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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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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 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.

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~~ violates drinking water

1 health standards for certain contaminants.

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

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

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

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

15 **23-19.15-3. Declaration of purpose.** -- The purpose of this chapter is to phase-out use of
16 cesspools ~~that present the highest risk to public health and/or the environment—namely,~~
17 ~~cesspools~~ [, beginning with those](#) located in close proximity to tidal water areas and public
18 drinking ~~waters~~ [water supplies](#). [Additionally, this chapter provides for the connection of](#)
19 [properties served by cesspools to available sewer lines](#). [Finally,](#) this chapter is intended to allow
20 for the identification and ~~assessment~~ [replacement](#) of cesspools on all properties throughout the
21 state that are subject to sale [or transfer](#), and to phase-out any such cesspools ~~that are found to be~~
22 ~~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 from a building for the purpose of collecting solids and discharging liquids to the
29 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, as evidenced by sewage at the ground
2 surface above or adjacent to the cesspool, or in the building served; (ii) the liquid depth in a
3 cesspool is less than six (6) inches from the inlet pipe invert; (iii) pumping is required more than
4 two (2) times a year; (iv) the cesspool is shown to have contaminated a drinking water well or
5 watercourse; or (v) there is shown to be direct contact between the bottom of the cesspool and the
6 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~~ recognized by the department as
12 capable of properly assessing the condition of an ~~ISDS~~ OWTS.

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

15 (i) Between current spouses;

16 (ii) Between parents and their children;

17 (iii) Between full siblings; or

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

21 **23-19.15-5. ~~Inspection~~ Inspection requirements for cesspools located in close**
22 **proximity to tidal waters and public drinking water supplies.** -- (a) Unless exempted under
23 subsection 23-19.15-8(a), the owner of property served by a cesspool in the following areas shall
24 cause an inspection to be performed on said cesspool by a system inspector in accordance with a
25 schedule established by the department, but no later than January 1, 2012:

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

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

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

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

34 (b) Pursuant to section 5-20.8-13, every contract for the purchase and sale of real estate

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

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

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

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

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

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

29 **23-19.15-8. Exemption.** -- (a) The provisions of section 23-19.15-5 and subsection 23-
30 19.15-6(a) shall not apply to any cesspool located in an area of a community covered by
31 municipal on-site wastewater management ordinance that requires the risk-based phase-out of
32 cesspools on an alternative schedule that meets the purposes of this act.

33 (b) The provisions of ~~subdivision 23-19.15-6(b)(2)~~ [§§ 23-19.15-6\(b\)\(3\) and 23-19.15-10](#)
34 shall not apply to any cesspool located on a property that is properly designated to be sewer no

1 later than six (6) years after the applicable deadlines provided in ~~subdivision 23-19.15-6(b)(2)~~ §
2 [23-19.15-6\(b\)\(3\)](#) provided: (1) The sewerage project is identified in the city, town or sewer
3 district's wastewater facilities plan as approved by DEM prior to January 1, 2013; (2) The
4 municipality, acting through its city or town council, states in writing to the director of the
5 department of environmental management by January 1, 2013 that the municipality will complete
6 construction of the sewerage project on or before January 1, 2020; and (3) The property owner
7 certifies, in writing, that the dwelling/building will be connected to the sewer system within six
8 (6) months of receipt of the notification to connect to the sewer system and that no increase in the
9 design sewage flow or number of bedrooms in the building will occur until the connection is
10 made.

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

16 **23-19.15-9. Notice to remove and replace cesspools.** -- (a) The owner of any cesspool
17 who has not complied with the requirements pursuant to this chapter shall be in violation of this
18 chapter and subject to enforcement action by the department in accordance with chapters 17.1 and
19 17.6 of title 42 of the general laws.

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

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

27 **23-19.15-12. Cesspool removal and replacement requirements for properties with**
28 **access to sewer lines.** -- [-Any cesspool located on a property not subject to § 23-19.15-6 which](#)
29 [has a sewer stub enabling connection to a public sewer shall be properly abandoned, and the](#)
30 [building served by the cesspool shall be connected into the sewer system of such premises with](#)
31 [such sewer and fill up and destroy any cesspool, privy vault, drain or other arrangement on such](#)
32 [land for the reception of sewage, excluding any Rhode Island department of environmental](#)
33 [management OWTS approved system, prior to January 1, 2016, unless subject to an earlier date](#)
34 [in accordance with local requirements.](#)

1 **23-19.15-13. Cesspool removal and replacement requirements at property transfer. -**

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

5 (b) Should the manner of wastewater disposal be unknown, the owner of property subject
6 to sale or transfer shall cause an inspection to be performed to determine if a cesspool is present
7 on the property. This inspection shall be done by a system inspector at the time of sale or transfer.

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

13 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 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.

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