

SB 109, As Passed Senate, April 24, 2001

**SUBSTITUTE FOR
SENATE BILL NO. 109**

A bill to amend 1964 PA 170, entitled

"An act to make uniform the liability of municipal corporations, political subdivisions, and the state, its agencies and departments, officers, employees, and volunteers thereof, and members of certain boards, councils, and task forces when engaged in the exercise or discharge of a governmental function, for injuries to property and persons; to define and limit this liability; to define and limit the liability of the state when engaged in a proprietary function; to authorize the purchase of liability insurance to protect against loss arising out of this liability; to provide for defending certain claims made against public officers and paying damages sought or awarded against them; to provide for the legal defense of public officers and employees; to provide for reimbursement of public officers and employees for certain legal expenses; and to repeal certain acts and parts of acts,"

(MCL 691.1401 to 691.1415) by adding section 16.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 SEC. 16. A POLITICAL SUBDIVISION IS IMMUNE FROM CIVIL
- 2 LIABILITY FOR NONECONOMIC DAMAGES CAUSED AS THE RESULT OF THE
- 3 BACKUP OF A SEWER SYSTEM BUILT, OPERATED, MAINTAINED, OR

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1 REPAIRED, OR OTHERWISE UNDER THE JURISDICTION OF, THE POLITICAL
2 SUBDIVISION UNDER EITHER OF THE FOLLOWING CIRCUMSTANCES:

3 (A) THE POLITICAL SUBDIVISION IS IN FULL COMPLIANCE WITH AN
4 ORDER, PERMIT, OR OTHER DOCUMENT WITH AN ENFORCEABLE SCHEDULE FOR
5 ADDRESSING THE POLITICAL SUBDIVISION'S SEWAGE-RELATED WATER POL-
6 LUTION PROBLEMS THAT WAS ISSUED BY THE DEPARTMENT OF ENVIRONMEN-
7 TAL QUALITY OR ENTERED INTO AS PART OF AN ACTION BROUGHT BY THE
8 STATE AGAINST THE POLITICAL SUBDIVISION.

9 (B) THE POLITICAL SUBDIVISION IS NOT SUBJECT TO AN ORDER,
10 PERMIT, OR OTHER DOCUMENT WITH AN ENFORCEABLE SCHEDULE FOR
11 ADDRESSING THE POLITICAL SUBDIVISION'S SEWAGE-RELATED WATER POL-
12 LUTION PROBLEMS AS DESCRIBED IN SUBDIVISION (A), BUT THE POLITI-
13 CAL SUBDIVISION MEETS ALL OF THE FOLLOWING:

14 (i) THE POLITICAL SUBDIVISION WAS PROPERLY OPERATING AND
15 MAINTAINING THE SEWER SYSTEM AT THE TIME OF THE BACKUP OF THE
16 SEWER SYSTEM.

17 (ii) THE BACKUP OF THE SEWER SYSTEM WAS THE FIRST BACKUP
18 EXPERIENCED BY THE SEWER SYSTEM.

19 (iii) FOLLOWING THE BACKUP OF THE SEWER SYSTEM, THE POLITI-
20 CAL SUBDIVISION ENTERED INTO AN ORDER, PERMIT, OR OTHER DOCUMENT
21 WITH AN ENFORCEABLE SCHEDULE FOR ADDRESSING THE POLITICAL
22 SUBDIVISION'S SEWAGE-RELATED WATER POLLUTION PROBLEMS AS
23 DESCRIBED IN SUBDIVISION (A).