

JAN 20 2023

A BILL FOR AN ACT

RELATING TO CESSPOOLS.

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

1 SECTION 1. The purpose of this Act is to offer financial
2 assistance to owners of cesspools who:

3 (1) Upgrade or convert a qualified cesspool to a
4 wastewater system approved by the director of health;
5 or

6 (2) Connect a qualified cesspool to a sewerage system,
7 by establishing a cesspool upgrade, conversion, or connection
8 income tax credit.

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

12 "§235- 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



1 any, imposed by this chapter for the taxable year in which the
2 credit is properly claimed.

3 (b) In the case of a partnership, S corporation, estate,
4 or trust, the tax credit allowable is for qualified expenses
5 incurred by the entity for the taxable year. The qualified
6 expenses upon which the tax credit is computed shall be
7 determined at the entity level. Distribution and share of
8 credit shall be determined by rule.

9 (c) The cesspool upgrade, conversion, or connection income
10 tax credit shall be equal to the qualified expenses of the
11 taxpayer, up to a maximum of \$ _____ ; provided that, in the
12 case of a qualified cesspool that is a residential large
13 capacity cesspool, the amount of the credit shall be equal to
14 the qualified expenses of the taxpayer, up to a maximum of
15 \$ _____ per residential dwelling connected to the qualified
16 cesspool, as certified by the department of health pursuant to
17 subsection (e). There shall be allowed a maximum of one
18 cesspool upgrade, conversion, or connection income tax credit
19 per qualified cesspool. The cesspool upgrade, conversion, or
20 connection income tax credit shall be available only for the



1 taxable year in which the taxpayer's qualified expenses are
2 certified by the appropriate government agency.

3 (d) The total amount of tax credits allowed under this
4 section shall not exceed \$ _____ for all taxpayers in any
5 taxable year; provided that any taxpayer who is not eligible to
6 claim the credit in a taxable year due to the \$ _____ cap
7 having been exceeded for that taxable year shall be eligible to
8 claim the credit in the subsequent taxable year.

9 (e) The department of health shall:

10 (1) Certify all qualified cesspools for the purposes of
11 this section;

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

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



1 The director of health may adopt rules under chapter 91 as
2 necessary to implement the certification requirements under this
3 section.

4 (f) The director of taxation:

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

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

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

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



1 (h) This section shall not apply to taxable years beginning
2 after December 31, 2028.

3 (i) As used in this section:

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

5 "Qualified cesspool" means a cesspool that is:

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

7 (A) Located within:

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

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

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

15 (C) A residential large capacity cesspool; or

16 (2) Certified by a county or private sewerage company to
17 be appropriate for connection to its existing sewerage
18 system.

19 "Qualified expenses" means costs that are necessary and
20 directly incurred by the taxpayer for upgrading or converting a
21 qualified cesspool into a wastewater system approved by the



1 director of health, or connecting a qualified cesspool to a
2 sewerage system, and that are certified as such by the
3 appropriate government agency.

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

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

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

12 SECTION 3. New statutory material is underscored.

13 SECTION 4. This Act shall take effect on July 1, 2023, and
14 shall apply to taxable years beginning after December 31, 2023;
15 provided that this Act shall be repealed on December 31, 2028.

INTRODUCED BY:

Lynn D. Cortez



S.B. NO. 777

Report Title:

Income Tax Credit; Cesspool Upgrade, Conversion, or Connection

Description:

For taxable years beginning after 12/31/2023, provides a temporary income tax credit for the cost of upgrading or converting a qualified cesspool to a wastewater system approved by the Director of Health, or connecting to a sewerage system. Sunsets 12/31/2028.

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