

Part 6
Interim Warrants, Bond Anticipation Notes,
Assessment Bonds, and Refunding Assessment Bonds

11-42-601 Interim warrants.

- (1) A local entity may issue interim warrants against an assessment area.
- (2) An interim warrant may be in any amount up to:
 - (a) as portions of the work on improvements in an assessment area are completed, 90% of the value of the completed work, as estimated by the local entity's project engineer;
 - (b) 100% of the value of the work completed, after completion of the work and acceptance of the work by the local entity's project engineer; and
 - (c) the price of property, the acquisition of which is required for an improvement.
- (3) The governing body may:
 - (a) issue interim warrants at not less than par value in a manner the governing body determines; and
 - (b) use the proceeds from the issuance of interim warrants to pay:
 - (i) the contract price;
 - (ii) the property price; and
 - (iii) related costs, including overhead costs.
- (4)
 - (a) Interim warrants shall bear interest from the date of their issuance until paid.
 - (b)
 - (i) The governing body shall:
 - (A) approve the interest rate applicable to interim warrants; and
 - (B) fix a maturity date for each interim warrant.
 - (ii) The interest rate applicable to interim warrants may be fixed or variable or a combination of fixed and variable.
 - (iii) If interim warrants carry a variable interest rate, the governing body shall specify the basis upon which the rate is to be determined, the manner in which the rate is to be adjusted, and a maximum interest rate.
 - (iv) A local entity may provide for interest on interim warrants to be paid semiannually, annually, or at maturity.
 - (v) If an interim warrant matures before the local entity has available sources of payment under Section 11-42-603, the local entity may authorize the issuance of a new interim warrant to pay the principal and interest on the maturing warrant.
 - (c) The local entity shall include interest accruing on interim warrants in the cost of improvements in the assessment area.
- (5) A local entity may purchase some or all of the interim warrants it has issued using the local entity's general fund money.

Enacted by Chapter 329, 2007 General Session

11-42-602 Bond anticipation notes.

- (1) A local entity may by resolution authorize the issuance of bond anticipation notes.
- (2) A local entity may use the proceeds from the issuance of bond anticipation notes to pay:
 - (a) the estimated acquisition and contract price;
 - (b) the property price;

- (c) capitalized interest; and
 - (d) related costs, including overhead costs.
- (3) Each resolution authorizing the issuance of bond anticipation notes shall:
- (a) describe the bonds in anticipation of which the bond anticipation notes are to be issued;
 - (b) specify the principal amount and maturity dates of the notes; and
 - (c) specify the interest rate applicable to the notes.
- (4)
- (a) The interest rate on bond anticipation notes issued under this section may be fixed, variable, or a combination of fixed and variable, as determined by the governing body.
 - (b) If bond anticipation notes carry a variable interest rate, the governing body shall specify the basis upon which the rate is to be determined, the manner in which the rate is to be adjusted, and a maximum interest rate.
 - (c) A local entity may provide for interest on bond anticipation notes to be paid semiannually, annually, or at maturity.
- (5) A local entity may:
- (a) issue and sell bond anticipation notes in a manner and at a price, either at, below, or above face value, as the governing body determines by resolution; and
 - (b) make bond anticipation notes redeemable prior to maturity, at the governing body's option and in the manner and upon the terms fixed by the resolution authorizing their issuance.
- (6) Bond anticipation notes shall be executed, be in a form, and have details and terms as provided in the resolution authorizing their issuance.
- (7) A local entity may issue bond anticipation notes to refund bond anticipation notes previously issued by the local entity.
- (8) A local entity may include interest accruing on bond anticipation notes in the cost of improvements in an assessment area.

Amended by Chapter 246, 2009 General Session

11-42-603 Sources of payment for interim warrants and bond anticipation notes.

Each local entity that has issued interim warrants or bond anticipation notes shall pay the warrants or notes from:

- (1) proceeds from the sale of assessment bonds;
- (2) cash the local entity receives from the payment for improvements;
- (3) assessments;
- (4) improvement revenues that are not pledged to the payment of assessment bonds;
- (5) proceeds from the sale of interim warrants or bond anticipation notes; or
- (6) the local entity's guaranty fund or, if applicable, the reserve fund.

Amended by Chapter 246, 2009 General Session

11-42-604 Notice regarding resolution or ordinance authorizing interim warrants or bond anticipation notes -- Complaint contesting warrants or notes -- Prohibition against contesting warrants and notes.

