or Community Association or any other Association?
- 33a) [] [] [] [] [] (a) Is membership mandatory?
- 33b) _____ (b) If yes, what are the fees and payments? _____
- 33c) _____ (c) What is included in the fees and payments? _____
- 33d) [] [] [] [] [] (d) Are you aware of future maintenance fee increases, special assessments, association loans or pending litigation for or against your Association(s)?

IF ANY OF THE ABOVE ARE CHECKED YES, NOTE: If the Property is subject to a recorded Declaration, Seller is subject to mandatory disclosure obligations pursuant to Hawaii Revised Statutes Chapter 508D as amended. To the best of Seller's knowledge, Seller shall provide the documents and any amendments or supplements within the deadlines set forth in the Purchase Contract.



C. UTILITIES AND SERVICES: Complete and describe problems, if any, in Section G.

- 34) What is your source of water supply?
 a) [] Public [] Private
 Is this Property separately metered? [] Yes [] No
 Is this a sub-meter? [] Yes [] No
 Is there a shared water supply? [] Yes [] No
 b) [] Catchment: Tank type _____ Capacity _____ Age _____ Condition _____
 c) [] Other _____
- 35) What type of waste water/sewage system do you have?
 a) [] Public Sewer [] Private Sewer Connected? [] Yes [] No
 If not, is connection currently required? [] Yes [] No
 Is there a separate sewer fee? [] Yes [] No Amount of current sewer fee _____
 b) [] Cesspool [] Septic System [] Individual Sewage Treatment Plant Location _____
 Last Pumped _____ How Often? _____
 c) [] Abandoned septic or cesspool Location _____ Filled? [] Yes [] No [] NTMK
 d) Does the cesspool serve more than one dwelling or living unit (A "dwelling" or, "living unit" is defined as having its own kitchen/food preparation area, bathroom and sleeping/living area), including "ohana" units? [] Yes [] No
- 36) What is your source of electrical power?
 [] Public [] Photo Voltaic [] Other: _____
 a) Is the Property subject to Special Subdivision Project Provision (SSPP) connection fees? [] Yes [] No
 b) Hawaii law requires Sellers who pay their electricity bills directly to make a good faith declaration of electricity costs based upon the most recent three-month period that the property was occupied. In this context, please answer the following:
 Do you pay your electrical utility bill directly? [] Yes [] No
 If yes, please state the amount you paid for electricity for the most recent three-month period that the property was occupied.
 Mon/Yr: _____ Amount: _____ Mon/Yr: _____ Amount _____ Mon/Yr: _____ Amount: _____
 Buyer's actual electricity costs may vary substantially.
 c) If Seller's interest in a photovoltaic system is included in the sale, please answer the following and attach ALL applicable documentation (i.e. leases/finance agreements, service/maintenance agreements, utility agreements net metering / buyback and/or credit agreements, user manuals, battery maintenance and warranties)
 Is the system [] Leased [] Financed [] Owned outright [] Other _____
- 37) If a Solar Hot Water System is included with the sale, please answer the following and attach ALL applicable documentation (i.e. lease/financing agreement, service/maintenance agreements, user manuals).
 Is the system [] Leased [] Financed [] Owned outright
- 38) If a Security Alarm and/or Home Automation System is included with the sale, please answer the following and attach ALL applicable documentation (i.e. lease/financing agreement, service/maintenance agreements, user manuals).
 Is the system [] Leased [] Financed [] Owned outright
- 39) Gas: [] Piped [] Tank [] None
- 40) Telephone Service: [] Traditional [] Party line only [] Cable [] Cell [] Satellite
- 41) Television Service: [] Cable [] Satellite [] Antenna [] Not available
- 42) Broadband Internet [] DSL [] Cable [] None [] Other
- 43) US Postal Delivery: [] PO Box [] Community Box [] Individual Curbside Box [] To Door

[] D. IMPROVEMENTS: Do any of the following conditions exist? If "yes", use the same number and describe in Section G.

- YES NO NTMK NA**
- 44) [] [] [] [] [] Were any improvements, additions, structural modifications or alterations built without building permits, association design committee or other governmental approvals?
- 45) [] [] [] [] [] For any improvement(s) subject to a mechanic's and materialman's lien, has Notice of Completion been published?
- 45a) _____ (a) Date of publication _____ Unknown
- 46) [] [] [] [] [] Were any of the building permits not finalized (closed) by the permitting agency?

 BUYER'S INITIALS & DATE

 SELLER'S INITIALS & DATE

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 12:29 PM
To: CPH Testimony
Cc: fu_dog_5@yahoo.com
Subject: *Submitted testimony for SB1181 on Feb 10, 2017 13:15PM*

SB1181

Submitted on: 2/6/2017

Testimony for CPH/AEN on Feb 10, 2017 13:15PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
robert	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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