

JAN 19 2024

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 there are
2 approximately eighty-eight thousand cesspools across the State,
3 with nearly fifty thousand on Hawaii island, almost fourteen
4 thousand on Kauai, over twelve thousand on Maui, over eleven
5 thousand on Oahu, and one thousand four hundred on Molokai.
6 These cesspools harm the health of Hawaii's people and
7 environment. Cesspools are antiquated, substandard systems that
8 can pollute groundwater and nearshore water and harm the health
9 of coral reefs and marine resources. Hawaii's cesspools
10 discharge more than fifty million gallons of wastewater into the
11 environment every day. Pursuant to Act 125, Session Laws of
12 Hawaii 2017, every cesspool in the State, excluding cesspools
13 granted exemptions by the director of health, must be upgraded
14 or converted to a director of health-approved wastewater system
15 or connected to a sewerage system by January 1, 2050.

16 Furthermore, in Act 132, Session Laws of Hawaii 2018, the
17 legislature authorized the establishment of the cesspool



1 conversion working group to develop a long-range, comprehensive
2 plan for conversion of cesspools statewide by 2050 and make
3 recommendations for policies, programs, and other actions to
4 facilitate cesspool conversions.

5 The legislature further finds that one recommendation of
6 the cesspool conversion working group is to ensure that buyers
7 of real property are adequately informed about the existence of
8 a cesspool on a property they are considering purchasing, a
9 requirement that would protect consumers. The legislature also
10 finds that a property with a cesspool that must be converted by
11 a set date is a material fact as defined in chapter 508D, Hawaii
12 Revised Statutes, that should be clearly and explicitly
13 disclosed by the seller in a real property transaction.
14 Furthermore, if the property does have a cesspool, the priority
15 level of that cesspool as determined by the Hawaii cesspool
16 prioritization tool, including the date by which that cesspool
17 must be converted, should also be disclosed.

18 The legislature additionally finds that the cesspool
19 conversion working group identified public outreach and
20 education as an essential component of cesspool conversion and
21 that programs in other jurisdictions found that robust public



1 outreach was necessary for the success of their efforts. One
2 recommendation of the working group was to fund the development
3 and implementation of a comprehensive outreach strategy, as well
4 as the development of a website to serve as a statewide
5 informational clearinghouse.

6 Therefore, the purpose of this Act is to:

7 (1) Authorize and appropriate funds to the department of
8 health to retain qualified consultants as necessary to
9 identify necessary public outreach and education
10 resources and tools and develop a comprehensive public
11 outreach strategy and website to serve as a statewide
12 clearinghouse for information and resources for
13 homeowners and wastewater industry professionals
14 related to cesspool conversion; and

15 (2) Require that mandatory seller disclosures in real
16 estate transactions include whether the property has a
17 cesspool, including the date by which state law
18 mandates that the cesspool be upgraded, converted, or
19 connected, and the priority level of the cesspool
20 according to the Hawaii cesspool hazard assessment and
21 prioritization tool.



1 SECTION 2. Section 342D-59, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~f~~]§342D-59[~~f~~] **Research, educational, and training**
4 **programs.** The director may:

- 5 (1) Conduct and supervise research programs for the
6 purpose of determining the causes, effects, and
7 hazards of water pollution, the quality of the
8 receiving water and the means to monitor the quality
9 of water, or to [~~effect~~] affect the proper disposal of
10 sewage, drainage, and waste;
- 11 (2) With the approval of the governor, cooperate with, and
12 receive money from the federal government, or any
13 political subdivision of the State or from private
14 sources for the study and control of water pollution;
15 [~~and~~]
- 16 (3) Conduct and supervise state educational and training
17 programs on water pollution prevention, control, and
18 abatement, including the preparation and distribution
19 of information relating to water pollution[~~-~~]; and
- 20 (4) In consultation with counties, nonprofit
21 organizations, and wastewater industry professionals:



- 1 (A) Identify necessary resources and tools for public
2 outreach and education, including necessary
3 funding and timelines, to meet the requirements
4 of section 342D-72;
- 5 (B) Develop a comprehensive public outreach strategy
6 for the State and counties to educate homeowners
7 on cesspool conversion options and resources; and
- 8 (C) Develop a website to serve as a statewide
9 clearinghouse for information and resources for
10 homeowners and wastewater industry professionals
11 about resources, priority zone maps, cesspool
12 impacts, financing options, exemptions, county
13 plans, and any other relevant information."

