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VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 15.2-2119 of the Code of Virginia, relating to water and sewer connection fees; first-time homebuyers; affordable housing.

[H 1144]

Approved

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 water and sewer services provided to a property owner.

A. For water and sewer services provided by localities, fees and charges may be charged to and collected from (i) any person contracting for the same; (ii) the owner who is the occupant of the property or where a single meter serves multiple units; (iii) a lessee or tenant in accordance with § 15.2-2119.4 with such fees and charges applicable for water and sewer services (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 (iv) 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.

B. 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.

C. 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. Any locality may, by ordinance, provide for the full or partial reimbursement to a first-time homebuyer of water and sewer connection fees, capital recovery charges, and availability fees paid in connection with any new residential development conveyed to such homebuyer. Such ordinance may establish eligibility criteria, including maximum sales price thresholds, income limitations, and other requirements as may be prescribed by the governing body. Any locality may, by ordinance or policy, provide for the full or partial reimbursement of water and sewer connection fees, capital recovery charges, and availability fees remitted by an applicant in connection with any new residential development. Any locality that has adopted an affordable dwelling unit ordinance pursuant to § 15.2-2304, 15.2-2305, or 15.2-2305.1 may provide for a waiver of water and sewer connection fees, capital recovery charges, and availability fees for any development subject to the requirements of such ordinance. Nothing herein shall affect existing contracts with bondholders that are in conflict with any of the foregoing provisions.

D. If the fees and charges charged for water service or 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 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 does not pay the full amount of charges, penalty, and interest for water provided or cease such disposal within 30 days thereafter, the locality or person supplying water or sewage disposal services for the use of such real estate shall notify such owner of the delinquency. If such owner does not pay the full amount of charges, penalty, and interest for water provided or cease such disposal within 60 days after the delinquent fees and charges charged for water or sewage disposal services are due, the locality or person supplying water or sewage disposal services for the use of such real estate may cease supplying water and sewage disposal services thereto unless the health officers certify that shutting off the water will

57 endanger the health of the occupants of the premises or the health of others. At least 10 business days prior to  
58 ceasing the supply of water or sewage disposal services, the locality or person supplying such services shall  
59 provide the owner with written notice of such cessation.

60 E. Such fees and charges, and any penalty and interest thereon, shall constitute a lien against the property,  
61 ranking on a parity with liens for unpaid taxes.

62 A lien may be placed on the property when the owner has been advised in writing that a lien may be  
63 placed upon the property if the owner fails to pay any delinquent water and sewer charges. Such written  
64 notice shall be provided at least 30 days in advance of recordation of any lien with a copy of the bill for  
65 delinquent water and sewer charges to allow the property owner a reasonable opportunity to pay the amount  
66 of the outstanding balance and avoid the recordation of a lien against the property. The lien may be in the  
67 amount of (i) up to the number of months of delinquent water or sewer charges when the water or sewer is, or  
68 both are, provided to the property owner; (ii) any applicable penalties and interest on such delinquent  
69 charges; and (iii) reasonable attorney fees and other costs of collection not exceeding 20 percent of such  
70 delinquent charges. In no case shall a lien for less than \$25 be placed against the property.

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

76 G. The lien shall not bind or affect a subsequent bona fide purchaser of the real estate for valuable  
77 consideration without actual notice of the lien until the amount of such delinquent charges is entered in the  
78 official records of the office of the clerk of the circuit court in the jurisdiction in which the real estate is  
79 located. The clerk shall make and index the entries in the clerk's official records for a fee of \$5 per entry, to  
80 be paid by the locality and added to the amount of the lien.

81 H. The lien on any real estate may be discharged by the payment to the locality of the total lien amount  
82 and the interest which has accrued to the date of the payment. The locality shall deliver a fully executed lien  
83 release substantially in the form set forth in this subsection to the person making the payment. The locality  
84 shall provide the fully executed lien release to the person who made payment within 10 business days of such  
85 payment if the person who made such payment did not personally appear at the time of such payment. Upon  
86 presentation of such lien release, the clerk shall mark the lien satisfied. There shall be no separate clerk's fee  
87 for such lien release. For purposes of this section, a lien release of the water and sewer lien substantially in  
88 the form as follows shall be sufficient compliance with this section:

89 Prepared By and When

90 Recorded Return to:

91 Tax Parcel/GPIN Number:

92 CERTIFICATE OF RELEASE OF WATER AND SEWER SERVICE LIEN

93 Pursuant to Va. Code Annotated § 15.2-2119 (H), this release is exempt from recordation fees.

94 Date Lien Recorded: Instrument Deed Book No.:

95 Grantee for Index Purposes:

96 Claim Asserted: Delinquent water and sewer service charges in the amount of \$.

97 Description of Property: [Insert name of property owner and tax map parcel/GPIN Number]

98 The above-mentioned lien is hereby released.

99 BY:

100 TITLE:

101 COMMONWEALTH OF VIRGINIA

102 CITY/COUNTY OF , to-wit:

103 Acknowledged, subscribed, and sworn to before me this day of by as of the [Insert Water/Sewer Provider  
104 Name] on behalf of [Insert Water/Sewer Provider Name].

105 Notary Public

106 My commission expires:

107 Notary Registration Number:

108 **2. That any locality adopting or amending an ordinance or policy pursuant to this act shall report such**  
109 **action to the Department of Housing and Community Development in accordance with § 36-139.9 of**  
110 **the Code of Virginia.**