

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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HOUSE BILL 873  
Committee Substitute Favorable 4/29/19  
Committee Substitute #2 Favorable 5/1/19  
Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted  
6/17/20  
PROPOSED SENATE COMMITTEE SUBSTITUTE H873-PCS40680-BA-39

Short Title: System Development Fee/ADU Sewer Permit.

(Public)

Sponsors:

Referred to:

April 22, 2019

1 A BILL TO BE ENTITLED  
2 AN ACT TO CLARIFY THE TIMING OF COLLECTION OF SYSTEM DEVELOPMENT  
3 FEES AND TO REQUIRE THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO  
4 AMEND A RULE THAT CURRENTLY ALLOWS A SEWER THAT SERVES A SINGLE  
5 BUILDING TO BE DEEMED PERMITTED, TO ALLOW A SEWER SHARED WITH AN  
6 ACCESSORY BUILDING ON THE SAME PROPERTY TO BE DEEMED PERMITTED  
7 AS WELL.

8 The General Assembly of North Carolina enacts:

9 SECTION 1.(a) G.S. 162A-213(a)a. is recodified as G.S. 162A-213(a)(1).

10 SECTION 1.(b) G.S. 162A-213(a)b. is recodified as G.S. 162A-213(a)(2).

11 SECTION 1.(c) G.S. 162A-213(b)a. is recodified as G.S. 162A-213(b)(1).

12 SECTION 1.(d) G.S. 162A-213(b)b. is recodified as G.S. 162A-213(b)(2).

13 SECTION 2.(a) G.S. 162A-213, as amended by Section 1 of this act, reads as

14 rewritten:

15 "§ 162A-213. Time for collection of system development fees.

16 (a) Land Subdivision. – For new development involving the subdivision of land, the  
17 system development fee shall be collected by a local governmental unit at the later of either of  
18 the following:

19 (1) The time of ~~plat recordation~~ application for a building permit.

20 (2) When water or sewer service is committed by the local governmental unit.

21 (b) Other New Development. – For all other new development, the local governmental  
22 unit shall collect the system development fee at the earlier of either of the following:

23 (1) The time of application for connection of the individual unit of development  
24 to the service or facilities.

25 (2) When water or sewer service is committed by the local governmental unit.

26 (c) If the system development fee is collected under subdivision (a)(1) of this section and  
27 the local governmental unit that charges or assesses the system development fee is different from  
28 the local governmental unit that issues the building permit, the local governmental unit issuing  
29 the building permit shall require proof of collection of the system development fee prior to  
30 issuance of the building permit.

31 (d) No system development fee shall be charged or assessed with respect to any new  
32 development for which a system development fee under this Article has been collected at the



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1 time of plat recordation involving the subdivision of land and the amount of capacity associated  
2 with that payment of the system development fee has not increased at the time of application for  
3 the building permit. If the amount of capacity is increased at the time of application for a building  
4 permit, then a system development fee may be charged for the difference in the amount of the  
5 increased capacity minus the system development fee previously paid under this Article."

6 **SECTION 2.(b)** This section becomes effective January 1, 2021, and applies to  
7 system development fees collected on or after that date.

8 **SECTION 3.(a)** G.S. 162A-211 is amended by adding a new subsection to read:

9 "(a1) Revenue from system development fees calculated using the combined cost method  
10 may be expended for previously completed capital improvements for which capacity exists and  
11 for capital rehabilitation projects."

12 **SECTION 3.(b)** This section becomes effective July 1, 2020, and applies to system  
13 development fees expended or encumbered on or after that date.

14 **SECTION 4.(a)** Definitions. – For purposes of this section and its implementation,  
15 the following definitions apply:

16 (1) "Permitting by Regulation for Building Sewer Systems Rule " means 15A  
17 NCAC 02T .0303 (Permitting by Regulation).

18 (2) "Accessory building" means in one- and two-family dwellings not more than  
19 three stories above grade plane in height with a separate means of egress, a  
20 building, the use of which is incidental to that of the main building and which  
21 is detached and located on the same lot. An accessory building is a building  
22 that is roofed over and more than fifty percent (50%) of its exterior walls are  
23 enclosed. Examples of accessory buildings are garages, storage buildings,  
24 workshops, boat houses, treehouses, and dwelling units, etc. For purposes of  
25 this section, "main building" shall only include one- and two-family  
26 dwellings.

27 (3) "Building sewer" means that part of the drainage system that extends from the  
28 end of the building drain and conveys the discharge by gravity or under  
29 pressure to a public sewer, private sewer, individual sewage disposal system,  
30 or other point of disposal.

31 (4) "Lot" means a portion or parcel of land considered as a unit.

32 **SECTION 4.(b)** Permitting by Regulation for Building Sewer Systems Rule. – Until  
33 the effective date of the revised permanent rule that the Environmental Management Commission  
34 is required to adopt pursuant to subsection (d) of this section, the Commission shall implement  
35 the Permitting by Regulation for Building Sewer Systems Rule as provided in subsection (c) of  
36 this section.

37 **SECTION 4.(c)** Implementation. – Notwithstanding the requirements of General  
38 Permit No. WQG100000 and the limitation on applicability of 15A NCAC 02T .0303(a)(1),  
39 (a)(2), and (a)(3) to a building sewer that serves a single building, if a building sewer that serves  
40 a main building is deemed permitted pursuant to 15A NCAC 02T .0113, then a building sewer  
41 that serves an accessory building on the same lot that is connected to the building sewer for the  
42 main building, and a sewer shared between a main building and an accessory building, shall also  
43 be deemed permitted if the building sewer that serves the accessory building, and the sewer  
44 shared between the main building and the accessory building, meet the criteria in 15A NCAC  
45 02T .0113 and all criteria required for that system in 15A NCAC 02T .0303, and no additional  
46 permit shall be required. This section shall only apply to sewers that serve one main building and  
47 one accessory building on the same lot.

48 **SECTION 4.(d)** Additional Rule-Making Authority. – The Commission shall adopt  
49 a rule to amend the Permitting by Regulation for Building Sewer Systems Rule consistent with  
50 subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the  
51 Commission pursuant to this section shall be substantively identical to the provisions of

1 subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of  
2 Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall  
3 become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections  
4 had been received as provided in G.S. 150B-21.3(b2).

5 **SECTION 4.(e)** Applicability and Sunset. – This section and rules adopted pursuant  
6 to this section shall apply to common sewer lines in existence on, or constructed on or after, the  
7 effective date of this act, which are shared by accessory dwelling units or accessory residential  
8 buildings and a primary residence. This section expires when permanent rules adopted as required  
9 by subsection (d) of this section become effective.

10 **SECTION 5.** Except as otherwise provided, this act is effective when it becomes  
11 law.