

FAQs

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Public Act 222

What is Public Act 222?

In 2001, the Michigan Legislature passed a law to create an exception to governmental immunity for damages caused by the back up or overflow of sewage disposal or storm water systems when certain criteria are met. This law is known as Public Act 222 of 2001 ("PA 222").

Does this exception cover back ups and overflows of County and Intercounty Drains?

Yes. PA 222 covers back ups and overflows of storm sewers, sanitary sewers, combined sanitary and storm sewers, sewage treatment plants and county and intercounty storm water drain systems (open and enclosed) under the jurisdiction and control of a county drain commissioner (county drains) or drainage board (intercounty drains). These back ups and overflows are referred to as an "event" under PA 222.

When is a back up or overflow NOT considered an "event" under PA 222?

A back up or overflow of one of the systems mentioned above is **not** considered an "event" under PA 222 when any of the following is the substantial proximate cause:

- *Obstruction in a service lead not caused by a governmental agency.*
- *A connection to the system.*
- *An act of war or terrorism.*

What criteria is required to seek compensation for damages under PA 222?

In order to seek compensation from a governmental agency for damages or injuries related to an "event" under PA 222, **all** of the following criteria must be met:

- *The governmental agency was an appropriate governmental agency;*
- *The system had a defect;*
- *The governmental agency knew, or in the exercise of reasonable diligence should have known, about the defect;*

- *The governmental agency, having the legal authority to do so, failed to take reasonable steps in a reasonable amount of time to repair, correct, or remedy the defect; and*
- *The defect was a substantial proximate cause of the event and the property damage or physical injury.*

What are the notice requirements under PA 222?

Anyone experiencing damages to real property or physical injuries from an "event" must file a written claim within **45 days**. The claim must include all of the following information:

- **Name, address and phone number.**
- **Address of the affected property.**
- **Date When the damages were discovered.**
- **Brief description of the claim.**

If a written claim is not received within **45 days** of the event, the claim is barred for that event.

What damages can be obtained under PA 222?

Recovery is limited to economic damages unless there is a claim for death, serious impairment of body function or permanent serious disfigurement. If compensation is being sought for damages to real property, proof of ownership and value must be provided.

How can I file a claim or get more information?

A Notice of Claim form can be obtained in our office or on our website at www.lenawee.mi.us/447/Drain-Commissioners-Office
Please call (517) 264-4696 for more information.

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