



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB1135

Introduced 2/11/2009, by Rep. Michael W. Tryon

#### SYNOPSIS AS INTRODUCED:

65 ILCS 5/1-4-9 new  
745 ILCS 10/2-101

from Ch. 85, par. 2-101

Amends the Illinois Municipal Code. Provides that municipalities shall be liable for damages to real estate within or outside of the corporate boundaries of the municipality damaged by overflow or otherwise damaged by reason of the construction, enlargement or use of any channel, ditch, drain, outlet, or other improvement by the municipality. Provides that, if judgment is rendered against a municipality for damages, then the plaintiff may recover reasonable attorneys' fees. Specifies notice requirements. Amends the Local Governmental and Governmental Employees Tort Immunity Act. Provides that municipalities shall be liable for damages to real estate within or outside of the corporate boundaries of the municipality damaged under certain specified circumstances. Effective immediately.

LRB096 04589 RLJ 14646 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Municipal Code is amended by adding  
5 Section 1-4-9 as follows:

6 (65 ILCS 5/1-4-9 new)

7 Sec. 1-4-9. Liability for water overflow. Municipalities  
8 shall be liable for all damages to real estate within or  
9 outside of the corporate boundaries of the municipality which  
10 shall be overflowed or otherwise damaged by reason of the  
11 construction, enlargement or use of any channel, ditch, drain,  
12 outlet, or other improvement by the municipality; and actions  
13 to recover such damages may be brought in the county where such  
14 real estate is situated. If judgment is rendered against such  
15 municipality for damages, then the plaintiff may recover  
16 reasonable attorneys' fees. Provided, however, it shall appear  
17 in the plaintiff's motion for attorney's fees, that the  
18 plaintiff notified the corporate authorities of the  
19 municipality, in writing, at least 60 days before the suit was  
20 commenced by leaving a copy of such notice with at least one  
21 member of the corporate authority of the municipality, stating  
22 that he or she claims damages to the amount of (dollars) by  
23 reason of (the cause of damage) and intends to sue for the

1 same. The amount recovered by the plaintiff must be larger than  
2 the amount offered by the corporate authorities of the  
3 municipality (if anything) as a compromise for damages  
4 sustained.

5 Section 10. The Local Governmental and Governmental  
6 Employees Tort Immunity Act is amended by changing Section  
7 2-101 as follows:

8 (745 ILCS 10/2-101) (from Ch. 85, par. 2-101)

9 Sec. 2-101. Nothing in this Act affects the right to obtain  
10 relief other than damages against a local public entity or  
11 public employee. Nothing in this Act affects the liability, if  
12 any, of a local public entity or public employee, based on:

13 a contract;

14 b operation as a common carrier; and this Act does not  
15 apply to any entity organized under or subject to the  
16 "Metropolitan Transit Authority Act", approved April 12, 1945,  
17 as amended;

18 c The "Workers' Compensation Act", approved July 9, 1951,  
19 as heretofore or hereafter amended;

20 d The "Workers' Occupational Diseases Act", approved July  
21 9, 1951, as heretofore or hereafter amended;

22 e Section 1-4-7 of the "Illinois Municipal Code", approved  
23 May 29, 1961, as heretofore or hereafter amended; ~~+~~

24 f The "Illinois Uniform Conviction Information Act",

1 enacted by the 85th General Assembly, as heretofore or  
2 hereafter amended;

3 g Section 1-4-9 of the "Illinois Municipal Code" as  
4 heretofore or hereafter amended.

5 (Source: P.A. 85-922.)

6 Section 99. Effective date. This Act takes effect upon  
7 becoming law.