

FIRST REGULAR SESSION

# HOUSE BILL NO. 656

## 98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE COLONA.

1623H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To amend chapter 249, RSMo, by adding thereto one new section relating to actions against certain sewer districts.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 249, RSMo, is amended by adding thereto one new section, to be  
2 known as section 249.1175, to read as follows:

**249.1175. 1. As used in this section, the following terms shall mean:**

2 **(1) "Sewer district", any metropolitan sewer district established under article VI,**  
3 **section 30(a) of the Constitution of Missouri;**

4 **(2) "Sewer facilities", storm and sanitary sewers, pipes, channels, conduits, pump**  
5 **stations, treatment plants, and appurtenances for the collection, transportation, pumping,**  
6 **treatment, and disposal of wastewater and stormwater.**

7 **2. No action for damages based on a taking alleged to result from obstruction,**  
8 **disrepair, defect, or inadequacy related to the condition and operation of sewer facilities**  
9 **owned and operated by any sewer district shall be maintained against such sewer district**  
10 **except in compliance with the following conditions and limitations:**

11 **(1) Any person claiming such damages shall provide notice in writing to the board**  
12 **of trustees within ninety days of the discovery of damages in the exercise of ordinary care**  
13 **for which such damage is claimed, stating the place where and the time when such damages**  
14 **were sustained, and the character and circumstances of the damages, and that the person**  
15 **so damaged will claim damages from such sewer district. Nothing contained in such notice**  
16 **shall limit the damages that may be claimed in the action;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17           **(2) No action may be brought against such sewer district more than three years**  
18 **after the occurrence giving rise to such damages;**

19           **(3) In any claim for inverse condemnation based on the alleged negligent, defective,**  
20 **or dangerous design of a sewer facility, the sewer district shall be entitled to a defense**  
21 **which shall be a complete bar to recovery whenever the sewer district can prove by a**  
22 **preponderance of the evidence that the alleged negligent, defective, or dangerous design**  
23 **reasonably complied with sewer facility design standards generally accepted at the time the**  
24 **facility was designed and constructed;**

25           **(4) No claim in inverse condemnation shall be upheld against such sewer district**  
26 **for the alleged failure to maintain, repair, or operate sewer facilities unless the plaintiff**  
27 **pleads and proves by a preponderance of the evidence that construction, repair, or**  
28 **maintenance acts of the sewer district directly caused or directly contributed to cause such**  
29 **damages.**

30           **3. In any action for inverse condemnation against a sewer district, it shall be a**  
31 **complete defense to such action if the sewer district proves by a preponderance of the**  
32 **evidence that, prior to the occurrence giving rise to such damages, the sewer district has**  
33 **offered the plaintiff the means or mechanism necessary to enable the plaintiff to completely**  
34 **correct the alleged defect in the public sewer and the plaintiff unreasonably refused such**  
35 **offer and such refusal was a cause of the taking of plaintiff's property.**

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