

JAN 24 2018

A BILL FOR AN ACT

RELATING TO CESSPOOLS.

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

PART I

SECTION 1. The Hawaiian Homes Commission Act, 1920, as amended, is amended by adding a new section to be appropriately designated and to read as follows:

"§ _____. Cesspool compliance grant program; special fund.

(a) There is established in the department the cesspool compliance grant program to assist beneficiaries of this Act 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, Hawaii Revised Statutes.

(b) There is established in the state treasury the cesspool compliance grant program special fund to be administered by the department and into which shall be deposited



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

3 (c) The cesspool compliance grant program shall provide
4 grants to beneficiaries of this Act in an amount no greater than
5 \$10,000 per property.

6 (d) The department may adopt rules pursuant to chapter 91,
7 Hawaii Revised Statutes, to effectuate and carry out the
8 purposes of this section."

9 PART II

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

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

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



1 which the tax credit is computed shall be determined at the
2 entity level. Distribution and share of credit shall be
3 determined by rule.

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

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



1 claim the credit in a taxable year due to the \$5,000,000 cap
2 having been exceeded for that taxable year shall be eligible to
3 claim the credit in the subsequent taxable year.

4 (e) The department of health shall:

5 (1) Certify all qualified cesspools for the purposes of
6 this section; provided that, as a pilot program, the
7 department of health, in its discretion, may certify
8 no more than two residential large capacity cesspools
9 as qualified cesspools;

10 (2) Collect and maintain a record of all qualified
11 expenses certified by an appropriate government agency
12 for the taxable year; and

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

19 The director of health may adopt rules under chapter 91 as
20 necessary to implement the certification requirements under this
21 section.



(f) The director of taxation:

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

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

(3) May adopt rules under chapter 91 necessary to effectuate the purposes of this section.

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

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

(i) The tax credit under this section shall not be available to a taxpayer who receives a grant pursuant to the



1 cesspool compliance grant program established under
2 section . of the Hawaiian Homes Commission Act, 1920, as
3 amended. If a taxpayer has claimed the credit established in
4 this section, the taxpayer shall be ineligible for a grant made
5 available under section . of the Hawaiian Homes Commission
6 Act of 1920, as amended.

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

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

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

20 "Qualified cesspool" means a cesspool that is:

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



(A) Located within:

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

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

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

(C) A residential large capacity cesspool; or

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

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

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



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

5 "Sewer system" means a system of piping, with
6 appurtenances, for collecting and conveying wastewater from
7 source to discharge following treatment.

8 "Wastewater" means any liquid waste, whether or not treated
9 and whether animal, mineral, or vegetable, including
10 agricultural, industrial, and thermal wastes."

11 PART III

12 SECTION 3. There is appropriated out of the general
13 revenues of the State of Hawaii the sum of \$50,000,000 or so
14 much thereof as may be necessary for fiscal year 2018-2019 for
15 deposit into the cesspool compliance grant program special fund.

16 SECTION 4. There is appropriated out of the cesspool
17 compliance grant program special fund the sum of \$50,000,000 or
18 so much thereof as may be necessary for fiscal year 2018-2019 to
19 implement the cesspool compliance grant program.

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



S.B. NO. 2717

PART IV

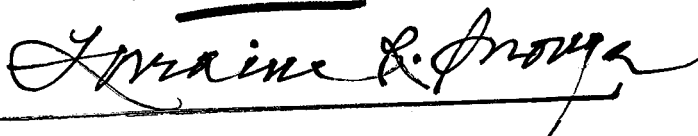
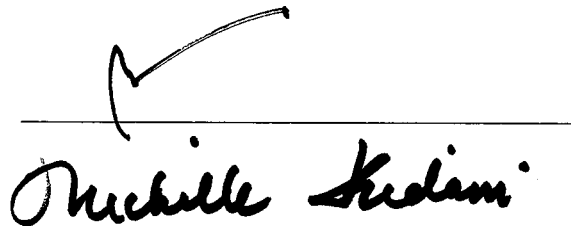
SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval; provided that:

(1) Part II shall apply to taxable years beginning after December 31, 2017; and

(2) Part III shall take effect of July 1, 2018.

INTRODUCED BY:



S.B. NO. 2717

Report Title:

Department of Hawaiian Home Lands; Cesspools; Upgrade, Conversion, or Connection; Grant Program; Appropriation

Description:

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

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