

**Governor Murphy Signs Legislation Granting
Sewer and Water Connection Fee Credits to Developers**

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On August 10, 2018, New Jersey Governor Phil Murphy signed into law a bill establishing a “credit” system to aid redevelopment efforts while ensuring that municipal authorities are equitably compensated for connecting into their system. The legislation, S1247/A2779, was jointly crafted over several years by the New Jersey Builders Association and the Association of Environmental Authorities.

The new law has two parts: a) it establishes a credits system for redevelopment projects, and b) it amends the statutory language that currently exists for connection fee reductions for certain types of affordable housing, extending it to encompass all types of affordable housing projects.

In general, the credit system makes it such that a redeveloper will pay only the “delta” of a connection fee. Qualifying properties will have a credit for any previously paid connection fee applied to their new redevelopment use.

For properties connected for less than 20 years, a credit for any previously paid connection fee will be applied to their new redevelopment use. An additional partial connection fee will be assessed if there is new/increased material use or demand or a new physical connection. Material use or demand is defined as an increase in the level of use or demand on the sewerage system by 15% or more over the highest actual annual use and demand that existed during the prior 10-year period immediately preceding the addition, alteration, or change in use or, if the property has been connected for less than 10 years, the average level of use and demand is calculated using the actual period of connection.

Table 1:

| Calculating Credits for Properties Connected for Less Than 20 Years | |
|--|--|
| <u>Full Credit</u> | <u>Partial Credit</u> |
| | (You will be assessed the difference between the old use and demand and the increased use and demand) |
| No new physical connection | New physical connection |
| Proposed addition, alteration or change in use <u>does not</u> materially increase the level of use or demand on sewerage system | Increase in size of an existing connection that materially increases the level of use or demand on sewerage system |
| | New construction of additional service units that materially increases the level of use or demand on sewerage system |

Similarly, for properties that have been connected for at least 20 years that have paid service charges in at least 1 of the last 5 years, a credit for any previously paid connection fee will be applied to their new redevelopment use. If the new proposed use qualifies as a new use or class, then an additional partial connection fee of the difference between the old connection fee previously paid, if any, and the new connection fee for the new use or class will be assessed.

Table 2:

| Eligibility for Credits for Properties Connected for At Least 20 Years That Have Paid Services Charges in At Least 1 of the Last 5 years: | |
|--|---|
| <u>Full Credit</u> | <u>Partial Credit</u> |
| | (You will be assessed the difference between the old connection fee previously paid, if any, and the new connection fee for the new use or class) |
| No new physical connection | New physical connection |
| Nature or size of the service does not result in change in use or class | Increase in the nature or size of the service results in a new use or class |
| Number of service units does not result in change in use or class | Increase in number of service units results in change in use or class |
| Expanded use of sewerage system does not result in change in use or class | Expanded use of sewerage system results in change in use or class |

Properties that have been connected for at least 20 years that never paid a connection fee, but are current on all service charges due and owing for the past 20 years, also are entitled to the same credit mechanism set forth in Table 2.

Disconnected properties that never paid a connection fee, but were previously connected to the system for at least 20 years also are entitled to the same credit mechanism set forth in Table 2. Additionally, they will be assessed a connection fee that is equal to the lesser of:

- 20% of the service charges that would have been paid based upon the usage for the last full year that the property was connected to the system for the period from the date of the disconnection to the date of the new connection OR
- The new connection fee

There are certain exemptions to the credit system. For example, a property that has been disconnected for more than 5 years, or a property that has not paid service charges within the last 5 years, will be ineligible for a credit.

Redevelopment continues to be the most significant part of construction in New Jersey. This new law will benefit and incentivize redevelopers, while being respectful of the costs of entry to connect to a water or sewer system.