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



1 (c) The department of Hawaiian home lands may adopt rules
2 pursuant to chapter 91 to effectuate and carry out the purposes
3 of this section.

4 (d) The department of Hawaiian home lands shall be exempt
5 from section 235-116 and may periodically share with the
6 department of taxation the cesspool compliance grant recipient's
7 tax identification number and other information necessary to
8 ensure cesspool compliance grant recipients do not also claim
9 the cesspool upgrade, conversion, and connection income tax
10 credit established in section 235-16.5.

11 (e) For purposes of this section:

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

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

15 "Lessee" means an individual who holds a lease for a tract
16 pursuant to section 207 of the Hawaiian Homes Commission Act,
17 1920, as amended.

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

19 "Tract" means any parcel of Hawaiian home lands leased
20 pursuant to section 207 of the Hawaiian Homes Commission Act,
21 1920, as amended."



1 PART II

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

4 **"§235-16.5 Cesspool upgrade, conversion, or connection;**
5 **income tax credit.** (a) There shall be allowed to each taxpayer
6 subject to the tax imposed under this chapter, a cesspool
7 upgrade, conversion, or connection income tax credit that shall
8 be deductible from the taxpayer's net income tax liability, if
9 any, imposed by this chapter for the taxable year in which the
10 credit is properly claimed.

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

17 (c) The cesspool upgrade, conversion, or connection income
18 tax credit shall be equal to the qualified expenses of the
19 taxpayer, up to a maximum of \$10,000; provided that, in the case
20 of a qualified cesspool that is a residential large capacity
21 cesspool, the amount of the credit shall be equal to the



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

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

17 (e) The department of health shall:

18 (1) Certify all qualified cesspools for the purposes of
19 this section;



- 1 (2) Collect and maintain a record of all qualified
- 2 expenses certified by an appropriate government agency
- 3 for the taxable year; and
- 4 (3) Certify to each taxpayer the amount of credit the
- 5 taxpayer may claim; provided that if, in any year, the
- 6 annual amount of certified credits reaches \$5,000,000
- 7 in the aggregate, the department of health shall
- 8 immediately discontinue certifying credits and notify
- 9 the department of taxation.

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

- 13 (f) The director of taxation:
- 14 (1) Shall prepare any forms that may be necessary to claim
- 15 a tax credit under this section;
- 16 (2) May require the taxpayer to furnish reasonable
- 17 information to ascertain the validity of the claim for
- 18 the tax credit made under this section; and
- 19 (3) May adopt rules under chapter 91 necessary to
- 20 effectuate the purposes of this section.



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

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

12 (i) The tax credit under this section shall not be
13 available to a taxpayer who received a grant pursuant to the
14 cesspool compliance grant program established under section
15 342D- . If a taxpayer has claimed the credit established in
16 this section, the taxpayer shall be ineligible for a grant made
17 available under section 342D- .

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

19 "Aerobic treatment unit system" means an individual
20 wastewater system that consists of an aerobic treatment unit
21 tank, aeration device, piping, and a discharge method that is in



1 accordance with rules adopted by the department of health
2 relating to household aerobic units.

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

10 "Qualified cesspool" means a cesspool that is:

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

12 (A) Located within:

13 (i) Five hundred feet of a shoreline, perennial
14 stream, or wetland; or

15 (ii) A source water assessment program area (two
16 year time of travel from a cesspool to a
17 public drinking water source);

18 (B) Shown to impact drinking water supplies or
19 recreational waters; or

20 (C) A residential large capacity cesspool; or



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

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

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

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

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

19 "Wastewater" means any liquid waste, whether or not treated
20 and whether animal, mineral, or vegetable, including
21 agricultural, industrial, and thermal wastes."



1 PART III

2 SECTION 3. There is appropriated out of the general
3 revenues of the State of Hawaii the sum of \$ or so much
4 thereof as may be necessary for fiscal year 2019-2020 and the
5 same sum or so much thereof as may be necessary for fiscal year
6 2020-2021 to implement the cesspool compliance grant program.

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

9 PART IV

10 SECTION 4. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 5. This Act shall take effect on July 1, 2050;
13 provided that:

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

16 (2) Part III shall take effect on July 1, 2019.



Report Title:

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

Description:

Establishes a grant program 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. Effective 7/1/2050. (SD2)

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