
A BILL FOR AN ACT

RELATING TO CESSPOOLS.

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

1 SECTION 1. The legislature finds that Hawaii has nearly
2 88,000 cesspools that release more than 50,000,000 gallons of
3 raw sewage into the State's groundwater and surface waters every
4 day. Cesspools are an antiquated technology for disposal of
5 untreated sewage that have the potential to pollute groundwater
6 and harm streams and coastal resources, including coral reefs.

7 The legislature also finds that Act 125, Session Laws of
8 Hawaii 2017 (Act 125), established a requirement for the
9 conversion of all cesspools in the State to department of health
10 approved wastewater management systems by 2050. However, in
11 order to achieve this goal by 2050, the State must begin to take
12 action now.

13 The legislature further finds that one mechanism commonly
14 used by other states that have faced similar challenges is to
15 require that existing cesspools are converted at the point of
16 sale or when a property is sold in a real estate transaction.
17 This requirement would systematically reduce the number of



1 cesspools in Hawaii, protect homebuyers by ensuring that the
2 wastewater management system on the property they are buying
3 will not be illegal in 2050, and open up financing options for
4 the cost of the conversion. Massachusetts, New Jersey, New
5 York, and Rhode Island are examples of states that have enacted
6 point-of-sale cesspool conversion requirements.

7 The legislature additionally finds that the cost of
8 cesspool conversion can be a challenge for low- and middle-
9 income residents and that offering an income tax credit to
10 offset the cost of cesspool conversion would help to mitigate
11 the financial burden on these individuals, just as Act 125
12 offered a temporary income tax credit for the cost of upgrading,
13 converting, or connecting a cesspool.

14 Therefore, the purpose of this Act is to:

- 15 (1) Provide a tax credit for the upgrade or conversion of
16 a cesspool to a director-approved wastewater system or
17 connection of a cesspool to a sewerage system;
- 18 (2) Require cesspool upgrades, conversions, or connections
19 at the point of sale of real property or within twelve
20 months of the date of sale recordation, with certain
21 exemptions; and



1 (3) Appropriate funds for additional positions for the
2 department of health to assist with monitoring and
3 enforcing cesspool upgrades, conversions, and
4 connections.

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

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

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



1 (c) The amount of the tax credit shall be equal to the
2 qualified expenses of the taxpayer, up to a maximum of:
3 (1) \$15,000 per residential dwelling connected to the
4 cesspool, for a taxpayer with a federal adjusted gross
5 income of less than \$ _____ ;
6 (2) \$10,000 per residential dwelling connected to the
7 cesspool, for a taxpayer with a federal adjusted gross
8 income of at least \$ _____ but less than
9 \$ _____ ;
10 (3) \$7,500 per residential dwelling connected to the
11 cesspool, for a taxpayer with a federal adjusted gross
12 income of at least \$ _____ but less than
13 \$ _____ ; and
14 (4) \$0 per residential dwelling connected to the cesspool,
15 for a taxpayer with a federal adjusted gross income
16 greater than \$ _____ .
17 (d) A maximum of one tax credit may be issued per
18 cesspool. The tax credit shall be available only for the
19 taxable year in which the taxpayer's qualified expenses are
20 certified by the appropriate government agency.



1 (e) The total amount of tax credits allowed under this
2 section shall not exceed \$ for all taxpayers in any
3 taxable year; provided that any taxpayer who is not eligible to
4 claim the credit in a taxable year due to the cap having been
5 exceeded for that taxable year shall be eligible to claim the
6 credit in the subsequent taxable year.

7 (f) The department of health shall:

8 (1) Collect and maintain a record of all qualified
9 expenses certified by an appropriate government agency
10 for the taxable year; and

11 (2) Certify to each taxpayer the amount of credit the
12 taxpayer may claim; provided that if, in any year, the
13 annual amount of certified credits reaches \$
14 in the aggregate, the appropriate government agency
15 shall immediately discontinue certifying credits and
16 notify the department of taxation.

