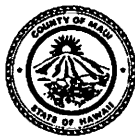


Council Chair
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Vice-Chair
Keani N.W. Rawlins-Fernandez

Presiding Officer Pro Tempore
Tasha Kama

Councilmembers
Riki Hokama
Kelly Takaya King
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COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

September 18, 2020

Director of Council Services
Traci N. T. Fujita, Esq.

2020 SEP 18 AM 10:13

OFFICE OF THE
COUNTY CLERK

The Honorable Alice L. Lee
Council Chair
County of Maui
Wailuku, Hawaii 96793

Dear Chair Lee:

**SUBJECT: CONSIDERING 2020 LEGISLATIVE PACKAGE BILLS
FOR 2021 SESSION (PAF 20-240)**

May I request the attached proposed resolution, entitled "APPROVING FOR INCLUSION IN THE 2021 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A STATE BILL RELATING TO CESSPOOLS," be placed on the next Council meeting agenda.

Sincerely,

A handwritten signature in black ink that reads "Kelly Takaya King". The signature is written in a cursive, flowing style.

KELLY TAKAYA KING
Councilmember

paf:kmatt:20-240g

Attachment

COUNTY COMMUNICATION NO. 20-480

Resolution

No. _____

APPROVING FOR INCLUSION IN THE 2021
HAWAII STATE ASSOCIATION OF COUNTIES
LEGISLATIVE PACKAGE A STATE BILL
RELATING TO CESSPOOLS

WHEREAS, cesspools are a major source of pollution to Hawaii's waters; and

WHEREAS, there are approximately 88,000 cesspools in the State, discharging approximately 53 million gallons of untreated sewage into the groundwater every day; and

WHEREAS, there is an urgent need to protect the health and environment with cesspool upgrades as soon as feasible; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the proposed State bill, attached as Exhibit "A," relating to cesspools is approved for inclusion in the 2021 Hawaii State Association of Counties Legislative Package; and
2. That certified copies of this resolution be transmitted to the Hawaii State Association of Counties Executive Committee.

paf:kmat:20-240h

Attachment

____.B. NO.____

A BILL FOR AN ACT

RELATING TO CESSPOOLS.

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

1 SECTION 1. Section 235-16.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§235-16.5 Cesspool upgrade, conversion, or connection;**
4 **income tax credit.** (a) There shall be allowed to each taxpayer
5 subject to the tax imposed under this chapter, a cesspool
6 upgrade, conversion, or connection income tax credit that shall
7 be deductible from the taxpayer's net income tax liability, if
8 any, imposed by this chapter for the taxable year in which the
9 credit is properly claimed.

10 (b) In the case of a partnership, S corporation, estate,
11 or trust, the tax credit allowable is for qualified expenses
12 incurred by the entity for the taxable year. The expenses upon
13 which the tax credit is computed shall be determined at the
14 entity level. Distribution and share of credit shall be
15 determined by rule.

16 (c) The cesspool upgrade, conversion, or connection income
17 tax credit shall be equal to the qualified expenses of the
18 taxpayer, up to a maximum of \$10,000; provided that, in the case

____.B. NO.____

1 of a qualified cesspool that is a residential large capacity
2 cesspool, the amount of the credit shall be equal to the
3 qualified expenses of the taxpayer, up to a maximum of \$10,000
4 per residential dwelling connected to the cesspool, as certified
5 by the department of health pursuant to subsection (e). There
6 shall be allowed a maximum of one cesspool upgrade, conversion,
7 or connection income tax credit per qualified cesspool or per
8 tax map key number where more than one residence is connected to
9 a residential large-capacity cesspool. The cesspool upgrade,
10 conversion, or connection income tax credit shall be available
11 only for the taxable year in which the taxpayer's qualified
12 expenses are certified by the appropriate government agency.

13 (d) The total amount of tax credits allowed under this
14 section shall not exceed \$5,000,000 for all taxpayers in any
15 taxable year; provided that any taxpayer who is not eligible to
16 claim the credit in a taxable year due to the \$5,000,000 cap
17 having been exceeded for that taxable year shall be eligible to
18 claim the credit in the subsequent taxable year.

19 (e) The department of health shall:

20 (1) Certify all qualified cesspools for the purposes of
21 this section;

____.B. NO. _____

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

(3) Certify to each taxpayer the amount of credit the taxpayer may claim; provided that if, in any year, the annual amount of certified credits reaches \$5,000,000 in the aggregate, the department of health shall immediately discontinue certifying credits and notify the department of taxation.

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

(f) The director of taxation:

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

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

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

(g) If the tax credit under this section exceeds the taxpayer's income tax liability, the excess of the credit over

____.B. NO. _____

1 liability may be used as a credit against the taxpayer's income
2 tax liability in subsequent years until exhausted. All claims
3 for the tax credit under this section, including amended claims,
4 shall be filed on or before the end of the twelfth month
5 following the close of the taxable year for which the credit may
6 be claimed. Failure to comply with the foregoing provision
7 shall constitute a waiver of the right to claim the credit.

8 (h) This section shall not apply to taxable years
9 beginning after [~~December 31, 2020.~~] December 31, 2025.

10 (i) As used in this section:

11 "Aerobic treatment unit system" means an individual
12 wastewater system that consists of an aerobic treatment unit
13 tank, aeration device, piping, and a discharge method that is in
14 accordance with rules adopted by the department of health
15 relating to household aerobic units.

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

____.B. NO. _____

1 "Qualified cesspool" means a cesspool that is:

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

3 (A) Located within:

4 (i) Five hundred feet of a shoreline, perennial
5 stream, or wetland; or

6 (ii) A source water assessment program area (two
7 year time of travel from a cesspool to a
8 public drinking water source);

9 (B) Shown to impact drinking water supplies or
10 recreational waters; or

11 (C) A residential large capacity cesspool; or

12 (2) Certified by a county or private sewer company to be
13 appropriate for connection to its existing sewer
14 system.

15 "Qualified expenses" means costs that are necessary and
16 directly incurred by the taxpayer for upgrading or converting a
17 qualified cesspool into a septic system or an aerobic treatment
18 unit system, or connecting a qualified cesspool to a sewer
19 system, and that are certified as such by the appropriate
20 government agency.

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

____.B. NO. _____

1 "Septic system" means an individual wastewater system that
2 typically consists of a septic tank, piping, and a drainage
3 field where there is natural biological decontamination as
4 wastewater discharged into the system is filtered through soil.

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

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

11 SECTION 2. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 3. This Act shall take effect upon its approval
14 and shall be repealed on December 31, 2025.

15

16 INTRODUCED BY: _____

17 BY REQUEST

18

19 paf:kmat:20-240i

____.B. NO. _____

Report Title:

Extends the tax credits for the upgrade, conversion, or connection of a qualified cesspool to a sewer system, and eliminates the geographical limitations for qualified cesspools.

Description:

There are cesspools that are not located within five hundred feet of shorelines, perennial streams, or wetlands. Removing these limitations and extending the tax credit to December 31, 2025, will encourage the conversion of more cesspools.

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