

HOUSEAMENDMENT NO. ____Offered byof

1 AMEND House Bill No. 1191, Page 6, Section 67.1842, Line 27, by
 2 inserting after all of said line the following:

3 "249.1175. 1. As used in this section, the following terms
 4 shall mean:

5 (1) "Sewer district", any metropolitan sewer district
 6 established under Section 30(a) of Article VI of the Constitution
 7 of Missouri;

8 (2) "Sewer facilities", storm and sanitary sewers, pipes,
 9 channels, conduits, pump stations, treatment plants, and
 10 appurtenances for the collection, transportation, pumping,
 11 treatment, and disposal of wastewater and stormwater.

12 2. No action for damages based on a taking alleged to
 13 result from obstruction, disrepair, defect, or inadequacy related
 14 to the condition and operation of sewer facilities owned and
 15 operated by any sewer district may be maintained against such
 16 sewer district except in compliance with the following conditions
 17 and limitations:

18 (1) Any person claiming such damages shall notify the sewer
 19 district within ninety days. Upon receiving such notification or
 20 otherwise receiving actual notice of such damage, the sewer
 21 district shall promptly mail to the property owner or other
 22 person claiming damage a written notification form with
 23 directions to fill in such form with all the reasonably available
 24 information requested on such form and return it to the board of
 25 trustees of the sewer district within ninety days of receipt;

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

29 (3) In any claim for inverse condemnation based on the

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1 alleged negligent, defective, or dangerous design of a sewer
2 facility, the sewer district shall be entitled to a defense which
3 shall be a complete bar to recovery whenever the sewer district
4 can prove by a preponderance of the evidence that the alleged
5 negligent, defective, or dangerous design reasonably complied
6 with sewer facility design standards generally accepted at the
7 time the facility was designed and constructed. This defense
8 shall not be available in any action in tort, including suits for
9 nuisance, but evidence of such compliance with generally accepted
10 design standards shall be admissible in evidence in such tort or
11 nuisance cases;

12 (4) No claim in inverse condemnation shall be upheld
13 against such sewer district for the alleged failure to maintain,
14 repair, or operate sewer facilities unless the plaintiff pleads
15 and proves by a preponderance of the evidence that the sewer
16 district's facilities constituted a nuisance that was a cause of
17 the taking of plaintiff's property or that construction, repair,
18 or maintenance acts or omissions of the sewer district were a
19 direct cause of such damages.

20 3. In any action for inverse condemnation against a sewer
21 district, it shall be a complete defense to such action if the
22 sewer district proves by a preponderance of the evidence that,
23 prior to the occurrence giving rise to such damages, the sewer
24 district offered the plaintiff the means or mechanism necessary
25 to enable the plaintiff to completely correct the alleged defect
26 and the plaintiff unreasonably refused such offer and such
27 refusal was a direct cause of the taking of plaintiff's property.

28 4. In any action for inverse condemnation against a sewer
29 district, the plaintiff shall prove damages suffered as a result
30 of the taking by the sewer district in the following manner:

31 (1) Where the plaintiff claims a permanent taking, the
32 plaintiff shall prove damages by proof of the fair market value
33 of the real property taken at the time of the occurrence, by a
34 preponderance of the evidence, which fair market value is to be
35 determined by what a reasonable buyer would give who was willing
36 but did not have to purchase, and what a seller would take who
37 was willing but did not have to sell at the time of the taking.

1 Damages for loss of use shall not be recovered except insofar as
2 such damages are part of the calculation of the fair market value
3 of the property at the time of the taking. Upon payment of any
4 judgment for such permanent taking, the plaintiff shall deliver
5 to the sewer district a general warranty deed granting fee simple
6 title to the real property to the sewer district;

7 (2) Where the plaintiff claims a temporary taking, the
8 plaintiff shall prove damages by proof of the diminution in value
9 of the use of occupancy of the property for the period taken or
10 damaged;

11 (3) Where the plaintiff claims damages to personal
12 property, such person shall prove damages by evidence of the
13 reasonable market value of such personal property, which may
14 include or consist of plaintiff's estimate value of such
15 property."; and

16
17 Further amend said title, enacting clause and intersectional
18 references accordingly.