
A BILL FOR AN ACT

RELATING TO ABANDONED WELLS.

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

1 SECTION 1. The legislature finds that wells in a state of
2 disuse or disrepair can become conduits for contaminants to be
3 introduced into ground water. Abandoned wells can also become
4 receptacles for the disposal of waste, potentially resulting in
5 additional contamination and associated risk to public health
6 and the environment.

7 The legislature further finds that the commission on water
8 resource management has developed minimum standards relating to
9 water wells, including their sealing and abandonment, in order
10 to protect the quality and quantity of the State's ground water
11 resources.

12 The purpose of this Act is to:

13 (1) Establish an income tax credit for taxpayers who are
14 required to seal abandoned wells on their real
15 property;

16 (2) Require an owner of an abandoned well to repair or
17 seal the well at the owner's expense; and



(3) Appropriate funds for the following positions in the commission on water resource management:

(A) Either:

(i) Two full-time equivalent engineering technician positions; or

(ii) Two full-time equivalent environmental health specialist positions; and

(B) One full-time equivalent clerical position.

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

"§235- Well abandonment compliance income tax credit.

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

(b) The cost upon which the tax credit is computed shall be determined at the entity level. In the case of a partnership, S corporation, estate, trust, or other pass through



1 entity, distribution and share of the credit shall be determined
2 by rule.

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

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

15 (e) The director of taxation:

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

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



1 (3) Shall adopt rules pursuant to chapter 91 to effectuate
2 this section.

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

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

6 (2) Verify the amount of the qualified compliance costs
7 claimed;

8 (3) Total all qualified compliance costs claimed; and

9 (4) Certify the total amount of the tax credit for each
10 taxable year.

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

19 The taxpayer shall file the certificate with the taxpayer's
20 tax return with the department of taxation. Notwithstanding the
21 commission on water resource management's certification



1 authority under this section, the director of taxation may audit
2 and adjust the certification to conform to the facts.

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

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

15 The department of taxation shall not allow the aggregate
16 amount of credits claimed to exceed that amount per taxable
17 year.

18 (h) As used in this section:

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



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

3 "Qualified compliance costs" means construction costs that
4 are necessary and directly incurred by the taxpayer to seal an
5 abandoned well in compliance with section 174C-87.

6 "Well" shall have the same meaning as defined in section
7 174C-3."

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

11 "Abandoned well" means any well [that]:

12 (1) The purpose or use of which has been permanently
13 discontinued[. Any well shall be deemed abandoned
14 which is];

15 (2) That has served its purpose;

16 (3) That is not properly maintained;

17 (4) The physical condition of which is causing a waste of
18 ground water or is impairing or threatens to impair
19 the quality of the ground water resources; or

20 (5) That is in such a state of disrepair that its

21 continued use [for the purpose of obtaining ground



1 ~~water~~] is impractical[~~-~~] or poses a hazard to public
2 health or safety."

3 SECTION 4. Section 174C-87, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§174C-87 [Abandonment] Sealing of abandoned wells.** (a)

6 When a well is abandoned, the owner shall ~~[fill and]~~ seal the
7 abandoned well in a manner approved by the commission. Before
8 ~~[abandonment,~~ sealing, the owner shall file with the commission
9 ~~[a report showing the owner's name and address; the water use~~
10 ~~permit number, if any; the name and address of the well driller~~
11 ~~who will be employed to perform the work required for~~
12 ~~abandonment; the reason for abandonment; a description of the~~
13 ~~work to be performed to effect the abandonment;]~~ an application
14 for a well sealing permit signed by a driller licensed to do the
15 work and ~~[such]~~ other information ~~[as]~~ required by the
16 commission [may require].

17 (b) The owner of an abandoned well shall repair or seal
18 the well at the owner's expense, as provided by the well
19 construction and pump installation standards.

20 (c) Notwithstanding any other law to the contrary, if the
21 owner of real property that includes an abandoned well transfers



ownership of the real property, the owner shall notify the
commission on water resource management of that transfer upon
opening of escrow; provided that the presence or existence of
the abandoned well is:

(1) Within the knowledge of the owner; or

(2) Visible from an accessible area."

SECTION 5. There is appropriated out of the general
revenues of the State of Hawaii the sum of \$ or so
much thereof as may be necessary for fiscal year 2022-2023 for
the following positions in the commission on water resource
management:

(1) Either:

(A) Two full-time equivalent (2.0 FTE) engineering
technician positions; or

(B) Two full-time equivalent (2.0 FTE) environmental
health specialist positions; and

(2) One full-time equivalent (1.0 FTE) clerical position.

The sum appropriated shall be expended by the department of
land and natural resources for the purposes of this Act.



1 SECTION 6. 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 7. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 8. This Act shall take effect on July 1, 2050;
7 provided that section 2 of this Act shall apply to taxable years
8 beginning after December 31, 2021.



S.B. NO. 2752 S.D. 2 H.D. 2

Report Title:

Water; Abandoned Wells; Income Tax Credit; Appropriation

Description:

Establishes an income tax credit for taxpayers who are required to seal abandoned wells. Clarifies the definition of the term "abandoned well". Requires abandoned well owners to seal the well at their expense. Appropriates funds for positions under the commission on water resource management. Effective 7/1/2050. (HD2)

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