

2012 -- S 2240

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO HEALTH AND SAFETY -- CESSPOOLS

Introduced By: Senator William A. Walaska

Date Introduced: January 26, 2012

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 23-19.15-2, 23-19.15-4, 23-19.15-6, 23-19.15-8 and 23-19.15-9 of
2 the General Laws in Chapter 23-19.15 entitled "The Rhode Island Cesspool Act of 2007" are
3 hereby amended to read as follows:

4 **23-19.15-2. Legislative findings. --** The general assembly hereby recognizes and
5 declares that:

6 (1) There exists within certain portions of the state the need to abate pollution and threats
7 to public health caused by cesspools, particularly high-risk cesspools that pose direct threats to
8 public health and the environment.

9 (2) It is estimated that there are more than fifty thousand (50,000) cesspools within the
10 state as of 2006.

11 (3) Cesspools are a substandard and often inadequate means of sewage treatment and
12 disposal.

13 (4) Many cesspools contribute directly to groundwater and surface water contamination.

14 (5) Wastewater disposed from cesspools contains bacteria, viruses, ammonium and other
15 pollutants with high biochemical oxygen demand, and may also include phosphates, chlorides,
16 grease, and chemicals used to clean cesspools.

17 (6) Wastewater disposed from cesspools frequently exceeds drinking water health
18 standards for certain contaminants.

19 (7) Wastewater disposed from cesspools can pose significant health threats to people

1 who come into contact with, or consume, contaminated surface waters or groundwaters.

2 (8) Appropriate treatment of sewage disposed into the ground is essential to the
3 protection of public health and the environment, particularly in relation to Narragansett Bay and
4 the rest of the state's coastal region, and public drinking water resources.

5 (9) Replacement of cesspools with modern ~~ISDS~~ [Onsite Wastewater Treatment Systems](#)
6 [\(OWTS\)](#) technology reduces risks to public health and the environment.

7 (10) In sewerred areas, sewer tie-ins offer a readily available, low-cost means of
8 mitigating problems and threats caused by cesspools.

9 (11) A fund exists to assist homeowners with the costs of removing cesspools and
10 inadequate septic systems and replacing them with an approved ~~ISDS~~ [OWTS](#) if the community in
11 which the homeowner resides has created a wastewater management district in accordance with
12 chapter 24.5 of title 45.

13 **23-19.15-4. Definitions.** -- For the purposes of this chapter the following terms shall
14 mean:

15 (1) "Cesspool" means any buried chamber other than an individual sewage disposal
16 system, including, but not limited to, any metal tank, perforated concrete vault or covered hollow
17 or excavation, which receives discharges of sanitary sewage from a building for the purpose of
18 collecting solids and discharging liquids to the surrounding soil.

19 (2) "Department" means the department of environmental management as established in
20 chapter 17.1 of title 42.

21 (3) "Director" means the director of the department of environmental management or his
22 or her designee.

23 (4) "Failed cesspool" means a cesspool where one or more of the following conditions
24 exist: (i) the cesspool fails to accept or dispose of sewage, as evidenced by sewage at the ground
25 surface above or adjacent to the cesspool, or in the building served; (ii) the liquid depth in a
26 cesspool is less than six (6) inches from the inlet pipe invert; (iii) pumping is required more than
27 two (2) times a year; (iv) the cesspool is shown to have contaminated a drinking water well or
28 watercourse; or (v) there is shown to be direct contact between the bottom of the cesspool and the
29 groundwater table.

30 (5) ~~"Individual sewage disposal system" or "ISDS" means any system of piping, tanks,~~
31 ~~disposal areas, alternative toilets or other facilities designed to function as a unit to convey, store,~~
32 ~~treat and/or dispose of sanitary sewage, by means other than discharge into a public sewer~~
33 ~~system.~~ ["Onsite Wastewater Treatment Systems" or "OWTS" means any system of piping, tanks,](#)
34 [dispersal areas, alternative toilets or other facilities designed to function as a unit to convey, store,](#)

1 [treat or disperse wastewater by means other than discharge into a public wastewater system.](#)

2 (6) "System inspector" means a person approved by the department as capable of
3 properly assessing the condition of an ~~ISDS~~ [OWTS](#).

