

Part 5 Assessment Liens

11-42-501 Assessment constitutes a lien -- Characteristics of an assessment lien.

- (1) Each assessment levied under this chapter, including any installment of an assessment, interest, and any penalties and costs of collection, constitutes a lien against the property assessed as of the effective date of the assessment resolution or ordinance.
- (2) A lien under this section:
 - (a) is superior to the lien of a trust deed, mortgage, mechanic's or materialman's lien, or other encumbrances;
 - (b) has the same priority as, but is separate and distinct from, a lien for general property taxes;
 - (c) applies without interruption, change in priority, or alteration in any manner to any reduced payment obligations; and
 - (d) continues until the assessments, reduced payment obligations, and any interest, penalties, and costs are paid, despite a sale of the property for or on account of a delinquent general property tax, special tax, or other assessment or the issuance of a tax deed, an assignment of interest by the county, or a sheriff's certificate of sale or deed.

Amended by Chapter 349, 2015 General Session

11-42-502 Enforcement of an assessment lien -- Pre-May 10, 2016, procedure.

- (1) The provisions of this section apply to any property that is:
 - (a)
 - (i) located within the boundaries of an assessment area; and
 - (ii) the subject of a foreclosure procedure initiated before May 10, 2016, for an assessment or an installment of an assessment that is not paid when due; or
 - (b) located within the boundaries of an assessment area for which the local entity issued an assessment bond or a refunding assessment bond:
 - (i) before May 10, 2016;
 - (ii) that has not reached final maturity; and
 - (iii) that is not refinanced on or after May 10, 2016.
- (2) If an assessment or an installment of an assessment is not paid when due, the local entity may sell the property on which the assessment has been levied for the amount due plus interest, penalties, and costs, in the manner provided:
 - (a) by resolution or ordinance of the local entity;
 - (b) in Title 59, Chapter 2, Part 13, Collection of Taxes, for the sale of property for delinquent general property taxes; or
 - (c) in Title 57, Chapter 1, Conveyances, as though the property were the subject of a trust deed in favor of the local entity.
- (3) Except as otherwise provided in this chapter, each tax sale under Subsection (2)(b) shall be governed by Title 59, Chapter 2, Part 13, Collection of Taxes, to the same extent as if the sale were for the sale of property for delinquent general property taxes.
- (4)
 - (a) In a foreclosure under Subsection (2)(c):
 - (i) the local entity may bid at the sale;
 - (ii) the local entity's governing body shall designate a trustee satisfying the requirements of Section 57-1-21;

- (iii) each trustee designated under Subsection (4)(a)(ii) has a power of sale with respect to the property that is the subject of the delinquent assessment lien;
 - (iv) the property that is the subject of the delinquent assessment lien is considered to have been conveyed to the trustee, in trust, for the sole purpose of permitting the trustee to exercise the trustee's power of sale under Subsection (4)(a)(iii);
 - (v) if no one bids at the sale and pays the local entity the amount due on the assessment, plus interest and costs, the property is considered sold to the local entity for those amounts; and
 - (vi) the local entity's chief financial officer may substitute and appoint one or more successor trustees, as provided in Section 57-1-22.
- (b) The designation of a trustee under Subsection (4)(a)(ii) shall be disclosed in the notice of default that the trustee gives to commence the foreclosure, and need not be stated in a separate instrument.
- (5)
- (a) The redemption of property that is the subject of a tax sale under Subsection (2)(b) is governed by Title 59, Chapter 2, Part 13, Collection of Taxes.
 - (b) The redemption of property that is the subject of a foreclosure proceeding under Subsection (2)(c) is governed by Title 57, Chapter 1, Conveyances.
- (6)
- (a) The remedies described in this part for the collection of an assessment and the enforcement of an assessment lien are cumulative.
 - (b) The use of one or more of the remedies described in this part does not deprive the local entity of any other available remedy or means of collecting the assessment or enforcing the assessment lien.

