

# HOUSE BILL No. 4009

January 28, 2003, 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  
4105a.

## 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  
5       government, metropolitan districts, or other units of government  
6       or the officers of the units of government authorized to own,  
7       construct, 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 description  
10      or representation of the entire sewerage system and parts of a

1 **sewerage** system proposed or operated by a person as the same  
2 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)** ~~-(e)-~~ "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  
7 regulatory devices, outfall structures, and appurtenances,  
8 collectively or severally, actually used or intended for use by  
9 the public for the purpose of collecting, conveying,  
10 transporting, treating, or otherwise handling sanitary sewage or  
11 other industrial liquid wastes that ~~are capable of~~ **may**  
12 adversely ~~affecting~~ **affect** the public health.

13       **Sec. 4105a. (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  
21 governing body shall notify the person making the request, in  
22 writing, whether the local unit refuses or agrees to own and  
23 accept responsibility for operating the sewerage system. If the  
24 governing body fails to provide notification within 63 days, the  
25 applicant for the construction permit shall include with the  
26 application a written statement to that effect and the governing  
27 body shall be considered to have refused to own and accept

1 responsibility for operating the sewerage system.

2       (2) A construction permit for a privately owned sewerage  
3 system that will serve 2 or more dwelling units shall require as  
4 a condition of the permit that the developer or owner file with  
5 the department security guaranteeing that the sewerage system  
6 will be constructed, maintained, and operated as required under  
7 this act, rules promulgated under this act, and the construction  
8 permit. The security shall be in a sum established by the  
9 department based on the size, type, and complexity of the  
10 sewerage system. At the option of the department, the security  
11 shall consist of 1 or more of the following:

12       (a) Cash.

13       (b) A certified check.

14       (c) A performance bond executed by a surety company  
15 authorized to do business in this state.

16       (d) An escrow agreement acceptable to the department.

17       (e) An irrevocable letter of credit issued by a state or  
18 federally regulated financial institution.

19       (3) The department may access the security under subsection  
20 (2) to correct any deficiencies in the construction, operation,  
21 and maintenance of the sewerage system as required under this  
22 act, rules promulgated under this act, and the construction  
23 permit. If the department accesses the security, the owner or  
24 operator of the sewerage system shall replenish the security to  
25 maintain the amount established by the department under  
26 subsection (2).

27       (4) The department may reduce the amount of or eliminate the

1 requirement for security under subsections (2) and (3) after a  
2 5-year period in which the sewerage system has been operated and  
3 maintained to the satisfaction of the department.

4       (5) A construction permit for a privately owned sewerage  
5 system that will serve 2 or more dwelling units shall require as  
6 a condition of the permit that the owner of the sewerage system  
7 enter an agreement with the department providing for the  
8 perpetual operation and maintenance of the sewerage system and  
9 record the agreement with the register of deeds for the county  
10 where the sewerage system will be located. The agreement shall  
11 provide that the owner or operator of the sewerage system has  
12 authority to assess properties served by the sewerage system fees  
13 for the costs of operation, maintenance, or repair of the  
14 sewerage system and that an unpaid fee is a lien against the  
15 property against which the fee was assessed. The agreement shall  
16 run with the land and bind all subsequent owners and users of the  
17 sewerage system.

18       (6) Notwithstanding section 3109, a local unit is not liable  
19 for a discharge from a privately owned sewerage system for which  
20 a construction permit was issued under this section.

21       (7) A person other than a local unit shall not acquire an  
22 existing sewerage system that serves 2 or more dwelling units  
23 unless the local unit where the sewerage system is located  
24 refuses to own and accept responsibility for operating the  
25 sewerage system. Before acquiring the sewerage system, the  
26 person shall request that the local unit instead acquire and  
27 accept responsibility for operating the sewerage system. The

1 request shall be submitted in writing to the governing body of  
2 the local unit. Within 63 days after receiving the request, the  
3 governing body shall notify the person making the request, in  
4 writing, whether the local unit refuses or agrees to own and  
5 accept responsibility for operating the sewerage system. If the  
6 governing body fails to provide such notification within 63 days,  
7 the governing body shall be considered to have refused to own and  
8 accept responsibility for operating the sewerage system.