

JAN 24 2019

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# A BILL FOR AN ACT

RELATING TO CESSPOOLS.

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

PART I

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

"§342D- Cesspool compliance grant program; special fund.

(a) There is established in the department of Hawaiian home lands the cesspool compliance grant program to assist lessees in meeting the costs of:

(1) Upgrading or converting a cesspool located on Hawaiian home lands to a septic system or aerobic treatment unit system; or

(2) Connecting a cesspool located on Hawaiian home lands to a sewerage system,  
in compliance with section 342D-72.

(b) There is established in the state treasury the cesspool compliance grant program special fund to be administered by the department of Hawaiian home lands and into



1 which shall be deposited appropriations made by the legislature  
2 to the fund. Moneys in the special fund shall be used for the  
3 purposes of this section.

4 (c) The cesspool compliance grant program shall provide  
5 grants to lessees in an amount no greater than \$10,000 per  
6 tract.

7 (d) The department of Hawaiian home lands may adopt rules  
8 pursuant to chapter 91 to effectuate and carry out the purposes  
9 of this section.

10 (e) The department of Hawaiian home lands shall be exempt  
11 from section 235-116 and may periodically share with the  
12 department of taxation the cesspool compliance grant recipient's  
13 tax identification number and other information necessary to  
14 ensure cesspool compliance grant recipients do not also claim  
15 the cesspool upgrade, conversion, and connection income tax  
16 credit established in section 235-16.5.

17 (f) For purposes of this section:

18 "Aerobic treatment unit system" has the same meaning as in  
19 section 342D-72.

20 "Cesspool" has the same meaning as in section 342D-72.



1 "Lessee" means an individual who holds a lease for a tract  
2 pursuant to section 207 of the Hawaiian Homes Commission Act,  
3 1920, as amended.

4 "Septic system" has the same meaning as in section 342D-72.

5 "Tract" means any parcel of Hawaiian home lands leased  
6 pursuant to section 207 of the Hawaiian Homes Commission Act,  
7 1920, as amended."

8 PART II

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

11 "§235-16.5 Cesspool upgrade, conversion, or connection;  
12 income tax credit. (a) There shall be allowed to each taxpayer  
13 subject to the tax imposed under this chapter, a cesspool  
14 upgrade, conversion, or connection income tax credit that shall  
15 be deductible from the taxpayer's net income tax liability, if  
16 any, imposed by this chapter for the taxable year in which the  
17 credit is properly claimed.

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



1 entity level. Distribution and share of credit shall be  
2 determined by rule.

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

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



1 having been exceeded for that taxable year shall be eligible to  
2 claim the credit in the subsequent taxable year.

3 (e) The department of health shall:

4 (1) Certify all qualified cesspools for the purposes of  
5 this section;

6 (2) Collect and maintain a record of all qualified  
7 expenses certified by an appropriate government agency  
8 for the taxable year; and

9 (3) Certify to each taxpayer the amount of credit the  
10 taxpayer may claim; provided that if, in any year, the  
11 annual amount of certified credits reaches \$5,000,000  
12 in the aggregate, the department of health shall  
13 immediately discontinue certifying credits and notify  
14 the department of taxation.

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

18 (f) The director of taxation:

19 (1) Shall prepare any forms that may be necessary to claim  
20 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 a taxpayer who received a grant pursuant to the  
19          cesspool compliance grant program established under section  
20          342D- . If a taxpayer has claimed the credit established in



1 this section, the taxpayer shall be ineligible for a grant made  
2 available under section 342D- .

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

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

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

16 "Qualified cesspool" means a cesspool that is:

17 (1) Certified by the department of health to be:

18 (A) Located within:

19 (i) Five hundred feet of a shoreline, perennial  
20 stream, or wetland; or



1                   (ii) A source water assessment program area (two  
2                                   year time of travel from a cesspool to a  
3                                   public drinking water source);

4                   (B) Shown to impact drinking water supplies or  
5                                   recreational waters; or

6                   (C) A residential large capacity cesspool; or

7                   (2) Certified by a county or private sewer company to be  
8                                   appropriate for connection to its existing sewer  
9                                   system.

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

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

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





1 "Sewer system" means a system of piping, with  
2 appurtenances, for collecting and conveying wastewater from  
3 source to discharge following treatment.

4 "Wastewater" means any liquid waste, whether or not treated  
5 and whether animal, mineral, or vegetable, including  
6 agricultural, industrial, and thermal wastes."

7 PART III

8 SECTION 3. There is appropriated out of the general  
9 revenues of the State of Hawaii the sum of \$ or so  
10 much thereof as may be necessary for fiscal year 2019-2020 to be  
11 deposited into the cesspool compliance grant program special  
12 fund established pursuant to section 1 of this Act.

13 SECTION 4. There is appropriated out of the cesspool  
14 compliance grant program special fund the sum of \$ or  
15 so much thereof as may be necessary for fiscal year 2019-2020  
16 and the same sum or so much thereof as may be necessary for  
17 fiscal year 2020-2021 to implement the cesspool compliance grant  
18 program.

19 The sums appropriated shall be expended by the department  
20 of Hawaiian home lands for the purposes of this Act.

21 PART IV



1 SECTION 5. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect upon its approval,  
4 provided that:

5 (1) Part II shall apply to taxable years beginning after  
6 December 31, 2018; and

7 (2) Part III shall take effect on July 1, 2019.  
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# S.B. NO. 1370

**Report Title:**

Department of Hawaiian Home Lands; Cesspools; Grant Program; Appropriation

**Description:**

Establishes a grant program and special fund to assist lessees on Hawaiian home lands with cesspool upgrade, conversion, or connection costs. Establishes that a recipient of a cesspool upgrade grant shall not be eligible for the cesspool upgrade, conversion, or connection income tax credit and vice versa. Appropriates moneys for the grant program.

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