Amended by Chapter 85, 2016 General Session

11-42-502.1 Enforcement of an assessment lien -- Post-May 10, 2016, procedure.

- (1)
- (a) Except as provided in Subsection (1)(b), the provisions of this section apply to any property that is:
 - (i) located within the boundaries of an assessment area; and
 - (ii) the subject of a foreclosure procedure initiated on or after May 10, 2016, for an assessment or an installment of an assessment that is not paid when due.
 - (b) The provisions of this chapter do not apply to property described in Subsection 11-42-502(1)(b).
- (2) If an assessment or an installment of an assessment is not paid when due, the local entity may sell the property on which the assessment has been levied for the amount due plus interest, penalties, and costs:
- (a) in the manner provided in Title 59, Chapter 2, Part 13, Collection of Taxes, for the sale of property for delinquent general property taxes;
 - (b) by judicial foreclosure; or
 - (c) in the manner described in Title 57, Chapter 1, Conveyances, if:
 - (i) the property is in a voluntary assessment area; and
 - (ii) the owner of record of the property at the time the local entity initiates the process to sell the property in accordance with Title 57, Chapter 1, Conveyances, executed a property owner's consent form described in Subsection 11-42-202(1)(l) that includes a provision described in Subsection 11-42-202(1)(l)(iv).

- (3) Except as otherwise provided in this chapter, each tax sale under Subsection (2)(a) shall be governed by Title 59, Chapter 2, Part 13, Collection of Taxes, to the same extent as if the sale were for the sale of property for delinquent general property taxes.
- (4)
 - (a) The redemption of property that is the subject of a tax sale under Subsection (2)(a) is governed by Title 59, Chapter 2, Part 13, Collection of Taxes.
 - (b) The redemption of property that is the subject of a judicial foreclosure proceeding under Subsection (2)(b) is governed by Title 78B, Chapter 6, Part 9, Mortgage Foreclosure.
 - (c) The redemption of property that is the subject of a foreclosure proceeding under Subsection (2)(c) is governed by Title 57, Chapter 1, Conveyances.
- (5)
 - (a) The remedies described in this part for the collection of an assessment and the enforcement of an assessment lien are cumulative.
 - (b) The use of one or more of the remedies described in this part does not deprive the local entity of any other available remedy or means of collecting the assessment or enforcing the assessment lien.

Enacted by Chapter 85, 2016 General Session

11-42-503 Local entity payments to avoid a default in local entity obligations -- Reimbursement of payments when property sold at tax or foreclosure sale.

- (1) To avoid a default in the payment of outstanding local entity obligations, a local entity may pay:
 - (a) the delinquent amount due, plus interest, penalties, and costs;
 - (b) the amounts described in Subsection (1)(a) and the full balance of an assessment, if accelerated; or
 - (c) any part of an assessment or an installment of an assessment that becomes due during the redemption period.
- (2) A local entity may:
 - (a) pay the amounts under Subsection (1) from a guaranty fund or a reserve fund, or from any money legally available to the local entity; and
 - (b) charge the amounts paid against the delinquent property.
- (3)
 - (a) Upon the tax sale or foreclosure of the property charged as provided in Subsection (2):
 - (i) all amounts that the local entity paid shall be included in the sale price of the property recovered in the sale; and
 - (ii) the local entity's guaranty fund, reserve fund, or other source of money paid under Subsection (2)(a), as the case may be, shall be reimbursed for those amounts.
 - (b) If the property charged as provided in Subsection (2) is sold to the local entity at the tax sale or foreclosure and additional assessment installments become due, the local entity:
 - (i) may pay the additional installments from the guaranty fund or reserve fund, as the case may be, or from any legally available money;
 - (ii) shall recover, in a sale of the property, the amount of the installments paid; and
 - (iii) shall reimburse the guaranty fund or reserve fund when the property is sold.

Enacted by Chapter 329, 2007 General Session

11-42-504 Assessments on property that the local entity acquires at tax sale or foreclosure -- Transferring title of property in lieu of paying assessments -- Reimbursement.

