

ASSEMBLY, No. 3522

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:

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District 33 (Hudson)

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SYNOPSIS

Prohibits sewerage authorities, municipal authorities, and local units of government from charging interest on unpaid sewer fees and charges attributable to State or local entities, including housing authorities.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** prohibiting the charging of interest on unpaid sewer fees
2 and charges in certain circumstances and amending various parts
3 of the statutory law.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. Section 21 of P.L.1946, c.138 (C.40:14A-21) is amended to
9 read as follows:

10 21. (a) In the event that a service charge of any sewerage
11 authority with regard to any parcel of real property shall not be paid
12 as and when due, interest shall accrue and be due to the sewerage
13 authority on the unpaid balance at the rate of 1 1/2% per month
14 until such service charge, and the interest thereon, shall be fully
15 paid to the sewerage authority.

16 (b) In the event that a service charge of any sewerage authority
17 with regard to any parcel of real property owned by any person
18 other than the State or an agency or subdivision thereof shall not be
19 paid as and when due, the unpaid balance thereof and all interest
20 accruing thereon shall be a lien on such parcel. No interest shall be
21 charged on unpaid sewerage service charges attributable to the State
22 or a local unit, or any of their agencies and authorities, including,
23 but not limited to, a housing authority.

24 Such lien shall be superior and paramount to the interest in such
25 parcel of any owner, lessee, tenant, mortgagee or other person
26 except the lien of municipal taxes and shall be on a parity with and
27 deemed equal to the lien on such parcel of the municipality where
28 such parcel is situate for taxes thereon due in the same year and not
29 paid when due. Such lien shall not bind or affect a subsequent bona
30 fide purchaser of such parcel for a valuable consideration without
31 actual notice of such lien, unless the sewerage authority shall have
32 filed in the office of the collector or other officer of said
33 municipality charged with the duty of enforcing municipal liens on
34 real property a statement showing the amount and due date of such
35 unpaid balance and identifying such parcel, which identification
36 may be sufficiently made by reference to the assessment map of
37 said municipality. The information shown in such statement shall be
38 included in any certificate with respect to said parcel thereafter
39 made by the official of said municipality vested with the power to
40 make official certificates of searches for municipal liens. Whenever
41 such service charge and any subsequent service charge with regard
42 to such parcel and all interest accrued thereon shall have been fully
43 paid to the sewerage authority, such statement shall be promptly
44 withdrawn or cancelled by the sewerage authority.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (c) In the event that a service charge of any sewerage authority
2 with regard to any parcel of real property shall not be paid as and
3 when due, the sewerage authority may, in its discretion, enter upon
4 such parcel and cause the connection thereof leading directly or
5 indirectly to the sewerage system to be cut and shut off until such
6 service charge and any subsequent service charge with regard to
7 such parcel and all interest accrued thereon shall be fully paid to
8 the sewerage authority.

9 (d) In the event that a service charge of any sewerage authority
10 with regard to any parcel of real property shall not be paid as and
11 when due, the sewerage authority may, in accordance with section
12 twenty-six of this act, cause the supply of water to such parcel to be
13 stopped or restricted until such service charge and any subsequent
14 service charge with regard to such parcel and all interest accrued
15 thereon shall be fully paid to the sewerage authority. If for any
16 reason such supply of water shall not be promptly stopped or
17 restricted as required by section twenty-six of this act, the
18 sewerage authority may itself shut off or restrict such supply and,
19 for that purpose, may enter on any lands, waters or premises of any
20 county, municipality or other person. The supply of water to such
21 parcel shall, notwithstanding the provisions of this subsection, be
22 restored or increased if the State Department of Health, upon
23 *application of the local board of health or health officer of the
24 municipality where such parcel is situate, shall after public hearing
25 find and shall certify to the sewerage authority that the continuance
26 of such stopping or restriction of the supply of water endangers the
27 health of the public in such municipality.

28 (e) The collector or other officer of every municipality charged
29 by law with the duty of enforcing municipal liens on real property
30 shall enforce, with and as any other municipal lien on real property
31 in such municipality, all service charges and the lien thereof shown
32 in any statement filed with him by any sewerage authority pursuant
33 to subsection (b) of this section, and shall pay over to the sewerage
34 authority the sums or a pro rata share of the sums realized upon
35 such enforcement or upon liquidation of any property acquired by
36 the municipality by virtue of such enforcement.

37 (f) In the event that any service charge of a sewerage authority
38 shall not be paid as and when due, the unpaid balance thereof and
39 all interest accrued thereon, together with attorney's fees and costs,
40 may be recovered by the sewerage authority in a civil action, and
41 any lien on real property for such service charge and interest
42 accrued thereon may be foreclosed or otherwise enforced by the
43 sewerage authority by action or suit in equity as for the foreclosure
44 of a mortgage on such real property.

