

ACT 153

H.B. NO. 2195

A Bill for an Act Relating to Cesspools.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that failing cesspools are contaminating the State's ground water, streams, and coastal ecosystems. To address this, Act 125, Session Laws of Hawaii 2017, required all cesspools to be upgraded or converted to a septic system or aerobic treatment unit system, or connected to a sewerage system, by 2050 and directed the department of health to develop a system to prioritize their upgrade, conversion, or connection based on their impact on public health. The University of Hawaii's 2021 Hawaii cesspool hazard assessment and prioritization tool identified three prioritization categories: priority levels 1, 2, and 3. Priority level 1 includes the cesspools with the greatest contamination hazard; priority level 2 includes cesspools with significant contamination hazard; and priority level 3 are areas where cesspools have a pronounced contamination hazard.

The legislature recognizes that the requirement to upgrade or convert a cesspool imposes a financial burden on low- and moderate-income families.

The purpose of this Act is to assist low- and moderate-income property owners, including lessees on Hawaiian home lands, with upgrading, converting, or connecting their failing cesspools to more environmentally appropriate systems or sewerage systems by creating a pilot grant project to assist with conversion costs.

SECTION 2. (a) There is established in the department of health the cesspool compliance pilot grant project to assist property owners, including lessees on Hawaiian home lands, with upgrading, converting, or connecting a cesspool that, according to the department of health, meets the requirements of subsection (b). Specifically, the cesspool compliance pilot grant project shall assist property owners and lessees on Hawaiian home lands in meeting the costs of:

- (1) Upgrading or converting cesspools that meet the requirements of subsection (b) to a director of health-approved wastewater system; or
- (2) Connecting cesspools that meet the requirements of subsection (b) to a sewerage system.
- (b) The department of health shall not grant awards to any owner of real property with a cesspool or lessee on Hawaiian home lands with a cesspool unless:
 - (1) The cesspool is located in an area identified as priority level 1 or 2 in the University of Hawaii's 2021 Hawaii cesspool hazard assessment and prioritization tool;
 - (2) The owner or lessee provides the department with the tax return required by this section; and
 - (3) An application, the form of which shall be decided by the department, is submitted and deemed completed by the department of health.
- (c) No grant under this section shall be awarded to any:
 - (1) Owner of real property; or
 - (2) Lessee on Hawaiian home lands,

with a household income greater than one hundred forty per cent of the area median income as determined by the United States Department of Housing and Urban Development.

The owner's or lessee's household income shall be verified using the tax return of the most recent taxable year that is closed.

(d) The department of health shall grant awards on a first-come, first-served basis, subject to funding availability and the criteria set forth in subsections (b) and (e).

(e) The owner or lessee shall provide the department of health with the following before a grant may be awarded:

- (1) Design plans prepared by a licensed engineer for a wastewater system that complies with chapter 11-62, Hawaii Administrative Rules;
- (2) A licensed engineer's final construction inspection report with photos and as built plans and certification that the system was constructed in accordance with the design plans approved by the director of health;
- (3) A copy of an approval to use letter of the wastewater system issued by the director of health; and
- (4) Receipts of payment made to the licensed engineer and licensed contractor.

(f) The department of health shall grant awards not to exceed \$20,000 based on receipts of payment submitted under subsection (e)(4); provided that cesspools that have been upgraded or converted to a director of health-approved wastewater system before the passing of this Act shall not be eligible for this grant.

(g) The department of health may adopt rules as necessary to carry out the cesspool compliance pilot grant project; provided that the rules may allow third parties to claim a grant award on behalf of the owner of real property with a cesspool or lessee on Hawaiian home lands with a cesspool.

(h) The department of health shall submit to the legislature a report on the pilot grant project, including any findings and recommendations, and any proposed legislation, no later than twenty days prior to the convening of the regular session of 2024.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$5,000,000 or so much thereof as may be necessary for fiscal year 2022-2023 to implement the cesspool compliance pilot grant project; provided that the appropriation may be used to contract for services to establish and administer the project.

The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 4. The appropriation made by this Act shall not lapse at the end of the fiscal biennium for which the appropriation is made; provided that all moneys from the appropriation unencumbered as of June 30, 2024, shall lapse as of that date.

SECTION 5. This Act shall take effect on July 1, 2022, and shall be repealed on June 30, 2028.

(Approved June 27, 2022.)