- (1) A local entity may publish notice, as provided in Subsection (2), of a resolution or ordinance that the governing body has adopted authorizing the issuance of interim warrants or bond anticipation notes.
- (2)
 - (a) If a local entity chooses to publish notice under Subsection (1), the notice shall:

- (i) be published:
 - (A) in a newspaper of general circulation within the local entity; and
 - (B) as required in Section 45-1-101; and
- (ii) contain:
 - (A) the name of the issuer of the interim warrants or bond anticipation notes;
 - (B) the purpose of the issue;
 - (C) the maximum principal amount that may be issued;
 - (D) the maximum length of time over which the interim warrants or bond anticipation notes may mature;
 - (E) the maximum interest rate, if there is a maximum rate; and
 - (F) the times and place where a copy of the resolution or ordinance may be examined, as required under Subsection (2)(b).
- (b) The local entity shall allow examination of the resolution or ordinance authorizing the issuance of the interim warrants or bond anticipation notes at its office during regular business hours.
- (3) Any person may, within 30 days after publication of a notice under Subsection (1), file a verified, written complaint in the district court of the county in which the person resides, contesting the regularity, formality, or legality of the interim warrants or bond anticipation notes issued by the local entity or the proceedings relating to the issuance of the interim warrants or bond anticipation notes.
- (4) After the 30-day period under Subsection (3), no person may contest the regularity, formality, or legality of the interim warrants or bond anticipation notes issued by a local entity under the resolution or ordinance that was the subject of the notice under Subsection (1), or the proceedings relating to the issuance of the interim warrants or bond anticipation notes.

Amended by Chapter 189, 2014 General Session

11-42-605 Local entity may authorize the issuance of assessment bonds -- Limit on amount of bonds -- Features of assessment bonds.

- (1) After the 25-day prepayment period under Subsection 11-42-411(6) has passed or, if the 25-day prepayment period is waived under Section 11-42-104, after the assessment resolution or ordinance takes effect, a local entity may authorize the issuance of bonds to pay the costs of improvements in an assessment area, and other related costs, against the funds that the local entity will receive because of an assessment in an assessment area.
- (2) A local entity may, by resolution or ordinance, delegate to one or more officers of the issuer the authority to:
 - (a) in accordance with and within the parameters set forth in the resolution or ordinance, approve the final interest rate or rates, price, principal amount, maturity or maturities, redemption features, and other terms of the bond; and
 - (b) approve and execute all documents relating to the issuance of a bond.
- (3) The aggregate principal amount of bonds authorized under Subsection (1) may not exceed the unpaid balance of assessments at the end of the 25-day prepayment period under Subsection 11-42-411(6).
- (4) Assessment bonds issued under this section:
 - (a) are fully negotiable for all purposes;
 - (b) shall mature at a time that does not exceed the period that installments of assessments in the assessment area are due and payable, plus one year;
 - (c) shall bear interest at the lowest rate or rates reasonably obtainable;

- (d) may not be dated earlier than the effective date of the assessment ordinance;
 - (e) shall be payable at the place, shall be in the form, and shall be sold in the manner and with the details that are provided in the resolution authorizing the issuance of the bonds;
 - (f) shall be issued in registered form as provided in Title 15, Chapter 7, Registered Public Obligations Act; and
 - (g) provide that interest be paid semiannually, annually, or at another interval as specified by the governing body.
- (5)
- (a) A local entity may:
 - (i)
 - (A) provide that assessment bonds be callable for redemption before maturity; and
 - (B) fix the terms and conditions of redemption, including the notice to be given and any premium to be paid;
 - (ii) subject to Subsection (5)(b), require assessment bonds to bear interest at a fixed or variable rate, or a combination of fixed and variable rates;
 - (iii) specify terms and conditions under which:
 - (A) assessment bonds bearing interest at a variable interest rate may be converted to bear interest at a fixed interest rate; and
 - (B) the local entity agrees to repurchase the bonds;
 - (iv) engage a remarketing agent and indexing agent, subject to the terms and conditions that the governing body agrees to; and
 - (v) include all costs associated with assessment bonds, including any costs resulting from any of the actions the local entity is authorized to take under this section, in an assessment levied under Section 11-42-401.
 - (b) If assessment bonds carry a variable interest rate, the local entity shall specify:
 - (i) the basis upon which the variable rate is to be determined over the life of the bonds;
 - (ii) the manner in which and schedule upon which the rate is to be adjusted; and
 - (iii) a maximum rate that the bonds may carry.
- (6)
- (a) Nothing in this part may be construed to authorize the issuance of assessment bonds to pay for the cost of ordinary repairs to pavement, sewers, drains, curbing, gutters, or sidewalks.
 - (b) Notwithstanding Subsection (6)(a), a local entity may issue assessment bonds to pay for extraordinary repairs to pavement, sewers, drains, curbing, gutters, or sidewalk.
 - (c) A local entity's governing body may define by resolution or ordinance what constitutes ordinary repairs and extraordinary repairs for purposes of this Subsection (6).
 - (d) Nothing in this Subsection (6) may be construed to limit a local entity from levying an assessment within an assessment area to pay operation and maintenance costs as described in a notice under Section 11-42-402.
- (7) If a local entity has issued interim warrants under Section 11-42-601 or bond anticipation notes under Section 11-42-602 in anticipation of assessment bonds that the local entity issues under this part, the local entity shall provide for the retirement of the interim warrants or bond anticipation notes contemporaneously with the issuance of the assessment bonds.

