

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 768
SENATE BILL 1642

AN ACT TO AUTHORIZE THE CITY OF DURHAM TO COLLECT DELINQUENT WATER AND SEWER FEES RESULTING FROM LEAKING PIPES OR FIXTURES IN THE SAME MANNER AS PROPERTY TAXES AND TO AUTHORIZE THE CITY OF DURHAM TO ENGAGE IN PROGRAMS OF ASSISTANCE AND FINANCING FOR REHABILITATION OR REPAIR OF BUILDINGS AND OTHER IMPROVEMENTS IN RETAIL, COMMERCIAL, OR INDUSTRIAL USE AND LOCATED IN THE DOWNTOWN AND ADJACENT OR NEARBY INNER CITY AREAS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Durham, being Chapter 671, 1975 Session Laws, as amended, is further amended by adding a new Section 34 as follows:

"Sec. 34. **Water and Sewer Fees and Charges.**—Under the circumstances specified in this section, the portion of any unpaid rates, fees, or charges imposed by the City for the use of or the services furnished by either of the public enterprises defined in G.S. 160A-311(2) or (3) which the City determines to be the result of broken or leaking plumbing fixtures, pipes, or facilities owned by the real property owner and located on the real property using or served by the public enterprise shall become a lien on the real property, and may be collected in any manner following notice and opportunity for appeal as provided herein, in a foreclosure action using the same procedure by which delinquent personal or real property taxes may be collected. Any such lien shall be inferior to all prior and subsequent liens for federal, State, and local taxes, equal to liens of special assessments, and superior to all other liens and encumbrances.

(a) This section only applies where the public enterprise customer is not an owner of the real property using or served by the public enterprise.

(b) No lien shall arise unless the City, following discovery by the City of the break or leak, sends written notice to the owner of the property, either by personal service or by registered or certified mail return receipt requested, with a copy by regular mail to the public enterprise customer. Such notice shall inform the owner of the break or leak, and that a lien against the real property will arise unless the owner repairs the break or leak and provides written evidence thereof to the City within 30 days from the date of receipt of the notice. Only the portion of the unpaid rates, fees, or charges that accrues or is imposed after the expiration of this 30-day period shall become a lien on the real property as provided in this section. The lien shall include only that portion of the rates, fees, or charges that is attributable to the use of or services furnished by the

public enterprise both after the expiration of this 30-day period and as the result of the break or leak.

(c) If the owner believes the City's determination that there is a break or leak to be in error, the owner may appeal to the City Manager or designee within 15 days from the date of receipt of the notice. Following a decision by the City Manager or designee, the owner may appeal such decision to the City Council under guidelines and procedures to be developed by the City. The City Manager or designee shall provide the owner with a copy of such guidelines and procedures along with or prior to the decision by the City Manager or designee. The decision of the City Council may be delivered to the owner either by personal service or by registered or certified mail return receipt requested. The decision by the City Council shall be subject to review by the superior court by proceedings in the nature of **certiorari**. Any petition for review by the superior court shall be filed with the clerk of superior court within 15 days after the decision of the City Council. During the period of such appeal and review, the 30-day period referred to in Section 34(b) for repair of the break or leak shall be stayed.

(d) For purposes of this section, 'owner' means the person or persons shown on the County tax listing as the owner of the property."

Sec. 2. The Charter of the City of Durham, being Chapter 671, 1975 Session Laws, as amended, is amended by adding a new section to read:

"Sec. 108.3. Financing programs in Inner City.

(a) Definitions. – The following definitions apply in this section:

- (1) Inner City. – The central business district, surrounding downtown area of the City, and adjacent or nearby Inner City areas, all as may be defined and amended from time to time by the City Council of the City.
- (2) Commercial Use. – Retail, commercial, industrial, or other nonresidential use. For buildings and improvements in mixed use, any portion of the buildings or improvements not being used for residential purposes is considered to be in commercial use.

(b) Authorization. – Subject to the limitations provided in this subsection, the City may engage in programs of assistance and financing, including the making of loans, for acquisition, rehabilitation, repair, construction, reconditioning, furnishing, and equipping of real property, buildings, and improvements in commercial use in all or any part of the Inner City and for design, administrative, legal, and other costs and expenses related or incidental to the foregoing. Each program shall include either the making of loans or grants jointly with other public or private parties or the participation in or purchase of loans under terms and conditions prescribed by the City. The City shall not be obligated for more than fifty percent (50%) of the total amount of assistance or financing provided under each program. For each loan program, the City shall engage a public or private lender to perform origination and servicing of the loans under terms and conditions prescribed by the City.

(c) Findings and Declaration of Policy. – It is hereby determined and declared as a matter of legislative finding and policy that the authority hereby conferred will assist in avoiding the growth of conditions of deterioration and blight in the Inner City, have a

significant effect on the revitalization and rejuvenation of the Inner City, promote economic development of the Inner City, create employment opportunities, increase the taxable value of property in the Inner City, and enhance the general welfare and public use and enjoyment of the Inner City, which are hereby determined and declared to be public purposes for which public money may be spent."

Sec. 3. The authority granted by this act is in addition to, and not in derogation of, any other authority granted to the City by this Charter or any other law.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 16th day of July, 1994.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives