

Effective 5/12/2015

Superseded 5/10/2016

11-42-207 Adding property to an assessment area.

- (1) A local entity may add to a designated assessment area property to be benefitted and assessed if the governing body:
 - (a) finds that the inclusion of the property will not adversely affect the owners of property already in the assessment area;
 - (b) obtains from each owner of property to be added and benefitted a written consent that contains:
 - (i) the owner's consent to:
 - (A) the owner's property being added to the assessment area; and
 - (B) the making of the proposed improvements with respect to the owner's property;
 - (ii) the legal description and tax identification number of the property to be added; and
 - (iii) the owner's waiver of any right to protest the creation of the assessment area;
 - (c) amends the designation resolution or ordinance to include the added property; and
 - (d) within 15 days after amending the designation resolution or ordinance:
 - (i) records in the office of the recorder of the county in which the added property is located the original or certified copy of the amended designation resolution or ordinance containing the legal description and tax identification number as identified on county records of each additional parcel of property added to the assessment area and proposed to be assessed; and
 - (ii) gives written notice to the property owner of the inclusion of the owner's property in the assessment area.
- (2)
 - (a) If a governing body fails to comply with the requirements of Subsection (1)(d)(i):
 - (i) the failure does not invalidate the amended designation resolution or ordinance; and
 - (ii) the local entity may not assess a levy against a subsequent purchaser of a benefitted property that lacked recorded notice unless:
 - (A) the subsequent purchaser gives written consent;
 - (B) the subsequent purchaser has actual notice of the assessment levy; or
 - (C) the subsequent purchaser purchased the property after a corrected notice was filed under Subsection (2)(c).
 - (b) The governing body may file a corrected notice under Subsection (1)(d)(i) if it failed to comply with the date or other requirements for recording notice of the amended designation resolution or ordinance.
 - (c) If a governing body has filed a corrected notice under Subsection (2)(b), the local entity may not retroactively collect or adjust the amount of the levy to recapture lost funds for a levy that the local entity was prohibited from collecting, if applicable, under Subsection (2)(a).
 - (d) A local entity shall pay for a shortfall in assessment funds created under Subsection (2)(a) or (c) from the local entity's general fund and not by increasing or adjusting the assessment of any other property within the assessment area.
- (3) Except as provided in this section, a local entity may not add to an assessment area property not included in a notice under Section 11-42-202, or provide for making improvements that are not stated in the notice, unless the local entity gives notice as provided in Section 11-42-202 and holds a hearing as required under Section 11-42-204 as to the added property or additional improvements.