

HOUSE BILL No. 6346

September 18, 2002, Introduced by Rep. DeRossett and referred to the Committee on Land Use and Environment.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 4101 (MCL 324.4101) and by adding section
4105b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4101. As used in this part:

2 (A) "DEPARTMENT" MEANS THE DEPARTMENT OF ENVIRONMENTAL
3 QUALITY.

4 (B) ~~(a)~~ "Governmental agencies" means local units of gov-
5 ernment, metropolitan districts, or other units of government or
6 the officers of the units of government authorized to own, con-
7 struct, or operate sewerage systems to serve the public.

8 (C) "LOCAL UNIT" MEANS A CITY, VILLAGE, OR TOWNSHIP.

9 (D) ~~(b)~~ "Plans and specifications" means a true
10 description or representation of the entire sewerage system and

1 parts of a SEWERAGE system proposed or operated by a person as
2 the same exists or is to be constructed, and also a full and fair
3 statement of how the SEWERAGE system is to be operated.

4 (E) ~~(c)~~ "Sewerage system" means a system of pipes and
5 structures including pipes, channels, conduits, manholes, pumping
6 stations, sewage or waste treatment works, diversion and regula-
7 tory devices, outfall structures, and appurtenances, collectively
8 or severally, actually used or intended for use by the public for
9 the purpose of collecting, conveying, transporting, treating, or
10 otherwise handling sanitary sewage or other industrial liquid
11 wastes that ~~are capable of~~ MAY adversely ~~affecting~~ AFFECT the
12 public health.

13 SEC. 4105B. (1) AN APPLICATION FOR A CONSTRUCTION PERMIT
14 UNDER SECTION 4105 FOR A PRIVATELY OWNED SEWERAGE SYSTEM THAT
15 WILL SERVE 2 OR MORE DWELLING UNITS SHALL INCLUDE DOCUMENTATION
16 THAT THE GOVERNING BODY OF THE LOCAL UNIT WHERE THE SEWERAGE
17 SYSTEM IS PROPOSED TO BE LOCATED HAS REFUSED TO OWN AND ACCEPT
18 RESPONSIBILITY FOR OPERATING THE SEWERAGE SYSTEM. WITHIN 63 DAYS
19 AFTER RECEIVING A WRITTEN REQUEST THAT THE LOCAL UNIT OWN AND
20 ACCEPT RESPONSIBILITY FOR OPERATING THE SEWERAGE SYSTEM, THE GOV-
21 ERNING BODY SHALL NOTIFY THE PERSON MAKING THE REQUEST, IN WRIT-
22 ING, WHETHER THE LOCAL UNIT REFUSES OR AGREES TO OWN AND ACCEPT
23 RESPONSIBILITY FOR OPERATING THE SEWERAGE SYSTEM. IF THE GOVERN-
24 ING BODY FAILS TO PROVIDE NOTIFICATION WITHIN 63 DAYS, THE APPLI-
25 CANT FOR THE CONSTRUCTION PERMIT SHALL INCLUDE WITH THE APPLICA-
26 TION A WRITTEN STATEMENT TO THAT EFFECT AND THE GOVERNING BODY

1 SHALL BE CONSIDERED TO HAVE REFUSED TO OWN AND ACCEPT
2 RESPONSIBILITY FOR OPERATING THE SEWERAGE SYSTEM.

3 (2) A CONSTRUCTION PERMIT FOR A PRIVATELY OWNED SEWERAGE
4 SYSTEM THAT WILL SERVE 2 OR MORE DWELLING UNITS SHALL REQUIRE AS
5 A CONDITION OF THE PERMIT THAT THE DEVELOPER OR OWNER FILE WITH
6 THE DEPARTMENT SECURITY GUARANTEEING THAT THE SEWERAGE SYSTEM
7 WILL BE CONSTRUCTED, MAINTAINED, AND OPERATED AS REQUIRED UNDER
8 THIS ACT, RULES PROMULGATED UNDER THIS ACT, AND THE CONSTRUCTION
9 PERMIT. THE SECURITY SHALL BE IN A SUM FIXED BY THE DEPARTMENT
10 BASED ON THE SIZE, TYPE, AND COMPLEXITY OF THE SEWERAGE SYSTEM.
11 AT THE OPTION OF THE DEPARTMENT, THE SECURITY SHALL CONSIST OF 1
12 OR MORE OF THE FOLLOWING:

13 (A) CASH.

14 (B) A CERTIFIED CHECK.

15 (C) A PERFORMANCE BOND EXECUTED BY A SURETY COMPANY AUTHO-
16 RIZED TO DO BUSINESS IN THIS STATE.

17 (D) AN ESCROW AGREEMENT ACCEPTABLE TO THE DEPARTMENT.

18 (E) AN IRREVOCABLE LETTER OF CREDIT ISSUED BY A STATE OR
19 FEDERALLY REGULATED FINANCIAL INSTITUTION.