4 **23-19.15-6. Cesspool removal and replacement.** -- (a) Any cesspool required to be
5 abandoned pursuant to this chapter shall be replaced with an approved ~~ISDS~~ [OWTS](#), or the
6 building served by the cesspool shall be connected to a public sewer, prior to the applicable
7 deadlines contained in subsection 23-19.15-6(b).

8 (b) Cesspools found to be located within the areas identified in subsection 23-19.15-5(a)
9 above shall cease to be used for sewage disposal and shall be properly abandoned in accordance
10 with the following schedule:

11 (1) Tier 1. - Any cesspool deemed by the department or a system inspector to be failed in
12 accordance with this chapter shall be properly abandoned within one year of discovery unless an
13 immediate public health hazard is identified, in which case the director may require a shorter
14 period of time.

15 (2) Tier 2. - Any cesspool located on a property which has a sewer stub enabling
16 connection to a public sewer shall be properly abandoned, and the building served by the cesspool
17 shall be connected into the sewer system of such premises with such sewer and fill up and destroy
18 any cesspool, privy vault, drain or other arrangement on such land for the reception of sewage,
19 excluding any Rhode Island department of environmental management ~~ISDS~~ [OWTS](#) approved
20 system, prior to January 1, 2014.

21 (3) Tier 3. - Any cesspool within two hundred feet (200') of a public drinking water well,
22 or within two hundred feet (200') of the inland edge of a shoreline feature bordering a tidal water
23 area [corresponding to the jurisdiction of the RI Coastal Resources Management Council] or
24 within two hundred feet (200) of a surface drinking water supply [specifically, the impoundment
25 from which water is drawn via the intake] shall be properly abandoned by January 1, 2014.

26 **23-19.15-8. Exemption.** -- (a) The provisions of section 23-19.15-5 and subsection 23-
27 19.15-6(a) shall not apply to any cesspool located in an area of a community covered by
28 municipal on-site wastewater management ordinance that requires the risk-based phase-out of
29 cesspools on an alternative schedule that meets the purposes of this act.

30 (b) The provisions of subdivision 23-19.15-6(b)~~(2)~~[\(3\)](#) shall not apply to any cesspool
31 located on a property that is properly designated to be sewered no later than six (6) years after the
32 applicable deadlines provided in subdivision 23-19.15-6(b)~~(2)~~[\(3\)](#) provided:(1) The sewerage
33 project is identified in the city, town or sewer district's wastewater facilities plan as approved by
34 DEM prior to January 1, 2013; (2) The municipality, acting through its city or town council,

1 states in writing to the director of the department of environmental management by January 1,
2 2013 that the municipality will complete construction of the sewerage project on or before
3 January 1, 2020; and (3) The property owner certifies, in writing, that the dwelling/building will
4 be connected to the sewer system within six (6) months of receipt of the notification to connect to
5 the sewer system and that no increase in the design sewage flow or number of bedrooms in the
6 building will occur until the connection is made.

7 (c) In addition to subdivision 23-19.15-8(b)(2), above, the municipality must
8 demonstrate by December 31, 2014 that it has bond authorization or some other dedicated
9 financial surety for expansion of sewers to the area of the building served by the cesspool. If the
10 municipality fails to demonstrate such surety, this exemption shall terminate and the cesspool
11 shall be replaced by June 30, 2015.

12 **23-19.15-9. Notice to remove and replace cesspools.** -- (a) The owner of any cesspool
13 who has not complied with the requirements pursuant to this chapter shall be in violation of this
14 chapter and subject to enforcement action by the department in accordance with chapters 17.1 and
15 17.6 of title 42 of the general laws.

16 (b) Notwithstanding the above provisions, the director may require the abandonment and
17 replacement of any cesspool with an approved ~~ISDS~~ [OWTS](#) prior to the dates specified in
18 subsection 23-19.15-6(a) if the cesspool is a large capacity cesspool as defined pursuant to
19 applicable federal regulations governing underground injection control (UIC) facilities.

20 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO HEALTH AND SAFETY -- CESSPOOLS

1 This act would make technical changes to legislation that requires cesspools to be
2 abandoned and replaced by an approved onsite wastewater treatment systems (OWTS) or convert
3 to a public sewer prior to July 1, 2013, and would make technical changes to certain exemptions
4 from this requirement. An exemption to the time period would be granted to municipalities that
5 take special actions to extend the sewer system.

6 This act would take effect upon passage.

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