
A BILL FOR AN ACT

RELATING TO CESSPOOLS.

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

1 PART I

2 SECTION 1. Chapter 342D, is amended by adding a new
3 section to part V to be appropriately designated and to read as
4 follows:

5 "§342D- Cesspool compliance grant program; special
6 fund. (a) There is established in the department of Hawaiian
7 home lands the cesspool compliance grant program to assist
8 lessees in meeting the costs of:

9 (1) Upgrading or converting a cesspool located on Hawaiian
10 home lands to a septic system or aerobic treatment
11 unit system; or

12 (2) Connecting a cesspool located on Hawaiian home lands
13 to a sewerage system,
14 in compliance with section 342D-72.

15 (b) There is established in the state treasury the
16 cesspool compliance grant program special fund to be
17 administered by the department of Hawaiian home lands and into



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

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

7 (d) The department of Hawaiian home lands may adopt rules
8 pursuant to chapter 91 to effectuate and carry out the purposes
9 of this section.

10 (e) The department of Hawaiian home lands shall be exempt
11 from section 235-116 and may periodically share with the
12 department of taxation the cesspool compliance grant recipient's
13 tax identification number and other information necessary to
14 ensure cesspool compliance grant recipients do not also claim
15 the cesspool upgrade, conversion, and connection income tax
16 credit established in section 235-16.5.

17 (f) For purposes of this section:

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

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



1 "Lessee" means an individual who holds a lease for a tract
2 pursuant to section 207 of the Hawaiian Homes Commission Act,
3 1920, as amended.

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

5 "Tract" means any parcel of Hawaiian home lands leased
6 pursuant to section 207 of the Hawaiian Homes Commission Act,
7 1920, as amended."

8 PART II

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

11 **"§235-16.5 Cesspool upgrade, conversion, or connection;**
12 **income tax credit.** (a) There shall be allowed to each taxpayer
13 subject to the tax imposed under this chapter, a cesspool
14 upgrade, conversion, or connection income tax credit that shall
15 be deductible from the taxpayer's net income tax liability, if
16 any, imposed by this chapter for the taxable year in which the
17 credit is properly claimed.

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



1 entity level. Distribution and share of credit shall be
2 determined by rule.

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

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



1 having been exceeded for that taxable year shall be eligible to
2 claim the credit in the subsequent taxable year.

3 (e) The department of health shall:

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

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

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

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

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

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

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

19 (i) The tax credit under this section shall not be
20 available to a taxpayer who receives a grant pursuant to the
21 cesspool compliance grant program established under section



1 342D- . If a taxpayer has claimed the credit established in
2 this section, the taxpayer shall be ineligible for a grant made
3 available under section 342D- .

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

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

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

17 "Qualified cesspool" means a cesspool that is:

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

19 (A) Located within:

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



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

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

6 (C) A residential large capacity cesspool; or

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

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

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

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



1 "Sewer system" means a system of piping, with
2 appurtenances, for collecting and conveying wastewater from
3 source to discharge following treatment.

4 "Wastewater" means any liquid waste, whether or not treated
5 and whether animal, mineral, or vegetable, including
6 agricultural, industrial, and thermal wastes."

7 PART III

8 SECTION 3. There is appropriated out of the general
9 revenues of the State of Hawaii the sum of \$ or so much
10 thereof as may be necessary for fiscal year 2018-2019 for
11 deposit into the cesspool compliance grant program special fund.

12 SECTION 4. There is appropriated out of the cesspool
13 compliance grant program special fund the sum of \$ or so
14 much thereof as may be necessary for fiscal year 2018-2019 to
15 implement the cesspool compliance grant program.

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

18 PART IV

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



1 SECTION 6. This Act shall take effect on July 1, 2050;

2 provided that:

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

5 (2) Part III shall take effect of July 1, 2050.



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 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. Appropriates moneys for the grant program. Effective 7/1/2050. (SD2)

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