- (1)
 - (a) Each local entity that purchases property at a tax sale or foreclosure under this part shall pay into the assessment fund all applicable annual installments of assessments and interest for as long as the local entity owns the property.
 - (b) A local entity may make payments required under this Subsection (1) from the guaranty fund or reserve fund.
- (2)
 - (a) In lieu of making payments under Subsection (1), a local entity may elect to transfer title of the property to the owners of all outstanding assessment bonds, refunding assessment bonds, interim warrants, or bond anticipation notes as payment in full for all delinquent assessments with respect to the property only if:
 - (i) the local entity and owners agree to the election to transfer; and
 - (ii) an indenture, private placement memo, or other document or contract memorializing the terms of debt explicitly discloses the terms of the agreement described in Subsection (2)(a)(i).
 - (b) If a local entity transfers title to property as provided in Subsection (2)(a) or sells property it has received from a tax sale or foreclosure, the selling price may not be less than the amount sufficient to reimburse the local entity for all amounts the local entity paid with respect to an assessment on the property, including an amount sufficient to reimburse the guaranty fund or reserve fund, as the case may be, for all amounts paid from the fund for delinquent assessments or installments of assessments relating to the property, plus interest, penalties, and costs.
 - (c) Each local entity that sells property it has received from a tax sale or foreclosure shall place the money it receives from the sale into the guaranty fund, reserve fund, or other local entity fund, as the case may be, to the extent of full reimbursement as required in this section.

Amended by Chapter 445, 2015 General Session

11-42-505 Default in the payment of an installment of an assessment -- Interest and costs -- Restoring the property owner to the right to pay installments.

- (1) If an assessment is payable in installments and a default occurs in the payment of an installment when due, the governing body may:
 - (a) declare the delinquent amount to be immediately due and subject to collection as provided in this chapter;
 - (b) accelerate payment of the total unpaid balance of the assessment and declare the whole of the unpaid principal and the interest then due to be immediately due and payable; and
 - (c) charge and collect all costs of collection, including attorney fees.
- (2) Interest shall accrue from the date of delinquency on all applicable amounts under Subsections (1)(a) and (b) until paid in full.
- (3) Any interest assessed for or collection costs charged under this section shall be:
 - (a) the same as apply to delinquent real property taxes for the year in which the balance of the fee or charge becomes delinquent; or
 - (b) as the governing body determines.
- (4) Notwithstanding Subsection (1), a property owner shall be restored to the right to pay an assessment in installments in the same manner as if no default had occurred if the owner pays the amount of all unpaid installments that are past due, with interest, collection and foreclosure costs, and administrative, redemption, and other fees, including attorney fees, before:

- (a) the final date that payment may be legally made under a final sale or foreclosure of property to collect delinquent assessment installments, if collection is enforced under Title 59, Chapter 2, Part 13, Collection of Taxes; or
- (b) the end of the three-month reinstatement period provided by Section 57-1-31, if collection is enforced through the method of foreclosing trust deeds.

Enacted by Chapter 329, 2007 General Session

11-42-506 Release and discharge of assessment lien -- Notice of dissolution of assessment area.

- (1)
 - (a) Upon an assessment on a parcel of property having been paid in full, the local entity shall file, in the office of the recorder of the county in which the property is located, a release and discharge of the assessment lien on that property.
 - (b) Each release and discharge under Subsection (1)(a) shall:
 - (i) include a legal description of the affected property; and
 - (ii) comply with other applicable requirements for recording a document.
- (2)
 - (a) Upon all assessments levied within an assessment area having been paid in full, or upon payment in full having been provided for, the local entity shall file, in the office of the recorder of the county in which the property within the assessment area is located, a notice of the dissolution of the assessment area.
 - (b) Each notice under Subsection (2)(a) shall:
 - (i) include a legal description of the property assessed within the assessment area; and
 - (ii) comply with all other applicable requirements for recording a document.

Enacted by Chapter 329, 2007 General Session