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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

A N A C T

RELATING TO HEALTH AND SAFETY -- THE RHODE ISLAND CESSPOOL ACT OF
2007

Introduced By: Representatives Tanzi, Handy, Carson, Morin, and Melo

Date Introduced: February 26, 2015

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 23-19.15-2, 23-19.15-3, 23-19.15-4, 23-19.15-5, 23-19.15-6, 23-
2 19.15-7, 23-19.15-8 and 23-19.15-9 of the General Laws in Chapter 23-19.15 entitled "The
3 Rhode Island Cesspool Act of 2007" are 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 a~~ need to abate pollution and
7 threats to public health caused by cesspools, ~~particularly high risk cesspools that pose direct~~
8 ~~threats to public health and the environment.~~

9 (2) It is estimated that there are more than ~~fifty thousand (50,000)~~ twenty-five thousand
10 (25,000) cesspools within the state as of ~~2006~~ 2013.

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

13 (4) ~~Many cesspools~~ Cesspools contribute directly to groundwater and surface water
14 contamination and environmental impacts will be exacerbated by increased precipitation, storm
15 frequency and sea level rise.

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

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

(7) Wastewater disposed from cesspools can pose significant health threats to people who come into contact with, or consume, contaminated surface waters or groundwaters.

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

(9) Replacement of cesspools with ~~modern ISDS~~ onsite wastewater treatment systems (OWTS) technology reduces risks to public health and the environment.

(10) In sewered areas, sewer tie-ins offer a readily available, ~~low-cost~~ environmentally preferable means of mitigating problems and threats caused by cesspools.

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

23-19.15-3. Declaration of purpose. -- The purpose of this chapter is to phase-out use of cesspools ~~that present the highest risk to public health and/or the environment — namely, cesspools beginning with those~~ located in close proximity to tidal water areas and public drinking ~~waters~~ water supplies. Additionally, this chapter ~~is intended to allow for the identification and assessment of cesspools on all properties throughout the state that are subject to sale, and to phase-out any such cesspools that are found to be failed~~ provides for the connection of properties served by cesspools to available sewer lines and requires the identification and replacement of cesspools on all properties throughout the state that are subject to sale or transfer.

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

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

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

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

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

(5) ~~"Individual sewage disposal system" or "ISDS"~~ "Onsite wastewater treatment system" or "OWTS" means any system of piping, tanks, disposal areas, alternative toilets or other facilities designed to function as a unit to convey, store, treat and/or dispose of sanitary sewage, by means other than discharge into a public sewer system. A cesspool is not an OWTS.

(6) "System inspector" means a person ~~approved by the department as~~ who is registered as an inspector and capable of properly assessing the condition of an ~~ISDS~~ OWTS.

(7) "Transfer" means a transfer of real property except between the following relationships:

- (i) Between current spouses;
- (ii) Between parents and their children;
- (iii) Between full siblings; or
- (iv) Where the grantor transfers the real property to be held in a revocable or irrevocable trust, where at least one of the designated beneficiaries is of the first degree of relationship to the grantor.

(8) "Wastewater" means human or animal excremental liquid or substance, putrescible animal or vegetable garbage or filth, including, but not limited to, waste discharged from toilets, bath tubs, showers, laundry tubs, washing machines, sinks and dishwashers.

23-19.15-5. ~~Inspection~~ Inspection requirements for cesspools located in close proximity to tidal waters and public drinking supplies. -- (a) Unless exempted under subsection 23-19.15-8(a), the owner of property served by a cesspool in the following areas shall cause an inspection to be performed on said cesspool by a system inspector in accordance with a schedule established by the department, but no later than January 1, 2012:

(1) Which cesspool is within two hundred feet (200') of the inland edge of a shoreline feature bordering a tidal water area [corresponding to the jurisdiction of the RI Coastal Resources Management Council];

(2) Which cesspool is within two hundred feet (200') of a public drinking water well; and

(3) Which cesspool is within two hundred feet (200') of a surface drinking water supply,

specifically the impoundment from which water is drawn via the intake.

The inspection shall be conducted [by a system inspector as defined herein](#) and reported in accordance with procedures required by the department, and the results shall be recorded on forms prescribed by the department.

(b) Pursuant to § 5-20.8-13, every contract for the purchase and sale of real estate which is or may be served by a private cesspool, shall provide that potential purchasers be permitted a ten (10) day period, unless the parties mutually agree upon a different period of time, to conduct an inspection of the property's on-site sewage system in accordance with procedures required by the department in subsection 23-19.15-5(a), before becoming obligated under the contract to purchase.

