

# Levy Of Special Assessments

**7-13-2280. Levy of special assessments.** (1) In lieu of imposing rates and charges to pay the capital costs of any improvement provided for in this part, a district may levy special assessments to defray the costs against property within the district and benefited by the improvement. The costs of the improvement may include the costs of issuance of any bonds issued to finance the improvement and any reserve securing payment of the bonds.

(2) The board of directors shall by resolution levy and assess upon all property in the district benefited by the improvement, by using for a basis for the assessment the method or methods provided for in **7-12-2151**.

(3) The resolution must contain a description of each lot or parcel of land, with the name of the owner if known, and the amount of each assessment and the day when the assessment becomes delinquent.

(4) The resolution, signed by the presiding officer of the board of directors, must be kept on file in the office of the secretary.

**History: En. Sec. 2, Ch. 351, L. 1999.**

# Notice Of Resolution For Levy Of Assessment Hearing

**7-13-2281. Notice of resolution for levy of assessment hearing.** (1) A notice, signed by the secretary and stating that the resolution levying a special assessment to defray the cost of making the improvements is on file in the office of the secretary and is subject to inspection, must be:

(a) published as provided in **7-1-2121**;

(b) mailed to the owner of each lot, tract, or parcel of land to be assessed (the lands must be identified and the mailing address determined from the last-completed assessment roll for state, county, and school district taxes); and

(c) mailed to any other persons known to the secretary to have an ownership interest in the property.

(2) The notice must state the time and place in which objections to the final adoption of the resolution will be heard by the board of directors. The time for the hearing may not be less than 5 days after the second publication or less than 10 days after the mailing of the notice.

**History: En. Sec. 3, Ch. 351, L. 1999.**

# Hearing On Assessment

**7-13-2282. Hearing on assessment.** (1) At the time fixed, the board of directors shall meet and hear all objections and for that purpose may adjourn from day to day.

(2) The board of directors may by resolution modify the assessment in whole or in part. A copy of the resolution, certified by the secretary, must be delivered to the county clerk and recorder of the county in which the lot, tract, or parcel is located within 2 days after passage of the resolution.

(3) At any time within 30 days after the date of the first publication of the notice of proposed assessments, any owner of property to be assessed for the costs of making the improvements may make written protest against the levy of assessments. The protest must be in writing, identify the property in the district owned by the protestor, and be signed by all owners of the property except as provided in **7-13-2290**. The protest must be delivered to the secretary of the district not later than 5 p.m. of the last day of the 30-day period provided for in this subsection. The secretary shall endorse the date and hour of receipt on the protest.

(4) If the board of directors finds that a protest with respect to the method or methods of assessment described in the resolution is made by the owners of property in the district to be assessed for more than 50% of the cost of improvements, the board of directors may not use the method or methods of assessment described in the resolution. A protest does not bar the board of directors from adopting subsequent resolutions pursuant to **7-13-2280**, using a different method of assessment, and levying the assessments following notice and hearing as provided in **7-13-2281** and this section or, not less than 6 months after the receipt of sufficient protests, instituting proceedings under **7-13-2280**, **7-13-2281**, and this section proposing the same method of assessment.

**History:** En. Sec. 4, Ch. 351, L. 1999; amd. Sec. 6, Ch. 341, L. 2005; amd. Sec. 7, Ch. 214, L. 2011.

## Collection Of Assessments By County Treasurer -- Delinquencies

**7-13-2283. Collection of assessments by county treasurer -- delinquencies.** (1) When any resolution of assessment has been certified by the secretary and the county clerk and recorder, it is the duty of the county treasurer in the county in which the lot, tract, or parcel is located, in accordance with the provisions of this title, to collect the assessment in the same manner and at the same time as taxes for general and municipal purposes are collected.

(2) When the payment of an installment of a special assessment becomes delinquent, all payments of subsequent installments of the special assessment may, at the option of the board of directors and upon adoption of the appropriate resolutions, become delinquent. Upon delinquency in one or all installments, the whole property must be sold the same as other property is sold for taxes. The enforcement of the lien of any installment of a special assessment by any method authorized by law does not prevent the enforcement of the lien of any subsequent installment when it becomes delinquent.

