

In 2001, the Michigan Legislature passed PA 222, which creates an exception to the protections afforded to a governmental agency against liability arising from damages caused due to a “Sewage Disposal system event”.

### **DEFINITIONS**

The following are definitions for the terms used in the statute (MCL 691.1416 to 691.1419):

Appropriate Governmental Agency—a governmental agency that, at the time of a sewage disposal system event, owned or operated, or directly or indirectly discharged into, the portion of the sewage disposal system that allegedly caused damage or physical injury.

Claimant—(1) a property owner that believes that a “sewage disposal system event” caused damage to the owner’s property; (2) a physically injured individual who believes that a “sewage disposal system event” caused the physical injury; (3) a person making a claim on behalf of a property owner or a physically injured individual.

Sewage Disposal System Event—is defined by statute as: The overflow or backup of a sewage disposal system onto real property.

An overflow or backup is not a sewage disposal system event if any of the following was a substantial proximate cause:

- Obstruction in a service lead not caused by a government agency.
- Sump system, building drain, surface drain, gutter or downspout connected to the sewage disposal system.
- Act of war or terrorism.

Sewage Disposal System— all interceptor sewers, storm sewers, sanitary sewers, combined sanitary and storm sceptor sewers, sewage treatment plans, and all other plants, works, instrumentalities, and properties used or useful in connection with the collection, treatment, and disposal of sewage and industrial wastes, and includes a storm water drain system under the jurisdiction and control of a government agency.

### **NOTICE REQUIREMENTS**

If you experience a “sewage disposal system event” you, must file a claim in writing to the government within **45 days** of your discovery of an event. The claim must include:

- Your name, address and phone number, address of affected property
- Date of discovery of any property damages of physical injuries
- A brief description of the claim

**Please note that failure to file a written claim within 45 days may waive your right to further action.**

### **CLAIM REQUIREMENTS**

A claimant may seek compensation for property damage or personal injury by showing **all** of the following existed at the time of the event.

- The government agency was an appropriate government agency.
- The sewage disposal system had a defect
- The government agency knew, or in the exercise of reasonable diligence, should have known about the defect.
- The government agency, having the legal authority to do so, failed to take reasonable steps to remedy the defect in a reasonable time.
- The defect was a substantial proximate cause of the event and the property damage or physical injury.

### **DAMAGES**

- Recovery is limited to economic damages caused by an event unless there is a claim for death, serious impairment of body function or permanent serious disfigurement.
- If any damaged property is personal property, claimant must show reasonable proof of ownership and value of the damaged property. Proof may include testimony, records of purchase, price, value or photographic or similar evidence of value.