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

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

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

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

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

23-19.15-7. Waiver. -- The director may grant a waiver, to the extent necessary, from

1 applicable provisions listed in subsection 23-19.15-6(b) provided the homeowner demonstrates
2 undue hardship defined as having an annual income of less than or equal to eighty percent (80%)
3 of the appropriate household size area median income determined by the federal Housing and
4 Urban Development standards for the community within which the cesspool is located, and the
5 cesspool is not a failed system as defined herein. No waiver shall exceed five (5) years from the
6 dates specified in subsection 23-19.15-6(b). Any waiver granted shall expire upon transfer or sale
7 of the land or easement upon which the cesspool is located.

8 **23-19.15-8. Exemption.** -- (a) The provisions of § 23-19.15-5, ~~and subsection 23-19.15-~~
9 ~~6(a)~~ and 23-19.15-12(a) shall not apply to any cesspool located in an area of a community
10 covered by municipal on-site wastewater management ordinance that requires the risk-based
11 phase-out of cesspools on an alternative schedule that meets the purposes of this act.

12 (b) The provisions of ~~subdivision §§~~ §§ 23-19.15-6(b)(2) and 23-19.15-12 shall not apply to
13 any cesspool located on a property that is properly designated to be sewerred no later than six (6)
14 years after the applicable deadlines provided in ~~subdivision 23-19.15-6(b)(2)~~ § 23-19.15-6(b)(3)
15 provided: (1) The sewerred project is identified in the city, town or sewer district's wastewater
16 facilities plan as approved by DEM prior to January 1, 2013; (2) The municipality, acting through
17 its city or town council, states in writing to the director of the department of environmental
18 management by January 1, 2013 that the municipality will complete construction of the sewerred
19 project on or before January 1, 2020; and (3) The property owner certifies, in writing, that the
20 dwelling/building will be connected to the sewer system within six (6) months of receipt of the
21 notification to connect to the sewer system and that no increase in the design sewage flow or
22 number of bedrooms in the building will occur until the connection is made.

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

28 **23-19.15-9. Notice to remove and replace cesspools.** -- (a) The owner of any cesspool
29 who has not complied with the requirements pursuant to this chapter shall be in violation of this
30 chapter and subject to enforcement action by the department in accordance with chapters 17.1 and
31 17.6 of title 42 of the general laws.

32 (b) Notwithstanding the above provisions, the director may require the abandonment and
33 replacement of any cesspool with an approved ~~ISDS~~ OWTS prior to the dates specified in
34 ~~subsection 23-19.15-6(a)~~ § 23-19.15-6(b) if the cesspool is a large capacity cesspool as defined

1 pursuant to applicable federal regulations governing underground injection control (UIC)
2 facilities.

3 SECTION 2. Chapter 23-19.15 of the General Laws entitled "The Rhode Island Cesspool
4 Act of 2007" is hereby amended by adding thereto the following section:

5 **23-19.15-12. Cesspool removal and replacement requirements at property transfer.**

6 = (a) Any cesspool found to be serving a building or use subject to sale or transfer shall be
7 removed and replaced with an OWTS or the building served by the cesspool shall be connected to
8 a public sewer system within twelve (12) months of the date of sale or transfer.

9 (b) Should the manner of wastewater disposal be unknown, an inspection shall be
10 conducted to determine if a cesspool is present on the property. This inspection shall be done by a
11 system inspector prior to the time of sale or transfer.

12 (c) Pursuant to § 5-20.8-13, every contract, for the purchase and sale of real estate which
13 is or may be served by a private cesspool, shall provide that potential purchasers be permitted a
14 ten (10) day period, unless the parties mutually agree upon a different period of time, to conduct
15 an inspection of the property's onsite sewage system in accordance with procedures required by
16 the department in § 23-19.15-5(a), before becoming obligated under the contract to purchase.

17 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO HEALTH AND SAFETY -- THE RHODE ISLAND CESSPOOL ACT OF
2007

1 This act would amend the Rhode Island cesspool act of 2007 including replacing
2 individual sewage disposal systems with onsite wastewater treatment systems and would require
3 cesspool removal or replacement upon the transfer of the property where the cesspool is located
4 under certain circumstances.

5 This act would take effect upon passage.

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