Amended by Chapter 145, 2011 General Session

11-42-606 Assessment bonds are not a local entity's general obligation -- Liability and responsibility of a local entity that issues assessment bonds.

- (1) Assessment bonds are not a general obligation of the local entity that issues them.

- (2) A local entity that issues assessment bonds:
 - (a) may not be held liable for payment of the bonds except to the extent of:
 - (i) funds created and received from assessments against which the bonds are issued;
 - (ii) improvement revenues; and
 - (iii) the local entity's guaranty fund under Section 11-42-701 or, if applicable, reserve fund under Section 11-42-702; and
 - (b) is responsible for:
 - (i) the lawful levy of all assessments;
 - (ii) the collection and application of improvement revenues, as provided in this chapter;
 - (iii) the creation and maintenance of a guaranty fund or, if applicable, a reserve fund; and
 - (iv) the faithful accounting, collection, settlement, and payment of:
 - (A) assessments and improvement revenues; and
 - (B) money in a guaranty fund or, if applicable, a reserve fund.
- (3) If a local entity illegally assesses property that is exempt from assessment, the local entity:
 - (a) is liable to the holders of assessment bonds for the payment of the illegal assessment; and
 - (b) shall pay the amount for which it is liable under Subsection (3)(a) from the local entity's general fund or other legally available money.

Enacted by Chapter 329, 2007 General Session

11-42-607 Refunding assessment bonds.

- (1) A local entity may, by a resolution adopted by the governing body, authorize the issuance of refunding assessment bonds as provided in this section, in whole or in part, whether at or before the maturity of the prior bonds, at stated maturity, upon redemption, or declaration of maturity.
- (2)
 - (a) Subject to Subsection (2)(b), the issuance of refunding assessment bonds is governed by Title 11, Chapter 27, Utah Refunding Bond Act.
 - (b) If there is a conflict between a provision of Title 11, Chapter 27, Utah Refunding Bond Act, and a provision of this part, the provision of this part governs.
- (3) In issuing refunding assessment bonds, the local entity shall require the refunding assessment bonds and interest on the bonds to be payable from and secured, to the extent the prior bonds were payable from and secured, by:
 - (a)
 - (i) the same assessments; or
 - (ii) the reduced assessments adopted by the governing body under Section 11-42-608;
 - (b) the guaranty fund or, if applicable, reserve fund; and
 - (c) improvement revenues.
- (4) Refunding assessment bonds:
 - (a) shall be payable solely from the sources described in Subsection (3);
 - (b) shall mature no later than the date that is one year after the final maturity of the prior bonds;
 - (c) may not mature at a time or bear interest at a rate that will cause the local entity to be unable to pay, from the sources listed in Subsection (3), the bonds when due;
 - (d) shall bear interest as the governing body determines, subject to the provisions of Section 11-42-605 relating to interest;
 - (e) may be issued to pay one or more issues of the local entity's prior bonds; and
 - (f) if issued to refund two or more issues of prior bonds, may be issued in one or more series.

- (5) A local entity may provide for the payment of incidental costs associated with refunding assessment bonds:
- (a) by advancing money from the local entity's general fund or other fund, if the local entity's governing body:
 - (i) determines that the advance is in the best interests of the local entity and its citizens, including the owners of property within the assessment area; and
 - (ii) provides that the assessments, interest on assessments, and improvement revenue from which the prior bonds are payable not be reduced during the period necessary to provide funds from those sources to reimburse the local entity with interest at the same rate that applies to the assessments;
 - (b) from premiums that the local entity receives from the sale of refunding assessment bonds;
 - (c) from earnings on the investment of refunding assessment bonds pending their use to refund prior bonds;
 - (d) from any other sources legally available to the local entity for this purpose; or
 - (e) from any combination of Subsections (5)(a) through (d).

Enacted by Chapter 329, 2007 General Session

11-42-608 Reducing assessments after issuance of refunding assessment bonds.

