
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, resulting in additional
5 potential for contamination and associated risk to public health
6 and environmental degradation.

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 fill and seal abandoned wells on their
15 real property;
- 16 (2) Require sellers of real property to disclose the
17 existence of wells on the property;



(3) Require an owner or prior owner of an abandoned well to repair or fill and seal the well at their own expense; and

(4) Appropriate funds for three full-time equivalent ground surveyor positions in the commission of water resource management.

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



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

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

13 (e) The director of taxation:

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

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

19 (3) May adopt rules pursuant to chapter 91 to effectuate
20 this section.

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



- (1) Maintain records of the total amount of qualified compliance costs for each taxpayer claiming a credit;
- (2) Verify the amount of the qualified compliance costs claimed;
- (3) Total all qualified compliance costs claimed; and
- (4) Certify the total amount of the tax credit for each taxable year.

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

The taxpayer shall file the certificate with the taxpayer's tax return with the department of taxation. Notwithstanding the commission on water resource management's certification authority under this section, the director of taxation may audit and adjust certification to conform to the facts.



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

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

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

16 (h) As used in this section:

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

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



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

4 SECTION 3. Chapter 508D, Hawaii Revised Statutes, is
5 amended by adding a new section to be appropriately designated
6 and to read as follows:

7 "§508D- Wells; material fact; disclosure. (a) The
8 existence of a well, abandoned or otherwise, on real property
9 subject to this chapter shall be considered a material fact and
10 shall be included in a seller's disclosure statement.

11 (b) If a seller fails to disclose the existence of a well,
12 as required under subsection (a), and the buyer is required by
13 the commission on water resource management to abandon and seal
14 the well, the seller shall be liable to the buyer for costs
15 incurred by the buyer to fill and seal the well in compliance
16 with section 174C-87."

17 SECTION 4. Section 174C-81, Hawaii Revised Statutes, is
18 amended by amending the definition of "abandoned well" to read
19 as follows:

20 "Abandoned well" means any well [that] the purpose or use
21 of which has been permanently discontinued. Any well shall be



1 deemed abandoned [~~which is~~] whenever the well has served its
2 purpose, the well use has been permanently discontinued, the
3 well is not properly maintained, the physical condition of the
4 well is causing a waste of ground water or is impairing or
5 threatens to impair the quality of the ground water resources,
6 or the well is in such a state of disrepair that its continued
7 use [for the purpose of obtaining ground water] is
8 impractical[.] or it is a hazard to public health or safety."

9 SECTION 5. Section 174C-87, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "§174C-87 [~~Abandonment~~] Sealing of wells. (a) When a
12 well is abandoned, the owner shall [~~fill and~~] seal the well in a
13 manner approved by the commission. Before [~~abandonment,~~]
14 sealing, the owner shall file with the commission [~~a report~~
15 ~~showing the owner's name and address, the water use permit~~
16 ~~number, if any, the name and address of the well driller who~~
17 ~~will be employed to perform the work required for abandonment,~~
18 ~~the reason for abandonment, a description of the work to be~~
19 ~~performed to effect the abandonment,] an application for a well
20 sealing permit signed by a driller licensed to do the work and
21 such other information as the commission may require.~~



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

4 (c) Notwithstanding any other law to the contrary, if the
5 owner of real property that includes an abandoned well transfers
6 ownership of the real property, the owner shall notify the
7 commission on water resource management of that transfer before
8 going into escrow. In addition, if the owner of real property
9 transfers ownership to another person without first reporting
10 and repairing or filling and sealing the abandoned well pursuant
11 to subsection (a), the transferring owner shall be liable for
12 the abandoned well under this section; provided that the
13 commission establishes that:

14 (1) The well was abandoned when the transferring owner
15 transferred the property; and

16 (2) The transferring owner did not report and repair or
17 fill and seal the well pursuant to subsection (a);
18 provided further that a new owner shall not be liable for an
19 abandoned well under this section if the commission establishes
20 the transferring owner's liability for that abandoned well
21 pursuant to this subsection."



1 SECTION 6. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$ or so
3 much thereof as may be necessary for fiscal year 2022-2023 for
4 three full-time equivalent (3.0 FTE) ground surveyor positions
5 in the commission on water resource management.

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

8 SECTION 7. This Act does not affect rights and duties that
9 matured, penalties that were incurred, and proceedings that were
10 begun before its effective date.

11 SECTION 8. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 9. This Act shall take effect on July 1, 2050;
14 provided that section 2 of this Act shall apply to taxable years
15 beginning after December 31, 2021.



Report Title:

Water; Abandoned Wells; Income Tax Credit; Seller's Disclosure; Liability; Appropriation

Description:

Establishes an income tax credit for qualified taxpayers who are required to fill and seal abandoned wells on their real property. Clarifies the definition of the term "abandoned well". Requires sellers of real property to disclose the existence of wells on the property. Requires an owner or prior owner of an abandoned well to seal the well at the owner's or prior owner's expense. Appropriates funds for three full-time equivalent ground surveyor positions under the Commission on Water Resource Management. Takes effect 7/1/2050. (SD1)

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