45 (g) All rights and remedies granted by this act for the collection
46 and enforcement of service charges shall be cumulative and
47 concurrent.

48 (cf: P.L.1981, c.530, s.1)

1 2. Section 22 of P.L.1957, c.183 (C.40:14B-22) is amended to
2 read as follows:

3 22. Every municipal authority is hereby authorized to charge and
4 collect rents, rates, fees or other charges (in this act sometimes
5 referred to as "sewerage service charges") for direct or indirect
6 connection with, or the use or services of, the sewerage system.
7 Such sewerage service charges may be charged to and collected
8 from any person contracting for such connection or use or services
9 or from the owner or occupant, or both of them, of any real property
10 which directly or indirectly is or has been connected with the
11 sewerage system or from or on which originates or has originated
12 sewage or other wastes which directly or indirectly have entered or
13 may enter the sewerage system, and the owner of any such real
14 property shall be liable for and shall pay such sewerage service
15 charges to the municipal authority at the time when and place where
16 such sewerage service charges are due and payable. Every
17 municipal authority may charge interest on unpaid rents, rates, fees,
18 or other charges imposed for direct or indirect connection with, or
19 the use or services of, the sewerage system pursuant to this
20 subsection; however, a municipal authority shall not impose interest
21 on unpaid rents, rates, fees, or other charges attributable to the State
22 or a local unit, or any of their agencies and authorities, including,
23 but not limited to, a housing authority.

24 Such rents, rates, fees and charges, being in the nature of use or
25 service charges, shall as nearly as the municipal authority shall
26 deem practicable and equitable be uniform throughout the district
27 for the same type, class and amount of use or service of the
28 sewerage system, except as permitted by section 1 of
29 P.L.1992, c.215 (C.40:14B-22.2), and may be based or computed
30 either on the consumption of water on or in connection with the real
31 property, making due allowance for commercial use of water, or on
32 the number and kind of water outlets on or in connection with the
33 real property, or on the number and kind of plumbing or sewerage
34 fixtures or facilities on or in connection with the real property, or on
35 the number of persons residing or working on or otherwise
36 connected or identified with the real property, or on the capacity of
37 the improvements on or connected with the real property, or on any
38 other factors determining the type, class and amount of use or
39 service of the sewerage system, or on any combination of any such
40 factors, and may give weight to the characteristics of the sewage
41 and other wastes and any other special matter affecting the cost of
42 treatment and disposal of the same, including chlorine demand,
43 biochemical oxygen demand, concentration of solids and chemical
44 composition, and, as to service outside the district, the cost of
45 installation of necessary physical properties.

46 In addition to any such sewerage service charges, a separate
47 charge in the nature of a connection fee or tapping fee, in respect of
48 each connection of any property with the sewerage system, may be

1 imposed upon the owner or occupant of the property so connected.
2 Such connection charges shall be uniform within each class of
3 users, except as provided by section 5 of P.L.2005, c.29 (C.40:14B-
4 22.3) and except as provided by section 5 of
5 P.L.2005, c.173 (C.44:14B-22.4), and the amount thereof shall not
6 exceed the actual cost of the physical connection, if made by the
7 authority, plus an amount computed in the following manner to
8 represent a fair payment towards the cost of the system:

9 a. The amount representing all debt service, including but not
10 limited to sinking funds, reserve funds, the principal and interest on
11 bonds, and the amount of any loans and the interest thereon, paid by
12 the municipal authority to defray the capital cost of developing the
13 system as of the end of the immediately preceding fiscal year of the
14 authority shall be added to all capital expenditures made by a
15 municipal authority not funded by a bond ordinance or debt for the
16 development of the system as of the end of the immediately
17 preceding fiscal year of the authority.

18 b. Any gifts, contributions or subsidies to the authority
19 received from, and not reimbursed or reimbursable to, any federal,
20 State, county or municipal government or agency or any private
21 person, and that portion of amounts paid to the authority by a public
22 entity under a service agreement or service contract which is not
23 repaid to the public entity by the authority, shall then be subtracted.

24 c. The remainder shall be divided by the total number of
25 service units served by the authority at the end of the immediately
26 preceding fiscal year of the authority, and the results shall then be
27 apportioned to each new connector according to the number of
28 service units attributed to that connector. In attributing service
29 units to each connector, the estimated average daily flow of sewage
30 for the connector shall be divided by the average daily flow of
31 sewage from the average single family residence in the authority's
32 district, to produce the number of service units to be attributed.