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

20 (g) The director of taxation:



- 1 (1) Shall prepare any forms that may be necessary to claim
2 a tax credit under this section;
- 3 (2) May require the taxpayer to furnish reasonable
4 information to ascertain the validity of the claim for
5 the tax credit made under this section; and
- 6 (3) Shall adopt rules under chapter 91 as necessary to
7 implement this section.
- 8 (h) If the tax credit claimed by the taxpayer under this
9 section exceeds the amount of the income tax payments due from
10 the taxpayer, the excess of credit over payments due shall be
11 refunded to the taxpayer; provided that the tax credit properly
12 claimed by a taxpayer who has no income tax liability shall be
13 paid to the taxpayer; provided further that no refunds or
14 payments on account of the tax credit allowed by this section
15 shall be made for amounts less than \$1. All claims for the tax
16 credit under this section, including amended claims, shall be
17 filed on or before the end of the twelfth month following the
18 close of the taxable year for which the credit may be claimed.
19 Failure to comply with the foregoing provision shall constitute
20 a waiver of the right to claim the credit.



1 (i) This section shall apply to taxable years beginning
2 after December 31, 2022, and ending before January 1, 2036.

3 (j) As used in this section:

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

5 "Qualified expenses" means costs that are necessary and
6 directly incurred by the taxpayer for upgrading or converting a
7 cesspool to a director of health-approved wastewater system or
8 connecting a cesspool to a sewerage system and that are
9 certified as such by the appropriate government agency.

10 "Sewerage system" has the same meaning as in section
11 342D-1.

12 "Wastewater" means any liquid waste, whether or not
13 treated, and whether animal, mineral, or vegetable, including
14 agricultural, industrial, and thermal wastes."

15 SECTION 3. Chapter 342D, Hawaii Revised Statutes, is
16 amended by adding a new section to part IV to be appropriately
17 designated and to read as follows:

18 **"§342D- Cesspool upgrade, conversion, or connection;**
19 **point of sale.** (a) Any cesspool on real property that is sold
20 or whose ownership is transferred on or after January 1, 2024,
21 shall be:



- 1 (1) Upgraded or converted to a director-approved
2 wastewater system; or
- 3 (2) Connected to a sewerage system,
4 at the time of sale or transfer of ownership of the real
5 property or within twelve months of the date of sale
6 recordation; provided that the requirements of this section
7 shall apply to cesspools that are located on properties within
8 one thousand feet of a shoreline, perennial stream, wetland,
9 drinking water well, or sensitive body of water.
- 10 (b) The department of health shall adopt rules pursuant to
11 chapter 91 to implement this section, including rules for
12 enforcing this section and any exemptions from this section that
13 the department deems necessary; provided that the rules shall
14 include at least the following exemptions:
- 15 (1) Cesspools on real property transferred between joint
16 tenants or tenants in common;
- 17 (2) Cesspools on real property transferred to a spouse,
18 child, or parent; and
- 19 (3) Cesspools on real property transferred between spouses
20 resulting from a decree of dissolution of marriage, a



1 decree of legal separation, or a property settlement
2 agreement that is incidental to the decree.

3 (c) As used in this section, "cesspool" has the same
4 meaning as in section 342D-72."

5 SECTION 4. There is appropriated out of the general
6 revenues of the State of Hawaii the sum of \$ or so
7 much thereof as may be necessary for fiscal year 2022-2023 for
8 four full-time equivalent (4.0 FTE) positions for the department
9 of health's wastewater branch to assist with monitoring and
10 enforcing the cesspool upgrades, conversions, and connections
11 pursuant to this Act.

12 The sum appropriated shall be expended by the department of
13 health for the purposes of this Act.

14 SECTION 5. This Act does not affect rights and duties that
15 matured, penalties that were incurred, and proceedings that were
16 begun before its effective date.

17 SECTION 6. New statutory material is underscored.

18



1 SECTION 7. This Act shall take effect on July 1, 2100;
2 provided that section 2 shall:
3 (1) Apply to taxable years beginning after December 31,
4 2022; and
5 (2) Be repealed on December 31, 2035.



H.B. NO. 1805 H.D. 1

Report Title:

Cesspools; Point of Sale; Upgrade, Conversion, or Connection;
Income Tax Credit; Appropriation

Description:

Establishes a temporary income tax credit until 12/31/2035 for costs of cesspool upgrade, conversion, or connection. Requires the upgrade, conversion, or connection of cesspools upon sale of real property or within 12 months of the date of sale recordation, with certain exemptions. Appropriates funds for additional positions to monitor and enforce cesspool upgrades, conversions, and connections. Effective 7/1/2100. (HD1)

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

