

VIRGINIA ACTS OF ASSEMBLY -- 2005 RECONVENED SESSION

CHAPTER 912

An Act to amend and reenact § 15.2-2119 of the Code of Virginia, relating to sewer fees.

[H 1922]

Approved April 6, 2005

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2119 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-2119. Fees and charges for sewer services.

For sewer service provided by localities, fees and charges may be charged to and collected from: (i) any person contracting for the same; (ii) the owner, lessee or tenant, or some or all of them who use or occupy any real estate (a) which directly or indirectly is or has been connected with the sewage disposal system and (b) from or on which sewage or industrial wastes originate or have originated and have directly or indirectly entered or will enter the sewage disposal system; or (iii) any user of a municipality's water or sewer system with respect to combined sanitary and storm water sewer systems where the user is a resident of the municipality and the purpose of any such fee or charge is related to the control of combined sewer overflow discharges from such systems. Such fees and charges shall be practicable and equitable and payable as directed by the respective locality operating or providing for the operation of the water or sewer system.

Such fees and charges, being in the nature of use or service charges, shall, as nearly as the governing body deems practicable and equitable, be uniform for the same type, class and amount of use or service of the sewage disposal system, and may be based or computed either on the consumption of water on or in connection with the real estate, making due allowances for commercial use of water, or on the number and kind of water outlets on or in connection with the real estate or on the number and kind of plumbing or sewage fixtures or facilities on or in connection with the real estate or on the number or average number of persons residing or working on or otherwise connected or identified with the real estate or any other factors determining the type, class and amount of use or service of the sewage disposal system, or any combination of such factors, or on such other basis as the governing body may determine. Such fees and charges shall be due and payable at such time as the governing body may determine, and the governing body may require the same to be paid in advance for periods of not more than six months. The revenue derived from any or all of such fees and charges is hereby declared to be revenue of such sewage disposal system.

Water and sewer connection fees established by any locality shall be fair and reasonable. Such fees shall be reviewed by the locality periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. Nothing herein shall affect existing contracts with bondholders which are in conflict with any of the foregoing provisions.

If the fees and charges charged for the use and services of the sewage disposal system by or in connection with any real estate are not paid when due, a penalty and interest shall at that time be owed as provided for by general law, and the owner, lessee or tenant, as the case may be, of such real estate shall, until such fees and charges are paid with such penalty and interest to the date of payment, cease to dispose of sewage or industrial waste originating from or on such real estate by discharge thereof directly or indirectly into the sewage disposal system. If such owner, lessee or tenant does not cease such disposal within two months thereafter, the locality or person supplying water for the use of such real estate shall cease supplying water thereto unless the health officers certify that shutting off the water will endanger the health of the occupants of the premises or the health of others.

Such fees and charges, and any penalty and interest thereon shall constitute a lien against the property, ranking on a parity with liens for unpaid taxes. *However, prior to recording a lien against the property owner, the locality or service authority shall obtain a judgment in a court of competent jurisdiction against the lessee or tenant who contracted for such services for the amount of any delinquencies. After obtaining judgment against the lessee or tenant as contracting party and using reasonable efforts to collect on the judgment, if the locality or service authority is unable to collect the balance due on the money judgment, the locality or service authority shall provide the property owner with 30 days written notification to allow the property owner a reasonable opportunity to pay the amount of the lien and avoid the recordation of a lien against the property. If the property owner fails to pay the amount of the outstanding judgment within the 30-day period, the locality or the service authority may record a lien in the amount of the outstanding judgment against the property owner. Upon payment of the outstanding judgment, or any portion thereof, the property owner shall be subrogated against the lessee or tenant in place of the locality or the service authority in the amount paid by the property owner. The locality or service authority shall execute all documents necessary to perfect such subrogation in favor of the property owner.* Such amounts, plus reasonable attorney's or

collection agency's fees which shall not exceed ~~twenty~~ 20 percent of the delinquent tax bill, may be recovered by the locality by action at law or suit in equity. In any city with a population greater than 390,000, such fees and charges, along with delinquent water and sewer connection fees, and any penalty and interest thereon shall constitute a lien against the property, ranking on a parity with liens for unpaid taxes. Such amounts, plus reasonable attorney's or collection agency's fees which shall not exceed ~~twenty~~ 20 percent of the delinquent fee or charge, may be recovered by such city by action at law or suit in equity.

Notwithstanding any provision of law to the contrary, any town with a population between 11,000 and 14,000, with the concurrence of the affected county, which provides and operates sewer services outside its boundaries may provide sewer services to industrial and commercial users outside its boundaries and collect such compensation therefor as may be contracted for between the town and such user. Such town shall not thereby be obligated to provide sewer services to any other users outside its boundaries.