14 SECTION 3. Section 508D-15, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§508D-15 Notification required; ambiguity.** (a) When
17 residential real property lies:

- 18 (1) Within the boundaries of a special flood hazard area
19 as officially designated on flood maps promulgated by
20 the National Flood Insurance Program of the Federal
21 Emergency Management Agency for the purposes of



1 determining eligibility for emergency flood insurance
2 programs;

3 (2) Within the boundaries of the noise exposure area shown
4 on maps prepared by the department of transportation
5 in accordance with Federal Aviation Regulation part
6 150, Airport Noise Compatibility Planning (14 C.F.R.
7 part 150), for any public airport;

8 (3) Within the boundaries of the Air Installation
9 Compatible Use Zone of any Air Force, Army, Navy, or
10 Marine Corps airport as officially designated by
11 military authorities;

12 (4) Within the anticipated inundation areas designated on
13 the department of defense's emergency management
14 tsunami inundation maps; or

15 (5) Within the sea level rise exposure area as designated
16 by the Hawaii climate change mitigation and adaptation
17 commission or its successor,

18 subject to the availability of maps that designate the five
19 areas by tax map key (zone, section, parcel), the seller shall
20 include the material fact information in the disclosure
21 statement provided to the buyer subject to this chapter. Each

1 county shall provide, where available, maps of its jurisdiction
2 detailing the five designated areas specified in this
3 subsection. The maps shall identify the properties situated
4 within the five designated areas by tax map key number (zone,
5 section, parcel) and shall be of a size sufficient to provide
6 information necessary to serve the purposes of this section.
7 Each county shall provide legible copies of the maps and may
8 charge a reasonable copying fee.

9 (b) When it is questionable whether residential real
10 property lies within any of the designated areas referred to in
11 subsection (a) due to the inherent ambiguity of boundary lines
12 drawn on maps of large scale, the ambiguity shall be construed
13 in favor of the seller; provided that a good faith effort has
14 been made to determine the applicability of subsection (a) to
15 the subject real property.

16 (c) When residential real property contains a cesspool and
17 the cesspool is identified by the maps in the University of
18 Hawaii 2022 Hawaii cesspool hazard assessment and prioritization
19 tool, subject to the availability of the maps, the seller shall
20 include the material fact information in the disclosure
21 statement provided to the buyer subject to this chapter. The



1 maps shall identify the cesspool priority level and the date,
2 established by law, by which the cesspool is required to be
3 upgraded or converted to a director of health-approved
4 wastewater system or connected to a sewerage system.

5 ~~[(e)]~~ (d) Except as required under subsections (a) and
6 (b), and as required under section 508D-3.5, the seller shall
7 have no duty to examine any public record when preparing a
8 disclosure statement."

9 SECTION 4. Notwithstanding section 342D-83, Hawaii Revised
10 Statutes, or any other law to the contrary, there is
11 appropriated out of the water pollution control revolving fund
12 the sum of \$150,000 or so much thereof as may be necessary for
13 fiscal year 2024-2025 for the department of health to retain
14 qualified consultants, as necessary, to identify necessary
15 public outreach and education resources and tools, and develop a
16 comprehensive public outreach strategy and website to provide
17 necessary information to homeowners and wastewater industry
18 professionals about information and resources regarding the
19 State's cesspool connection, upgrade, and conversion
20 requirements and deadlines.



S.B. NO. 2425

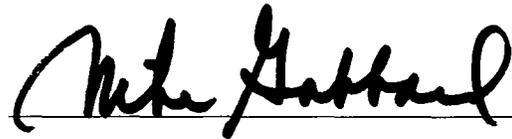
1 The sum appropriated shall be expended by the department of
2 health for the purposes of this section.

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

5 SECTION 6. This Act shall take effect on July 1, 2024;
6 provided that section 3 shall take effect on November 1, 2024.

7

INTRODUCED BY:





S.B. NO. 2425

Report Title:

Cesspools; DOH; Public Outreach and Education; Real Property;
Mandatory Seller Disclosures; Appropriation

Description:

Authorizes and appropriates funds to the Department of Health to retain qualified consultants as necessary to identify necessary public outreach and education resources and tools and develop a comprehensive public outreach strategy and website to educate homeowners and wastewater industry professionals about information and resources regarding the State's cesspool upgrade, conversion, and connection requirements and deadlines. Requires that mandatory seller disclosures in real estate transactions include whether the property has a cesspool, including the date by which state law mandates that the cesspool be upgraded, converted, or connected, and the priority level of the cesspool according to the Hawaii cesspool hazard assessment and prioritization tool.

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

