
A BILL FOR AN ACT

RELATING TO WELL ABANDONMENT.

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

1 SECTION 1. Chapter 235, Hawaii Revised Statutes, is
2 amended by adding a new section to part I to be appropriately
3 designated and to read as follows:

4 "§235- Well abandonment compliance income tax credit.

5 (a) There shall be allowed to each taxpayer a well abandonment
6 compliance income tax credit that shall be deductible from the
7 taxpayer's net income tax liability, if any, imposed by this
8 chapter for the taxable year in which the credit is properly
9 claimed.

10 (b) The cost upon which the tax credit is computed shall
11 be determined at the entity level. In the case of a
12 partnership, S corporation, estate, trust, or other pass through
13 entity, distribution and share of the credit shall be determined
14 by rule.

15 (c) The well abandonment compliance income tax credit
16 shall be equal to per cent of the qualified compliance
17 costs incurred by the taxpayer, up to a maximum of \$.



1 (d) 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 (e) The director of taxation:

11 (1) Shall prepare any forms that may be necessary to claim
 12 a credit under this section;

13 (2) May require the taxpayer to furnish information to
 14 ascertain the validity of the claim for credit made
 15 under this section; and

16 (3) May adopt rules pursuant to chapter 91 to effectuate
 17 this section.

18 (f) The commission on water resource management shall:

19 (1) Maintain records of the total amount of qualified
 20 compliance costs for each taxpayer claiming a credit;



- 1 (2) Verify the amount of the qualified compliance costs
2 claimed;
- 3 (3) Total all qualified compliance costs claimed; and
- 4 (4) Certify the total amount of the tax credit for each
5 taxable year.

6 Upon each determination, the commission on water resource
7 management shall issue a certificate to the taxpayer verifying
8 the qualifying compliance costs and the credit amount certified
9 for each taxable year. For a taxable year, the commission on
10 water resource management may certify a credit for a taxpayer
11 who could have claimed the credit in a previous taxable year,
12 but chose not to because the maximum annual credit amount under
13 subsection (g) was reached in that taxable year.

14 The taxpayer shall file the certificate with the taxpayer's
15 tax return with the department of taxation. Notwithstanding the
16 commission on water resource management's certification
17 authority under this section, the director of taxation may audit
18 and adjust certification to conform to the facts.

19 Notwithstanding any other law to the contrary, the
20 information required by this subsection shall be available for
21 public inspection and dissemination under chapter 92F.



1 (g) If in any taxable year the annual amount of certified
2 credits reaches \$ in the aggregate, the commission on
3 water resource management shall immediately discontinue
4 certifying credits and notify the department of taxation. In no
5 instance shall the commission on water resource management
6 certify a total amount of credits exceeding \$ per
7 taxable year. To comply with this restriction, the commission
8 on water resource management shall certify credits on a first
9 come, first served basis.

10 The department of taxation shall not allow the aggregate
11 amount of credits claimed to exceed that amount per taxable
12 year.

13 (h) This section shall not apply to taxable years
14 beginning after December 31, .

15 (i) As used in this section:

16 "Abandoned well" shall have the same meaning as defined in
17 section 174C-81.

18 "Net income tax liability" means income tax liability
19 reduced by all other credits allowed under this chapter.

20 "Qualified compliance costs" means construction costs that
21 are necessary and directly incurred by the taxpayer to fill and



1 seal an abandoned well in compliance with section 174C-87.

2 "Qualified compliance costs" do not include costs incurred to
3 seal or plug:

4 (1) A well that has not been certified by the commission
5 on water resource management pursuant to section
6 174C-27;

7 (2) A well for which a permit has been issued under
8 section 174C-84, but the construction has not been
9 completed; or

10 (3) An incomplete and abandoned well pursuant to section
11 174C-84(e).

12 "Well" shall have the same meaning as defined in section
13 174C-3."

14 SECTION 2. Chapter 508D, Hawaii Revised Statutes, is
15 amended by adding a new section to be appropriately designated
16 and to read as follows:

17 **"§508D- Wells; material fact; disclosure.** (a) The
18 existence of a well, abandoned or otherwise, on real property
19 subject to this chapter shall be considered a material fact and
20 shall be included in a seller's disclosure statement.



1 (b) If a seller fails to disclose the existence of a well,
2 as required under subsection (a), and the buyer is required by
3 the commission on water resource management to abandon and seal
4 the well, the seller shall be liable to the buyer for costs
5 incurred by the buyer to fill and seal the well in compliance
6 with section 174C-87."

7 SECTION 3. Section 174C-81, Hawaii Revised Statutes, is
8 amended by amending the definition of "abandoned well" to read
9 as follows:

10 "'Abandoned well" means any well [~~that~~] the purpose or use
11 of which has been permanently discontinued. Any well shall be
12 deemed abandoned [~~which is~~] whenever the well has served its
13 purpose, the well use has been permanently discontinued, the
14 well is not properly maintained, the physical condition of the
15 well is causing a waste of ground water or is impairing or
16 threatens to impair the quality of the ground water resources,
17 or is in such a state of disrepair that its continued use [~~for~~
18 ~~the purpose of obtaining ground water~~] is impractical[~~r~~] or it
19 is a hazard to public health or safety."



1 SECTION 4. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

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

6 SECTION 6. This Act shall take effect on July 1, 2050;
7 provided that section 1 of this Act shall:

- 8 (1) Apply to taxable years beginning after December 31,
9 2020; and
10 (2) Be repealed on .



Report Title:

Abandoned Wells; Income Tax Credit; Disclosure

Description:

Establishes an income tax credit for taxpayers who are required to fill and seal abandoned wells on their real property. Clarifies the definition of the term "abandoned well". Requires sellers of real property to disclose the existence of wells on the property. Effective 7/1/2050. Tax credit applies to taxable years beginning after 12/31/2020. Tax credit sunsets on an unspecified date. (SD1)

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