
A BILL FOR AN ACT

RELATING TO CESSPOOLS.

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

1 SECTION 1. The legislature finds that water pollution from
2 nonpoint contamination sources that flow off the land directly,
3 rather than through pipes or ditches, poses a significant threat
4 to the State's water resources, including streams, groundwater,
5 and the ocean. As a nonpoint contamination source, cesspools
6 are substandard systems that discharge raw, untreated sewage
7 into the ground. Cesspool pollution poses a significant risk to
8 the State's finite groundwater, drinking water, streams, ocean,
9 and other aquatic resources.

10 The legislature further finds that cesspools in Hawaii
11 release approximately fifty-three million gallons of untreated
12 sewage into the ground each day. There are approximately
13 eighty-eight thousand cesspools in the State, with nearly fifty
14 thousand located on Hawaii island, approximately fourteen
15 thousand on Kauai, over twelve thousand on Maui, over eleven
16 thousand on Oahu, and over one thousand four hundred on Molokai.



1 Of these cesspools, forty-three thousand pose a risk to the
2 State's water resources.

3 To address the ongoing threat of water contamination caused
4 by cesspools, the legislature passed Act 125, Session Laws of
5 Hawaii 2017, which requires the upgrade, conversion, or
6 connection of all cesspools before January 1, 2050.

7 Prior to this, Act 120, Session Laws of Hawaii 2015,
8 established an income tax credit for the costs to upgrade or
9 convert a qualified cesspool into a septic system or an aerobic
10 treatment unit system, or to connect a qualified cesspool to a
11 sewer system, effective for taxable years beginning after
12 December 31, 2015. This tax credit expired on December 31,
13 2020. Before its expiration, the tax credit was claimed on
14 sixty-four tax returns for tax year 2019, and the amounts
15 claimed totaled \$371,000. For tax year 2018, the tax credit was
16 claimed on forty-one tax returns, and the amounts claimed
17 totaled \$219,000, up from \$143,000 claimed for tax year 2017.

18 Current average costs to upgrade or convert a cesspool to a
19 septic system range between \$20,000 and \$40,000; to convert to
20 an aerobic treatment unit system, the cost ranges between
21 \$20,000 and \$50,000. Current estimated costs to connect to a



1 sewer system, the most environmentally desirable option,
2 approach \$80,000.

3 The purpose of this Act is to reinstate the cesspool
4 upgrade, conversion, or connection income tax credit.

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

8 "§235- Cesspool upgrade, conversion, or connection;
9 income tax credit. (a) There shall be allowed to each taxpayer
10 subject to the tax imposed under this chapter a cesspool
11 upgrade, conversion, or connection income tax credit that shall
12 be deductible from the taxpayer's net income tax liability, if
13 any, imposed by this chapter for the taxable year in which the
14 credit is properly claimed.

15 (b) The cesspool upgrade, conversion, or connection income
16 tax credit may be claimed for every cesspool that is upgraded or
17 converted to a director of health-approved wastewater system or
18 connected to a sewerage system by a taxpayer during the taxable
19 year for which it is claimed. The amount of the credit shall be
20 equal to the lesser of one hundred per cent of the qualified



1 expenses of the taxpayer or the cap amount established by
2 subsection (d).

3 (c) 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 expenses upon
6 which the tax credit is computed shall be determined at the
7 entity level. Distribution and share of credit shall be
8 determined by rule.

9 (d) The amount of credit allowed shall not exceed \$10,000
10 for each cesspool that is upgraded or converted to a director of
11 health-approved wastewater system or connected to a sewerage
12 system.

13 (e) Any taxpayer who has received a federal, state,
14 county, or private grant to support the upgrade or conversion to
15 a director of health-approved wastewater system or connection to
16 a sewerage system shall be ineligible for the tax credit.

17 (f) The department of health shall:

18 (1) Collect and maintain a record of all qualified
19 expenses certified by an appropriate government agency
20 for the taxable year; and



1 (2) Certify to each taxpayer the amount of credit the
2 taxpayer may claim.

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

6 (g) The director of taxation:

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

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

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

14 (h) If the tax credit under this section exceeds the
15 taxpayer's income tax liability, the excess of the credit over
16 liability may be used as a credit against the taxpayer's income
17 tax liability in subsequent years until exhausted; provided that
18 if the taxpayer has an adjusted gross income below \$ _____ :

19 (1) The excess of credit over payments due shall be
20 refunded to the taxpayer;



1 (2) If the taxpayer has no income tax liability, the tax
2 credit properly claimed shall be paid to the taxpayer;
3 and

4 (3) No refunds or payments on account of the tax credit
5 allowed by this section shall be made for amounts less
6 than \$1.

7 All claims for the tax credit under this section, including
8 amended claims, shall be filed on or before the end of the
9 twelfth month following the close of the taxable year for which
10 the credit may be claimed. Failure to comply with the foregoing
11 provision shall constitute a waiver of their right to claim the
12 credit.

13 (i) As used in this section:

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

15 "Qualified expenses" means costs that are necessary and
16 directly incurred by the taxpayer to upgrade or convert a
17 cesspool to a director of health-approved wastewater system or
18 to connect a cesspool to a sewerage system, and that are
19 certified as such by the appropriate government agency.

20 "Sewerage system" has the same meaning as in section
21 342D-1."



1 SECTION 3. Section 23-95, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) This section shall apply to the following:

- 4 (1) Section 235-5.5--Deduction for individual housing
5 account deposit;
- 6 (2) Section 235-7(f)--Deduction of property loss due to a
7 natural disaster;
- 8 (3) Section [~~235-16.5~~] 235-_____--Credit for cesspool
9 upgrade, conversion, or connection;
- 10 (4) Section 235-19--Deduction for maintenance of an
11 exceptional tree;
- 12 (5) Section 235-55.91--Credit for the employment of a
13 vocational rehabilitation referral;
- 14 (6) Section 235-110.2--Credit for in-kind services
15 contribution for public school repair and maintenance;
16 and
- 17 (7) Sections 235-110.8 and 241-4.7--Credit for ownership
18 of a qualified low-income housing building."

19 SECTION 4. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



1 SECTION 5. This Act shall take effect on July 1, 3000, and
2 shall apply to taxable years beginning after December 31, 2026.



Report Title:

Hawaii Council of Mayors Package; Wastewater; Cesspool Upgrade, Conversion, or Connection; Income Tax Credit

Description:

Reestablishes the cesspool upgrade, conversion, or connection income tax credit. Applies to taxable years beginning after 12/31/2026. Effective 7/1/3000. (HD1)

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