33 The connection fee shall be recomputed at the end of each fiscal
34 year of the authority, after a public hearing is held in the manner
35 prescribed in section 23 of P.L.1957, c.183 (C.40:14B-23). The
36 revised connection fee may be imposed upon those who
37 subsequently connect in that fiscal year to the system.

38 The combination of such connection fee or tapping fee and the
39 aforesaid sewerage service charges shall meet the requirements of
40 section 23.

41 (cf: P.L.2005, c.173, s.4)

42
43 3. Section 15 of P.L.1977, c.384 (C.40:14B-22.1) is amended
44 to read as follows:

45 15. Every municipal authority is hereby authorized to charge and
46 collect rents, rates, fees or other charges (in this act sometimes
47 referred to as "solid waste service charges") for the use or services
48 of the solid waste system. Such solid waste service charges may be

1 charged to and collected from any municipality or any person
2 contracting for such use or services or from the owner or occupant,
3 or both of them, of any real property from or on which originates or
4 has originated any solid waste to be treated by the solid waste
5 system of the authority, and the owner of any such real property
6 shall be liable for and shall pay such solid waste service charges to
7 the municipal authority at the time when and place where such solid
8 waste service charges are due and payable. Every municipal
9 authority may charge interest on unpaid rents, rates, fees, or other
10 charges imposed for direct or indirect connection with, or the use or
11 services of, the solid waste system pursuant to this subsection;
12 however, a municipal authority shall not impose interest on unpaid
13 rents, rates, fees, or other charges attributable to the State or a local
14 unit, or any of their agencies and authorities, including, but not
15 limited to, a housing authority.

16 Such rents, rates, fees and charges, being in the nature of use or
17 service charges, shall as nearly as the authority shall deem
18 practicable and equitable be uniform throughout the county for the
19 same type, class and amount of use or service of the solid waste
20 system, except as permitted by section 1 of
21 P.L.1992, c.215 (C.40:14B-22.2), and may be based or computed on
22 any factors determining the type, class and amount of use or service
23 of the solid waste system, and may give weight to the
24 characteristics of the solid waste and any other special matter
25 affecting the cost of treatment and disposal of the same.
26 (cf: P.L.1992, c.215, s.3)
27

28 4. Section 1 of P.L.1991, c.53 (C.40A:26A-10) is amended to
29 read as follows:

30 1. After the commencement of operation of sewerage facilities,
31 the local unit or units may prescribe and, from time to time, alter
32 rates or rentals to be charged to users of sewerage services. Every
33 local unit or units may charge interest on unpaid rates or rentals
34 imposed for direct or indirect connection with, or the use or services
35 of, sewerage facilities pursuant to this section; however, a local unit
36 shall not impose interest on unpaid rates or rentals attributable to
37 the State or a local unit, or any of their agencies and authorities,
38 including, but not limited to, a housing authority.

39 Rates or rentals being in the nature of use or service charges or
40 annual rental charges, shall be uniform and equitable for the same
41 types and classes of use and service of the facilities, except as
42 permitted by section 5 of P.L.1994, c.78 (C.40A:26A-10.1). Rates
43 or rentals and types and classes of use and service may be based on
44 any factors which the governing body or bodies of that local unit or
45 units shall deem proper and equitable within the region served.

46 In fixing rates, rental and other charges for supplying sewerage
47 services, the local unit or units shall establish a rate structure that

- 1 allows, within the limits of any lawful covenants made with
2 bondholders, the local unit to:
- 3 a. Recover all costs of acquisition, construction or operation,
4 including the costs of raw materials, administration, real or personal
5 property, maintenance, taxes, debt service charges, fees and an
6 amount equal to any operating budget deficit occurring in the
7 immediately preceding fiscal year;
- 8 b. Establish a surplus in an amount sufficient to provide for the
9 reasonable anticipation of any contingency that may affect the
10 operating of the sewerage facility, and, at the discretion of the local
11 unit or units, allow for the transfer of moneys from the budget for
12 the sewerage facilities to the local budget in accordance with
13 section 5 of P.L.1983, c.111 (C.40A:4-35.1).
14 (cf: P.L.1994, c.78, s.6)
15
- 16 5. This act shall take effect immediately.
17
18

19 STATEMENT
20

21 This bill would clarify that sewerage authorities, municipal
22 authorities, and local units of government that create sewer utilities
23 are permitted to charge interest on unpaid rates or rentals imposed
24 for direct or indirect connection with, or the use or services of,
25 sewerage authorities, municipal authorities, or sewerage facilities,
26 but those entities cannot impose interest on unpaid rates or rentals
27 attributable to the State or a local unit, or any of their agencies and
28 authorities, including, but not limited to, a housing authority.