
A BILL FOR AN ACT

RELATING TO CESSPOOLS.

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

SECTION 1. Section 342D-72, Hawaii Revised Statutes, is amended to read as follows:

"§342D-72 Cesspools; mandatory upgrade, conversion, or connection. (a) Before January 1, 2050, every cesspool in the State, excluding cesspools granted exemptions by the director of health pursuant to subsection (b), shall be:

(1) Upgraded or converted to a director-approved wastewater system; or

(2) Connected to a sewerage system.

(b) The director of health may grant exemptions from the requirements of subsection (a) to property owners of cesspools that apply for an exemption and present documentation showing a legitimate reason that makes it infeasible to upgrade, convert, or connect the cesspools. For the purposes of this subsection, a legitimate reason shall include but not be limited to:

(1) Small lot size;

(2) Steep topography;



1 (3) Poor soils; or

2 (4) Accessibility issues.

3 (c) The department shall adopt rules pursuant to chapter
4 91 to:

5 (1) Ensure cesspools categorized as priority level 1 or
6 priority level 2 by the cesspool prioritization tool
7 are prioritized in any efforts undertaken by the
8 department to assist with cesspool upgrade,
9 conversion, and connection; provided that the cesspool
10 prioritization tool shall be updated as determined by
11 the department; and

12 (2) Provide guidance on cesspool upgrade, conversion, and
13 connection to property owners.

14 [~~e~~] (d) As used in this section[~~, "cesspool"~~]:

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



1 "Cesspool prioritization tool" means the most current
2 version of the geographic information system tool known as the
3 Hawai'i Cesspool Prioritization Tool, developed by the university
4 of Hawaii, that displays the prioritization level of each
5 cesspool in the State."

6 SECTION 2. Section 508D-15, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§508D-15 Notification required; ambiguity.** (a) When
9 residential real property lies within:

10 (1) The boundaries of a special flood hazard area as
11 officially designated on flood maps promulgated by the
12 National Flood Insurance Program of the Federal
13 Emergency Management Agency for the purposes of
14 determining eligibility for emergency flood insurance
15 programs;

16 (2) The boundaries of the noise exposure area shown on
17 maps prepared by the department of transportation in
18 accordance with Federal Aviation Regulation part 150,
19 Airport Noise Compatibility Planning (14 C.F.R. part
20 150), for any public airport;



(3) The boundaries of the Air Installation Compatible Use Zone of any Air Force, Army, Navy, or Marine Corps airport as officially designated by military authorities;

(4) The anticipated inundation areas designated on the department of defense's emergency management tsunami inundation maps; or

(5) The sea level rise exposure area as designated by the Hawaii climate change mitigation and adaptation commission or its successor,

subject to the availability of maps that designate the five areas by tax map key (zone, section, parcel), the seller shall include the material fact information in the disclosure statement provided to the buyer subject to this chapter. Each county shall provide, where available, maps of its jurisdiction detailing the five designated areas specified in this subsection. The maps shall identify the properties situated within the five designated areas by tax map key number (zone, section, parcel) and shall be of a size sufficient to provide information necessary to serve the purposes of this section.



1 Each county shall provide legible copies of the maps and may
2 charge a reasonable copying fee.

3 (b) When residential real property lies adjacent to the
4 shoreline, the seller shall disclose all permitted and
5 unpermitted erosion control structures on the parcel, expiration
6 dates of any permitted structures, any notices of alleged
7 violation associated with the parcel, and any fines for expired
8 permits or unpermitted structures associated with the parcel.

9 (c) Beginning January 1, 2027, when real property contains
10 a cesspool, the seller shall provide a cesspool disclosure form,
11 to be developed by the department of health and real estate
12 commission, to the buyer, who shall provide written
13 acknowledgment of the cesspool disclosure form before the
14 execution of a real estate purchase contract.

15 Any person who violates this subsection shall be fined not
16 more than \$; provided that failure to provide the
17 cesspool disclosure form to a buyer shall not be deemed a
18 violation of this subsection if the seller makes a good faith
19 examination of relevant department of health and county records
20 and mistakenly concludes that the real property does not contain
21 a cesspool.



1 [~~(e)~~] (d) When it is questionable whether residential real
2 property lies within any of the designated areas referred to in
3 subsection (a) due to the inherent ambiguity of boundary lines
4 drawn on maps of large scale, the ambiguity shall be construed
5 in favor of the seller; provided that a good faith effort has
6 been made to determine the applicability of subsection (a) to
7 the subject real property.

8 [~~(d)~~] (e) Except as required under subsections (a) [~~, (b),~~
9 ~~and (e)~~] to (d) and section 508D-3.5, the seller shall have no
10 duty to examine any public record when preparing a disclosure
11 statement."

12 SECTION 3. No later than November 1, 2026, the department
13 of health and real estate commission shall develop a
14 standardized cesspool disclosure form that:

- 15 (1) Informs a buyer of whether the residential real
16 property is served by a cesspool, septic system, or
17 sewer;
- 18 (2) Informs a buyer of the location of the cesspool, if
19 known; and
- 20 (3) Includes a statement in no less than fourteen-point
21 font as follows:



1 "PURSUANT TO SECTION 342D-72, HAWAII REVISED
2 STATUTES, ANY CESSPOOL THAT HAS NOT BEEN GRANTED AN
3 EXEMPTION BY THE DIRECTOR OF HEALTH IS REQUIRED TO BE
4 UPGRADED OR CONVERTED TO A DIRECTOR-APPROVED
5 WASTEWATER SYSTEM OR CONNECTED TO A SEWERAGE SYSTEM
6 BEFORE JANUARY 1, 2050. CONSULT THE DEPARTMENT OF
7 HEALTH FOR ADDITIONAL GUIDANCE REGARDING CESSPOOL
8 UPGRADE, CONVERSION, AND CONNECTION TIMELINES AND ANY
9 AVAILABLE FINANCING RESOURCES."

10 SECTION 4. There is appropriated out of the general
11 revenues of the State of Hawaii the sum of \$ or so
12 much thereof as may be necessary for fiscal year 2026-2027 to
13 update the Hawai'i Cesspool Prioritization Tool.

14 The sum appropriated shall be expended by the university of
15 Hawaii for the purposes of this Act.

16 SECTION 5. This Act does not affect rights and duties that
17 matured, penalties that were incurred, and proceedings that were
18 begun before its effective date.

19 SECTION 6. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.


21 SECTION 7. This Act shall take effect on July 1, 2026.



H.B. NO. 1749

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INTRODUCED BY:

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JAN 21 2026



H.B. NO. 1749

Report Title:

Cesspools; Prioritization; Cesspool Disclosure Form; Penalties;
Department of Health; Real Estate Commission; Appropriation

Description:

Requires the Department of Health to adopt rules to prioritize priority level 1 and priority level 2 cesspools in any efforts undertaken to assist with cesspool upgrade, conversion, and connection and provide guidance to property owners. Requires and appropriates funds for the Hawai'i Cesspool Prioritization Tool to be updated as determined by the Department of Health. Beginning 1/1/2027, requires sellers to provide buyers with a cesspool disclosure form before the execution of a real estate purchase contract. Requires the Department of Health and Real Estate Commission to develop a standardized cesspool disclosure form by 11/1/2026. Establishes penalties.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

