

GENERAL ASSEMBLY OF NORTH CAROLINA  
1989 SESSION

CHAPTER 476  
HOUSE BILL 905

AN ACT TO AMEND THE CHARTER OF THE CITY OF DURHAM TO PERMIT  
THE PAYMENT OF FACILITIES FEES IN INSTALLMENTS.

The General Assembly of North Carolina enacts:

Section 1. Section 115.6 of the Charter of the City of Durham being Chapter 671, Session Laws of 1975, as added by Chapter 802, Session Laws of 1987, reads as rewritten:

"Sec. 115.6. **Payment of Facilities Fees.** (a) The City Council may prescribe when and by whom a facilities fee authorized by this Article shall be paid. By way of illustration and not limitation, the City Council may require the payment of any applicable facilities fee by a developer as a condition precedent to the issuance of a building permit for the developer's new construction, or any part thereof.

(b) The City Council 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, such installments shall bear interest at a rate fixed by the City Council 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.

(c) If a facilities fee is to be paid in installments pursuant to subsection (b) 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 or other person against which the fee was imposed. The facilities fee lien shall be of the same nature and to the same extent as the lien for city and county 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.

(d) 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 due may be collected by the same process and in the same manner as property taxes due upon the property subject to the lien. By way of illustration and not limitation, the property may be sold by the City under the same rules as are prescribed by law for the foreclosure and sale of land for unpaid property taxes. Foreclosure may be begun at any time following 30 days after the due date. The City shall not be entitled to a deficiency judgment in an action to foreclose a facilities fee lien.

(e) The City may not maintain an action or proceeding to enforce any remedy for the foreclosure of a facilities fee lien unless the action or proceeding is begun within the period of time prescribed by law for the foreclosure of special assessment liens.

(f) For purposes of this section, a 'facilities fee' includes both the fee as defined in Section 115.1(3) of this Charter and the capital facilities fees for water and sewer connections established by the City pursuant to authority conferred by Article 16 of Chapter 160A of the General Statutes."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 27th day of June, 1989.