

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 1642

Local Government and Regional Affairs Committee Substitute Adopted 6/29/94

Short Title: Durham Fee Collection.

(Local)

Sponsors:

Referred to:

June 1, 1994

A BILL TO BE ENTITLED

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.

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 rents, 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

1 service or by registered or certified mail return receipt requested, with a copy by regular
2 mail to the public enterprise customer. Such notice shall inform the owner of the break
3 or leak, and that a lien against the real property will arise unless the owner repairs the
4 break or leak and provides written evidence thereof to the City within 30 days from the
5 date of receipt of the notice.

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

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

21 Sec. 2. The authority granted by this act is in addition to, and not in
22 derogation of, any other authority granted to the City by this Charter or any other law.

23 Sec. 3. This act is effective upon ratification.