**History:** En. Sec. 5, Ch. 351, L. 1999.

## Payment Of Assessment Under Protest -- Action To Recover

**7-13-2284. Payment of assessment under protest -- action to recover.** (1) When any special assessment levied and assessed under any of the provisions of this part is considered unlawful by the party whose property is assessed, the person may pay the assessment or any part of the assessment considered unlawful under protest to the county treasurer.

(2) After the payment, the party or the party's legal representative may bring an action in any court of competent jurisdiction against the officer to whom the assessment was paid or against the district on whose behalf the assessment was collected to recover the assessment or any portion of the assessment paid under protest. Any action instituted to recover the assessment paid under protest must be commenced within 60 days after the date of payment.

(3) The assessment paid under protest must be held by the county treasurer until the determination of any action brought for the recovery of the assessment.

**History:** En. Sec. 6, Ch. 351, L. 1999.

## Procedure To Correct Assessment And To Relevy

**7-13-2285. Procedure to correct assessment and to relevy.** (1) Whenever, by reason of any alleged nonconformity to law or by reason of any omission or irregularity, any special assessment is either invalid or its validity is questioned, the board of directors may make all necessary orders and may take all necessary steps to correct, reassess, and relevy the assessment, including the ordering of the improvement, with the same force and effect as if made at the time provided by the law or resolution relating to the assessment. The board may reassess and relevy the assessment or tax with the same force and effect as an original levy.

(2) Any special assessment, upon reassessment or relevy, must, so far as practicable, be levied and collected the same as it would have been if the first levy had been enforced. Any provision of any law specifying a time when or order in which acts must be done in a proceeding that may result in a special assessment is subject to the qualifications of this part.

(3) Whenever any assessment is made and any property is assessed too little or too much, the assessment may be corrected and reassessed for the additional amount that is proper or the assessment may be reduced, even to the extent of refunding the assessment collected.

**History:** En. Sec. 7, Ch. 351, L. 1999.

# Certain Errors Not To Invalidate Assessments Or Liens

**7-13-2286. Certain errors not to invalidate assessments or liens.** (1) When, under any of the provisions of this part, special assessments are assessed against any lot or parcel of land as the property of a particular person, a misnomer of the owner or supposed owner or other mistake relating to the ownership of the land may not affect the assessment or render it void or voidable.

(2) Any mistake in the description of property or the name of the owner may not vitiate any liens created by this part unless it is impossible to identify the property from the description.

**History: En. Sec. 8, Ch. 351, L. 1999.**

## Term Of Payment Of Assessments

**7-13-2287. Term of payment of assessments.** (1) The payment of the assessment to defray the cost of constructing any improvement may be spread over a term not to exceed 40 years.

(2) The assessments are payable in equal semiannual installments of principal, with interest on the unpaid installments, or, if the board of directors prescribes in the resolution levying the assessments, in equal semiannual installments of principal and interest, each in the amount required to pay the principal over the term of payment, with interest at the rate then borne by the assessment.

(3) Any assessment that is not delinquent may be prepaid, in whole but not in part, at any time after the assessment is levied, by the payment of the assessment, with interest accrued and to accrue on the assessment through the next date on which an installment of the assessment is otherwise payable.

**History: En. Sec. 9, Ch. 351, L. 1999.**

## Interest Rate On Unpaid Assessments

**7-13-2288. Interest rate on unpaid assessments.** The installments of assessments remaining unpaid bear simple interest at an annual rate equal to:

(1) the sum of:

(a) the average interest rate payable on the outstanding bonds issued to finance the improvement in respect of which the special assessments are levied; plus

(b) additional interest at a rate to be determined by the board of directors, not exceeding 2% a year; or

(2) if bonds are not issued to finance the improvements, at an interest rate to be determined by the board of directors, but not to exceed 10% a year.

**History: En. Sec. 10, Ch. 351, L. 1999.**