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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

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

Introduced By: Representatives Tanzi, Walsh, Handy, Ferri, and Abney

Date Introduced: April 24, 2013

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

1 SECTION 1. The title of Chapter 19.15 of title 23 of the General Laws entitled  
2 "HEALTH AND SAFETY" is hereby amended to read as follows:

3 ~~TITLE 23~~

4 ~~Health and Safety~~

5 CHAPTER 23-19.5

6 THE RHODE ISLAND CESSPOOL ACT

7 SECTION 2. Sections 23-19.15-2, 23-19.15-3, 23-19.15-4, 23-19.15-5, 23-19.15-6, 23-  
8 19.15-7, 23-19.15-8 and 23-19.15-9 of the General Laws in Chapter 23-19.15 entitled "THE  
9 RHODE ISLAND CESSPOOL ACT" are hereby amended to read as follows:

10 23-19.15-2. Legislative findings. -- The general assembly hereby recognizes and  
11 declares that:

12 (1) There exists ~~within certain portions of the state the~~ a need to abate pollution and  
13 threats to public health caused by cesspools, ~~particularly high risk cesspools that pose direct~~  
14 ~~threats to public health and the environment.~~

15 (2) It is estimated that there are more than fifty thousand (50,000) cesspools within the  
16 state as of ~~2006~~ 2013.

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

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

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

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

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

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

11 (9) Replacement of cesspools with modern ~~ISDS~~ [onsite wastewater treatment system](#)  
12 [\(OWTS\)](#) technology reduces risks to public health and the environment.

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

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

19 **23-19.15-3. Declaration of purpose.** -- The purpose of this chapter is to phase-out use of  
20 ~~cesspools~~ [OWTS](#) that present the highest risk to public health and/or the environment -- namely,  
21 cesspools ~~located in close proximity to tidal water areas and public drinking waters~~. Additionally,  
22 this chapter is intended to allow for the identification and assessment of cesspools on all  
23 properties throughout the state that are subject to sale [or transfer](#), and to phase-out any ~~such~~  
24 cesspools that are found ~~to be failed~~.

25 **23-19.15-4. Definitions.** -- For the purposes of this chapter the following terms shall  
26 mean:

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

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

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

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

8 (5) ~~"Individual sewage disposal system" or "ISDS" means any system of piping, tanks,~~  
9 ~~disposal areas, alternative toilets or other facilities designed to function as a unit to convey, store,~~  
10 ~~treat and/or dispose of sanitary sewage, by means other than discharge into a public sewer~~  
11 ~~system.~~ "Onsite wastewater treatment system" or "OWTS" means any system of piping, tanks,  
12 disposal areas, alternative toilets or other facilities designed to function as a unit to convey, store,  
13 treat and/or dispose of sanitary sewage by means other than discharge into a public sewage  
14 system.

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

17 (7) "Transfer" means a transfer of residential real property except a mortgage foreclosure  
18 or a transfer between the following relationships:

19 (i) Between current spouses;

20 (ii) Between parents and their children;

21 (iii) Between full siblings; and

22 (iv) Where the grantor transfers the real property to be held in a revocable or irrevocable  
23 trust where at least one of the designated beneficiaries is one of the first degree of relationship to  
24 the grantor.

25 **23-19.15-5. Inspection.** -- (a) Unless exempted under subsection 23-19.15-8(a), the  
26 owner of property served by a cesspool in the following areas shall cause an inspection to be  
27 performed on said cesspool by a system inspector in accordance with a schedule established by  
28 the department, but no later than January 1, 2012:

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

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

33 (3) Which cesspool is within two hundred feet (200') of a surface drinking water supply,  
34 specifically the impoundment from which water is drawn via the intake.

1 The inspection shall be conducted and reported in accordance with procedures required  
2 by the department, and the results shall be recorded on forms prescribed by the department.

3 (b) The owner of the property subject to the sale or transfer which is or may be served by  
4 a cesspool, shall cause an inspection to be performed on said cesspool by a system inspector at  
5 the time of sale or transfer or within two (2) years prior to sale or transfer.

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

12 **23-19.15-6. Cesspool removal and replacement.** -- (a) Any cesspool required to be  
13 abandoned pursuant to this chapter shall be replaced with an approved ~~ISDS~~ OWTS, or the  
14 building served by the cesspool shall be connected to a public sewer, prior to the applicable  
15 deadlines ~~contained in subsection 23-19.15-6(b)~~ given herein, whichever occurs sooner.

16 (b) Any cesspool found to be serving a building or use subject to sale or transfer shall be  
17 removed and replaced with an OWTS or the building served by the cesspool shall be connected to  
18 a public sewer system with twelve (12) months of the date of sale or transfer.

19 ~~(b)~~(c) Cesspools found to be located within the areas identified in subsection 23-19.15-  
20 5(a) above shall cease to be used for sewage disposal and shall be properly abandoned in  
21 accordance with the following schedule:

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

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

32 (3) Tier 3. - Any cesspool within two hundred feet (200') of a public drinking water well,  
33 or within two hundred feet (200') of the inland edge of a shoreline feature bordering a tidal water  
34 area [corresponding to the jurisdiction of the RI Coastal Resources Management Council] or

1 within two hundred feet (200) of a surface drinking water supply [specifically, the impoundment  
2 from which water is drawn via the intake] shall be properly abandoned by January 1, 2014.

3 **23-19.15-7. Waiver.** -- The director may grant a waiver, to the extent necessary, from  
4 applicable provisions listed in subsection ~~23-19.15-6(b)~~ [23-19.15-6\(c\)](#) provided the homeowner  
5 demonstrates undue hardship and the cesspool is not a failed system as defined herein. No waiver  
6 shall exceed five (5) years from the dates specified in subsection ~~23-19.15-6(b)~~ [23-19.15-6\(c\)](#).  
7 Any waiver granted shall expire upon transfer or sale of the land or easement upon which the  
8 cesspool is located.

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

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

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

29 **23-19.15-9. Notice to remove and replace cesspools.** -- (a) The owner of any cesspool  
30 who has not complied with the requirements pursuant to this chapter shall be in violation of this  
31 chapter and subject to enforcement action by the department in accordance with chapters 17.1 and  
32 17.6 of title 42 of the general laws.

33 (b) Notwithstanding the above provisions, the director may require the abandonment and  
34 replacement of any cesspool with an approved ~~ISDS~~ [OWTS](#) prior to the dates specified in

1 subsection ~~23-19.15-6(a)~~ [23-19.15-6\(c\)](#) if the cesspool is a large capacity cesspool as defined  
2 pursuant to applicable federal regulations governing underground injection control (UIC)  
3 facilities.

4 SECTION 3. This act shall take effect on January 1, 2014.

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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

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1           This act would amend the law on cesspools by updating the terminology of "Individual  
2 Sewage Disposal System" (ISDS) to that of "Onsite Wastewater Treatment System (OWTS).  
3 Moreover, with the exception of family transfers, any cesspool used in a building subject to sale  
4 or transfer must be replaced with an OWTS or connected to a public sewer system within twelve  
5 (12) months of the date of sale or transfer. The goal of these amendments would be to eliminate  
6 all cesspools regardless of whether or not they are located in close proximity to tidal water areas  
7 and public drinking waters.

8           This act would take effect on January 1, 2014.

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