

**GOVERNMENTAL LIABILITY FOR NEGLIGENCE (EXCERPT)**  
**Act 170 of 1964**

**691.1416 Definitions.**

Sec. 16. As used in this section and sections 17 to 19:

(a) "Affected property" means real property affected by a sewage disposal system event.

(b) "Appropriate governmental agency" means 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.

(c) "Claimant" means a property owner that believes that a sewage disposal system event caused damage to the owner's property, a physically injured individual who believes that a sewage disposal system event caused the physical injury, or a person making a claim on behalf of a property owner or physically injured individual. Claimant includes a person that is subrogated to a claim of a property owner or physically injured individual described in this subdivision.

(d) "Contacting agency" means any of the following within a governmental agency:

(i) The clerk of the governmental agency.

(ii) If the governmental agency has no clerk, an individual who may lawfully be served with civil process directed against the governmental agency.

(iii) Any other individual, agency, authority, department, district, or office authorized by the governmental agency to receive notice under section 19, including, but not limited to, an agency, authority, department, district, or office responsible for the operation of the sewage disposal system, such as a sewer department, water department, or department of public works.

(e) "Defect" means a construction, design, maintenance, operation, or repair defect.

(f) "Noneconomic damages" includes, but is not limited to, pain, suffering, inconvenience, physical impairment, disfigurement, mental anguish, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, humiliation, and other nonpecuniary damages.

(g) "Person" means an individual, partnership, association, corporation, other legal entity, or a political subdivision.

(h) "Serious impairment of body function" means that term as defined in section 3135 of the insurance code of 1956, 1956 PA 218, MCL 500.3135.

(i) "Service lead" means an instrumentality that connects an affected property, including a structure, fixture, or improvement on the property, to the sewage disposal system and that is neither owned nor maintained by a governmental agency.

(j) "Sewage disposal system" means all interceptor sewers, storm sewers, sanitary sewers, combined sanitary and storm sewers, sewage treatment plants, 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 governmental agency.

(k) "Sewage disposal system event" or "event" means 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 of the overflow or backup:

(i) An obstruction in a service lead that was not caused by a governmental agency.

(ii) A connection to the sewage disposal system on the affected property, including, but not limited to, a sump system, building drain, surface drain, gutter, or downspout.

(iii) An act of war, whether the war is declared or undeclared, or an act of terrorism.

(l) "Substantial proximate cause" means a proximate cause that was 50% or more of the cause of the event and the property damage or physical injury.

**History:** Add. 2001, Act 222, Imd. Eff. Jan. 2, 2002.

**Popular name:** Governmental Immunity Act