

NORTH CAROLINA GENERAL ASSEMBLY
1973 SESSION

CHAPTER 356
HOUSE BILL 833

AN ACT AUTHORIZING THE GOVERNING BODY OF THE CITY OF DURHAM, UPON PETITION, TO PROVIDE WATER AND SEWER SERVICES TO PROPERTY ABUTTING EXISTING CITY WATER OR SEWER MAINS AND AFFIXING A LIEN TO SAID PROPERTY FOR THE COST OF PROVIDING SUCH SERVICE.

The General Assembly of North Carolina enacts:

Section 1. In addition to any other powers and authority heretofore granted by general law, local act or Charter, the City Council of the City of Durham is hereby authorized and empowered to provide water service or sewer service or both such services to property, within or without the corporate limits, abutting existing City water or sewer mains or the right-of-way thereof and affix a lien to said property for the cost of providing such service.

Sec. 2. The authority granted by this act shall be exercised only upon petition by the owner or owners of such abutting property. Such petition shall be upon a form approved by the City Council and shall contain:

- (a) a description of the service or services requested, and
- (b) a description of the property to be served, and
- (c) the anticipated cost of furnishing such services, and
- (d) the terms of payment by such property owner for the costs incurred by the City of Durham in furnishing such service, including but not limited to, the number of installments in which payment shall be made and the interest rate to be applied to any unpaid balance, and
- (e) such other information as may be required by the City Council.

Sec. 3. The City Council may approve or deny any such petition submitted. If any such petition shall be approved by the City Council, the City Clerk shall mark upon the face of such petition such words as shall indicate such approval by the City Council, and the date and time of such approval.

Sec. 4. From and after approval of any petition submitted pursuant to this act, a lien in favor of the City of Durham shall exist upon the property described in such petition for the amount stated in such petition as the anticipated cost of furnishing such service. Such lien shall be inferior to all prior and subsequent federal, State and county tax liens of record but superior to all others. Said lien may be collected by foreclosure in the same manner as provided by law for the foreclosure of liens for special assessments. Any foreclosure proceeding instituted pursuant to this act shall be deemed a proceeding in rem and no mistake or omission as to the name of any owner or person interested in

any lot or parcel of land affected thereby shall be regarded a substantial mistake or omission. No change of ownership shall affect any lien created pursuant to this act.

Sec. 5. Payment of the anticipated costs of providing service shall be as prescribed by the terms of the petition approved by the City Council. If any installment payment due and payable under the terms of the approved petition shall be unpaid for a period of 30 days or more, then all subsequent installment payments shall become due and payable and proceedings as set forth in Section 4 herein may be instituted.

Sec. 6. If the City Council shall determine that the actual costs or furnishing the services provided for in any approved petition shall have exceeded the amount originally stated in such petition as the anticipated costs of providing such services, the City Council may, by resolution, amend the approved petition to set forth the correct cost. The City Council's determination of such actual cost shall be deemed conclusive. Upon amendment as provided by this section, the petition shall be deemed effective as if originally submitted with the amended cost set forth therein. The City Council may provide for payment of any such increased amended cost, by increasing the amounts of any unpaid installments due under the original approved petition. A copy of any resolution enacted pursuant to this section shall be mailed or personally delivered to the owner or owners of such property at their last known address.

Sec. 7. Any petition approved by the City Council and any amendment thereof shall be filed in the office of the City Clerk. The City Clerk shall forward a copy of any such petition or amendment to the Collector or Revenue. The Collector of Revenue shall maintain a record of such approved petitions and amendments thereof and such records shall be available to public view during regular business hours.

Sec. 8. If the actual cost of providing the services requested in any approved petition shall be less than the costs set forth in such petition as anticipated costs, the City Council may order such excess deposited in the water and sewer fund of the City for the use of the City or may order such excess paid to the owner or owners of the property set forth in such petition as their respective interests may appear. Provided, however, any anticipated cost set forth in the approved petition which shall have been determined under any schedule of charges approved by the City Council shall, for the purpose of this section, be deemed the actual cost of providing such service.

Sec. 9. This act shall apply only to the City of Durham.

Sec. 10. This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.