20 (3) THE DEPARTMENT MAY ACCESS THE SECURITY UNDER SUBSECTION
21 (2) TO CORRECT ANY DEFICIENCIES IN THE CONSTRUCTION, OPERATION,
22 AND MAINTENANCE OF THE SEWERAGE SYSTEM AS REQUIRED UNDER THIS
23 ACT, RULES PROMULGATED UNDER THIS ACT, AND THE CONSTRUCTION
24 PERMIT. IF THE DEPARTMENT ACCESSES THE SECURITY, THE OWNER OR
25 OPERATOR OF THE SEWERAGE SYSTEM SHALL REPLENISH THE SECURITY TO
26 MAINTAIN THE AMOUNT FIXED BY THE DEPARTMENT UNDER SUBSECTION
27 (2).

1 (4) THE DEPARTMENT MAY REDUCE THE AMOUNT OF OR ELIMINATE THE
2 REQUIREMENT FOR SECURITY UNDER SUBSECTIONS (2) AND (3) AFTER A
3 5-YEAR PERIOD IN WHICH THE SEWERAGE SYSTEM HAS BEEN OPERATED AND
4 MAINTAINED TO THE SATISFACTION OF THE DEPARTMENT.

5 (5) A CONSTRUCTION PERMIT FOR A PRIVATELY OWNED SEWERAGE
6 SYSTEM THAT WILL SERVE 2 OR MORE DWELLING UNITS SHALL REQUIRE AS
7 A CONDITION OF THE PERMIT THAT THE OWNER OF THE SEWERAGE SYSTEM
8 ENTER AN AGREEMENT WITH THE DEPARTMENT PROVIDING FOR THE PERPET-
9 UAL OPERATION AND MAINTENANCE OF THE SEWERAGE SYSTEM AND RECORD
10 THE AGREEMENT WITH THE REGISTER OF DEEDS FOR THE COUNTY WHERE THE
11 SEWERAGE SYSTEM WILL BE LOCATED. THE AGREEMENT SHALL PROVIDE
12 THAT THE OWNER OR OPERATOR OF THE SEWERAGE SYSTEM HAS AUTHORITY
13 TO ASSESS PROPERTIES SERVED BY THE SEWERAGE SYSTEM FEES FOR THE
14 COSTS OF OPERATION, MAINTENANCE, OR REPAIR OF THE SEWERAGE SYSTEM
15 AND THAT AN UNPAID FEE IS A LIEN AGAINST THE PROPERTY AGAINST
16 WHICH THE FEE WAS ASSESSED. THE AGREEMENT SHALL RUN WITH THE
17 LAND AND BIND ALL SUBSEQUENT OWNERS AND USERS OF THE SEWERAGE
18 SYSTEM.

19 (6) NOTWITHSTANDING SECTION 3109, A LOCAL UNIT IS NOT LIABLE
20 FOR A DISCHARGE FROM A PRIVATELY OWNED SEWERAGE SYSTEM FOR WHICH
21 A CONSTRUCTION PERMIT WAS ISSUED UNDER THIS SECTION.

22 (7) A PERSON OTHER THAN A LOCAL UNIT SHALL NOT ACQUIRE AN
23 EXISTING SEWERAGE SYSTEM THAT SERVES 2 OR MORE DWELLING UNITS
24 UNLESS THE LOCAL UNIT WHERE THE SEWERAGE SYSTEM IS LOCATED
25 REFUSES TO OWN AND ACCEPT RESPONSIBILITY FOR OPERATING THE SEWER-
26 AGE SYSTEM. BEFORE ACQUIRING THE SEWERAGE SYSTEM, THE PERSON
27 SHALL REQUEST THAT THE LOCAL UNIT INSTEAD ACQUIRE AND ACCEPT

1 RESPONSIBILITY FOR OPERATING THE SEWERAGE SYSTEM. THE REQUEST
2 SHALL BE SUBMITTED IN WRITING TO THE GOVERNING BODY OF THE LOCAL
3 UNIT. WITHIN 63 DAYS AFTER RECEIVING THE REQUEST, THE GOVERNING
4 BODY SHALL NOTIFY THE PERSON MAKING THE REQUEST, IN WRITING,
5 WHETHER THE LOCAL UNIT REFUSES OR AGREES TO OWN AND ACCEPT
6 RESPONSIBILITY FOR OPERATING THE SEWERAGE SYSTEM. IF THE GOVERN-
7 ING BODY FAILS TO PROVIDE SUCH NOTIFICATION WITHIN 63 DAYS, THE
8 GOVERNING BODY SHALL BE CONSIDERED TO HAVE REFUSED TO OWN AND
9 ACCEPT RESPONSIBILITY FOR OPERATING THE SEWERAGE SYSTEM.