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New Jersey Governor Signs Bill Modifying Sewer and Water Connection Fee Calculations Into Law

On August 10, Governor Murphy signed into law S1247/A2779, which amends the sewer and water connection fee law in several ways to address existing inequities regarding connection fees (or tapping fees) (the Law). Then-Governor Christie previously pocket-vetoed a substantially similar bill earlier this year, but the bill made it back through the legislature and onto Governor Murphy's desk. The Law establishes certain credits and reductions for sewer and water connection fees, including for all affordable housing.

New Jersey sewer and water laws have frustrated developers for many years because they are outdated and charge connection fees based on math that is not transparent. Sewer and water connection fees are typically an important line item in a developer's pro forma. This Law will be welcomed by both residential and commercial developers.

Most notably, under the prior statute, public housing authorities and non-profit organizations building affordable housing projects (but not for-profit developers) were entitled to a 50 percent reduction in sewer and water connection fees for new affordable unit connections to the sewer and water system. The Law amended this section of the statute to expand to all affordable housing (including for-profit developers) the 50 percent reduction in new connection fees for affordable units and the credit against the connection fee for affordable units previously connected to the sewer and water system that were demolished or refurbished.

Additionally, the Law generally allows for credits to be applied to connection fees for a reconnection of certain disconnected properties that were previously connected to the sewer or water system for at least 20 years and have not been disconnected for more than five years. The credit is calculated based on several factors, including but not limited to, whether the reconnection does not require any new physical connection or increase the nature or size of service or expand the use of the system, or whether a connection fee was previously paid for the existing use.

For properties already connected to the sewer and water system, the Law allows local or regional authorities to charge a new connection fee for an addition, alteration or change in use that "materially increases" (as defined in the Law) the level of use and imposes a greater demand on the utility system, but does not involve a new physical connection of the property to the system. The connection fees for any new or additional connections are still imposed.

This Law is a first step in addressing some of the shortcomings of the existing sewer and water laws. This alert serves only as a summary of the Law. For more information or questions, please contact the authors or any member of the Day Pitney real estate team.

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