

11102756D

## SENATE BILL NO. 1216

Offered January 12, 2011

Prefiled January 12, 2011

*A BILL to amend and reenact §§ 15.2-2119 and 15.2-5124 of the Code of Virginia, relating to notice to property owners of delinquent fees and charges.*

\_\_\_\_\_  
Patron—Smith

\_\_\_\_\_  
Referred to Committee on Local Government

**Be it enacted by the General Assembly of Virginia:**

- 1. That §§ 15.2-2119 and 15.2-5124 of the Code of Virginia are 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. *The locality or person supplying water for the use at such real estate shall notify the owner of the property by certified mail of fees and charges when they become seven days delinquent if said owner is not the user of the services.* 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

INTRODUCED

SB1216

59 amount of the lien and avoid the recordation of a lien against the property. If the property owner fails to  
60 pay the amount of the outstanding judgment within the 30-day period, the locality or the service  
61 authority may record a lien in the amount of the outstanding judgment against the property owner. Upon  
62 payment of the outstanding judgment, or any portion thereof, the property owner shall be subrogated  
63 against the lessee or tenant in place of the locality or the service authority in the amount paid by the  
64 property owner. The locality or service authority shall execute all documents necessary to perfect such  
65 subrogation in favor of the property owner. Such amounts, plus reasonable attorney's or collection  
66 agency's fees which shall not exceed 20 percent of the delinquent tax bill, may be recovered by the  
67 locality by action at law or suit in equity. In any city with a population greater than 390,000, such fees  
68 and charges, along with delinquent water and sewer connection fees, and any penalty and interest  
69 thereon shall constitute a lien against the property, ranking on a parity with liens for unpaid taxes. Such  
70 amounts, plus reasonable attorney's or collection agency's fees which shall not exceed 20 percent of the  
71 delinquent fee or charge, may be recovered by such city by action at law or suit in equity.

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

78 § 15.2-5124. Delinquent payment of rates and charges.

79 Notwithstanding any other provision of this chapter, if the use of any water or sewer system is  
80 contracted for by an occupant who is not the owner of the premises and such occupant's premises are  
81 separately metered for service, the owner of any such premises shall be liable only for the payment of  
82 delinquent rates or charges applicable to three delinquent billing periods, which together shall not exceed  
83 a period of ninety days. *The owner must have been notified by certified mail that payments were*  
84 *delinquent when they became seven days delinquent.* No authority shall refuse service to other premises  
85 of the owner not occupied by someone who is delinquent in the payment of such rates or charges on  
86 account of such delinquency provided that such owner has paid in full any delinquent charges for which  
87 he is liable. No authority shall refuse service to or unreasonably delay reinstatement of service to  
88 premises vacated by a delinquent occupant if a new party has applied for service, provided the owner of  
89 the premises has paid in full all delinquent charges for which he is liable.