

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 713

Short Title: Durham Facilities Fees.

(Local)

Sponsors: Senator Gulley.

Referred to: Finance

April 13, 1995

A BILL TO BE ENTITLED

AN ACT TO PERMIT THE COUNTY OF DURHAM TO COLLECT PAYMENT OF FACILITIES FEES IN INSTALLMENTS.

The General Assembly of North Carolina enacts:

Section 1. (a) The Board of County Commissioners of Durham County may permit the payment of a facilities fee in a lump sum or in equal monthly or annual installments over a period of time not to exceed five years. If paid in installments, the installments shall bear interest at a rate fixed by the Board of County Commissioners of not more than nine percent (9%) per annum from the date when payment by lump sum would have otherwise been due. The facilities fee, with accrued interest, may be paid in full at any time.

(b) If a facilities fee is to be paid in installments pursuant to subsection (a) of this section, then from and after the date when payment by lump sum would have otherwise been due, the fee shall be a lien on the property of the developer, owner, or other person against whom the fee was imposed. The facilities fee lien shall be of the same nature and the same extent as the lien for county and city property taxes. The lien shall be inferior to all prior and subsequent liens for State, local, and federal taxes, equal to liens of special assessments, and superior to all other liens and encumbrances.

(c) If any installment on a facilities fee is not paid when due, then all of the installments remaining unpaid shall immediately become due and payable, and the sums

1 due may be collected by the same process and in the same manner as property taxes due
2 upon the property subject to the lien. By way of illustration and not limitation, the
3 property may be sold by Durham County under the same rules as are prescribed by law
4 for the foreclosure and sale of land for unpaid property taxes. Foreclosure may begin at
5 any time following 30 days after the due date. Durham County shall not be entitled to a
6 deficiency judgment in an action to foreclose a facilities fee lien.

7 (d) Durham County may not maintain an action or proceeding to enforce any
8 remedy for the foreclosure of a facilities fee lien unless the action or proceeding is begun
9 within the period of time prescribed by law for the foreclosure of special assessment
10 liens.

11 (e) For purposes of this act a "facilities fee" shall include connection and
12 lateral fees, line frontage fees, and inspection fees for water and/or sewer connections,
13 established by Durham County pursuant to authority conferred by Article 15 of Chapter
14 153A of the General Statutes. A "facilities fee" shall also include any and all connection
15 and lateral fees, line frontage fees, and inspections fees for water and sewer connections
16 to lines constructed or extended by an interlocal agreement between Durham County and
17 Durham City through the normal petition process or when the lines are constructed or
18 extended by Durham County or Durham City, at the request of the County, in an
19 emergency/health hazard situation.

20 Sec. 2. This act is effective upon ratification.