

***Superseded 5/12/2015***

**11-42-106 Action to contest assessment or proceeding -- Requirements -- Exclusive remedy -- Bonds and assessment incontestable.**

- (1) A person who contests an assessment or any proceeding to designate an assessment area or levy an assessment may commence a civil action against the local entity to set aside a proceeding or enjoin the levy or collection of an assessment.
- (2)
  - (a) Each action under Subsection (1) shall be commenced in the district court with jurisdiction in the county in which the assessment area is located.
  - (b) An action under Subsection (1) may not be commenced against and a summons relating to the action may not be served on the local entity more than 30 days after the effective date of the assessment resolution or ordinance or, in the case of an amendment, the amended resolution or ordinance.
- (3)
  - (a) An action under this section is the exclusive remedy of a person who claims an error or irregularity in an assessment or in any proceeding to designate an assessment area or levy an assessment.
  - (b) A court may not hear any complaint that a person was authorized to make but did not make in a protest under Section 11-42-203 or at a hearing under Section 11-42-204.
- (4) An assessment or a proceeding to designate an assessment area or to levy an assessment may not be declared invalid or set aside in part or in whole because of an error or irregularity that does not go to the equity or justice of the assessment or proceeding.
- (5) After the expiration of the 30-day period referred to in Subsection (2)(b):
  - (a) assessment bonds and refunding assessment bonds issued or to be issued with respect to an assessment area and assessments levied on property in the assessment area become at that time incontestable against all persons who have not commenced an action and served a summons as provided in this section; and
  - (b) a suit to enjoin the issuance or payment of assessment bonds or refunding assessment bonds, the levy, collection, or enforcement of an assessment, or to attack or question in any way the legality of assessment bonds, refunding assessment bonds, or an assessment may not be commenced, and a court may not inquire into those matters.