

2014 -- S 2684 SUBSTITUTE A

LC004229/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

A N A C T

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

Introduced By: Senators Sosnowski, Cool Rumsey, Goldin, and Bates

Date Introduced: March 05, 2014

Referred To: Senate Environment & Agriculture

(Environmental Management)

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 19.15-8 and 23-19.15-9 of the General Laws in Chapter 23-19.15 entitled "The Rhode Island  
3 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 not a department-approved method of wastewater disposal, and all  
12 existing cesspools are considered to be a substandard ~~and often inadequate means of sewage~~  
13 ~~treatment and disposal~~.

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

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

18 ~~(6) Wastewater disposed from cesspools frequently exceeds drinking water health~~

1 ~~standards for certain contaminants.~~

2 ~~(7)~~(5) Wastewater disposed from cesspools can pose significant health threats to people  
3 who come into contact with, or consume, contaminated surface waters or groundwaters.

4 ~~(8)~~(6) Appropriate treatment of ~~sewage~~ wastewater disposed into the ground is essential  
5 to the protection of public health and the environment, particularly in relation to Narragansett Bay  
6 and the rest of the state's coastal region, and public drinking water resources.

7 ~~(9)~~(7) Replacement of cesspools with modern ~~ISDS~~ onsite wastewater treatment system  
8 (OWTS) technology reduces risks to public health and the environment.

9 ~~(10)~~(8) In sewerred areas, sewer tie-ins offer a readily available, ~~low-cost~~ means of  
10 mitigating problems and threats caused by cesspools.

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

15 (10) Certain municipalities or sewer authorities may offer loans to assist homeowners  
16 with the costs of sewer tie-ins.

17 **23-19.15-3. Declaration of purpose.** -- The purpose of this chapter is to phase-out use of  
18 cesspools ~~that present the highest risk to public health and/or the environment — namely,~~  
19 ~~cesspools~~ , beginning with those located in close proximity to tidal water areas and public  
20 drinking ~~waters~~ water supplies. Finally, this chapter is intended to allow for the identification and  
21 ~~assessment~~ replacement of cesspools on all properties throughout the state that are subject to sale  
22 or transfer, and to phase-out any such cesspools ~~that are found to be failed~~.

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

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

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

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

34 (4) "Failed cesspool" means a cesspool where one or more of the following conditions

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

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

11 (6) "System inspector" means a person approved by the department as capable of  
12 properly assessing the condition of an ~~ISDS~~ OWTS. The department shall maintain and make  
13 available a list of approved "system inspectors" and their contact information.

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

16 (i) Between spouses;

17 (ii) Between parents and their children;

18 (iii) Between siblings; or

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

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

25 **23-19.15-5. Inspection** **Inspection requirements for cesspools located within 200 feet**  
26 **of the inland edge of a shoreline feature bordering a tidal waters area and public drinking**  
27 **water supplies. --** (a) Notwithstanding the provisions of § 23-19.15-12 and unless ~~Unless~~

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

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

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

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

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

6 (b) 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 23-19.15-5(a), before becoming obligated under the  
11 contract to purchase.

12 **23-19.15-6. Cesspool removal and replacement.** -- (a) [Notwithstanding the provisions](#)  
13 [of § 23-19.15-12, any](#) ~~Any~~ cesspool [located within an area\(s\) contained in § 23-19.15-5\(a\) and](#)  
14 required to be abandoned pursuant to this chapter shall be replaced with an approved ~~ISDS~~  
15 [OWTS](#), or the building served by the cesspool shall be connected to a public sewer, prior to the  
16 applicable deadlines contained in subsection 23-19.15-6(b).

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

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

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

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

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

9           **23-19.15-8. Exemption.** -- (a) The provisions of section 23-19.15-5 and subsection 23-  
10 19.15-6(a) shall not apply to any cesspool located in an area of a community covered by  
11 municipal on-site wastewater management ordinance that requires the risk-based phase-out of  
12 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(b)(3) and 23-19.15-  
14 12(b) shall not apply to any cesspool located on a property that is properly designated to be  
15 sewerer no later than six (6) years after the applicable deadlines provided in ~~subdivision 23-~~  
16 ~~19.15-6(b)(2)~~ § 23-19.15-6(b)(3) provided: (1) The sewerer project is identified in the city, town  
17 or sewer district's or authority's wastewater facilities plan as approved by ~~DEM~~ the department  
18 prior to January 1, 2013; (2) The municipality, acting through its city or town council, or sewer  
19 authority states in writing to the director of the department of environmental management by  
20 January 1, 2013 that the municipality or sewer authority will complete construction of the  
21 sewerer project on or before January 1, 2020; and (3) The property owner certifies, in writing,  
22 that the dwelling/building will be connected to the sewer system within six (6) months of receipt  
23 of the notification to connect to the sewer system and that no increase in the design sewage flow  
24 or number of bedrooms in the building will occur until the connection is made.

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

30           **23-19.15-9. Notice to remove and replace cesspools.** -- (a) The owner of any cesspool  
31 who has not complied with the requirements pursuant to this chapter shall be in violation of this  
32 chapter and subject to enforcement action by the department in accordance with chapters 17.1 and  
33 17.6 of title 42 of the general laws.

34           (b) Notwithstanding the above provisions, the director may require the abandonment and

1 replacement of any cesspool with an approved ~~ISDS~~ OWTS prior to the dates specified in  
2 ~~subsection 23-19.15-6(a)~~ § 23-19.15-6(b) if the cesspool is a large capacity cesspool as defined  
3 pursuant to applicable federal regulations governing underground injection control (UIC)  
4 facilities.

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

7 **23-19.15-12. Cesspool removal and replacement requirements at property sale or**  
8 **transfer. -- (a) Any cesspool found to be serving a building or use subject to sale or transfer and**  
9 **has a sewer stub enabling connection to a public sewer system shall be properly abandoned, and**  
10 **the building served by the cesspool shall be connected into the sewer system within twelve (12)**  
11 **months of the date of sale or transfer.**

12 (b) Any cesspool found to be serving a building or use subject to sale or transfer and does  
13 not have a sewer stub enabling connection to a public sewer, shall be properly abandoned or  
14 removed and the building served by the cesspool shall be replaced by an OWTS within twelve  
15 (12) months of the date of sale or transfer.

16 (c) Should the manner of wastewater disposal be unknown, an inspection must be  
17 performed to determine if a cesspool is present on the property. The owner of the property subject  
18 to sale or transfer shall cause an inspection to be performed to determine if a cesspool is present  
19 on the property. This inspection shall be done by a system inspector prior to sale or transfer of the  
20 property.

21 (d) Pursuant to § 5-20.8-13, every contract for the purchase and sale of real estate which  
22 is or may be served by a private cesspool, shall provide that potential purchasers be permitted a  
23 ten (10) day period, unless the parties mutually agree upon a different period of time, to conduct  
24 an inspection of the property's onsite sewage system before becoming obligated under the  
25 contract to purchase.

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

=====  
LC004229/SUB A  
=====

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 phase out the use of cesspools throughout the state, beginning with those  
2 close to tidal water areas and public drinking water supplies. It would require the identification  
3 and replacement of cesspools on all properties that are subject to sale and transfer.

4           This act would take effect upon passage.

=====  
LC004229/SUB A  
=====