- (1) Each local entity that issues refunding assessment bonds shall adopt a resolution or ordinance amending the assessment resolution or assessment ordinance previously adopted.
- (2) Each amending resolution or ordinance under Subsection (1) shall:
- (a) reduce, as determined by the local entity's governing body:
 - (i) the assessments levied under the previous resolution or ordinance;
 - (ii) the interest payable on the assessments levied under the previous resolution or ordinance;or
 - (iii) both the assessments levied under the previous resolution or ordinance and the interest payable on those assessments;
 - (b) allocate the reductions under Subsection (2)(a) so that the then unpaid assessments levied against benefitted property within the assessment area and the unpaid interest on those assessments receive a proportionate share of the reductions;
 - (c)
 - (i) state the amounts of the reduced payment obligation for each property assessed in the prior resolution or ordinance; or
 - (ii) incorporate by reference a revised assessment list approved by the governing body containing the reduced payment obligations; and
 - (d) state the effective date of any reduction in the assessment levied in the prior resolution or ordinance.
- (3) A resolution or ordinance under Subsection (2) is not required to describe each block, lot, part of block or lot, tract, or parcel of property assessed.
- (4) Each reduction under Subsection (2)(a) shall be the amount by which the principal or interest or both payable on the refunding assessment bonds, after accounting for incidental refunding costs associated with the refunding assessment bonds, is less than the amount of principal or interest or both payable on the prior bonds.
- (5) A reduction under Subsection (2)(a) does not apply to an assessment or interest paid before the reduction.

- (6) A resolution or ordinance under Subsection (2) may not become effective before the date when all principal, interest, any redemption premium on the prior bonds, and any advances made under Subsection 11-42-607(5)(a) are fully paid or legally considered to be paid.
- (7)
- (a) At least 21 days before the first payment of a reduced assessment becomes due, each local entity shall provide notice of the reduced payment obligations resulting from adoption of a resolution or ordinance under Subsection (2) by mailing, postage prepaid, a notice to each owner of benefitted property within the assessment area at the owner's mailing address.
 - (b) Each notice under Subsection (7)(a) shall:
 - (i) identify the property subject to the assessment; and
 - (ii) state the amount of the reduced payment obligations that will be payable after the applicable date stated in the resolution or ordinance under Subsection (1).
 - (c) A notice under Subsection (7)(a) may:
 - (i) contain other information that the governing body considers appropriate; and
 - (ii) be included with any other notice regarding the payment of an assessment and interest that the local entity sends to property owners in the assessment area within the time and addressed as required under Subsection (7)(a).
 - (d) The validity of a resolution or ordinance under Subsection (1) is not affected by:
 - (i) a local entity's failure to provide notice as required under this Subsection (7); or
 - (ii) a defect in the content of the notice or the manner or time in which the notice was provided.
 - (e) Whether or not notice under this Subsection (7) is properly given, no other notice is required to be given to owners of property within an assessment area in connection with the issuance of refunding assessment bonds.
- (8) Except for the amount of reduction to a prior assessment or interest on a prior assessment, neither the issuance of refunding assessment bonds nor the adoption of a resolution or ordinance under Subsection (1) affects:
- (a) the validity or continued enforceability of a prior assessment or interest on the assessment; or
 - (b) the validity, enforceability, or priority of an assessment lien.
- (9) Each reduction of a prior assessment and the interest on the assessment shall continue to exist in favor of the refunding assessment bonds.
- (10) Even after payment in full of the prior bonds that are refunded by refunding assessment bonds, an assessment lien continues to exist to secure payment of the reduced payment obligations, the penalties and costs of collection of those obligations, and the refunding assessment bonds in the same manner, to the same extent, and with the same priority as the assessment lien.
- (11) A lien securing a reduced payment obligation from which refunding assessment bonds are payable and by which the bonds are secured is subordinate to an assessment lien securing the original or prior assessment and prior bonds until the prior bonds are paid in full or legally considered to be paid in full.
- (12) Unless prior bonds are paid in full simultaneously with the issuance of refunding assessment bonds, the local entity shall:
- (a) irrevocably set aside the proceeds of the refunding assessment bonds in an escrow or other separate account; and
 - (b) pledge that account as security for the payment of the prior bonds, refunding assessment bonds, or both.
- (13) This part applies to all refunding assessment bonds:
- (a) whether already issued or yet to be issued; and

- (b) even though the prior bonds they refunded were issued under prior law, whether or not that law is currently in effect.

Enacted by Chapter 329, 2007 General Session

11-42-609 Validation of previously issued obligations.

- (1) Subject to Subsection (2):
 - (a) all local entity obligations issued by a local entity before April 30, 2007 are:
 - (i) validated, ratified, and confirmed; and
 - (ii) declared to constitute legally binding obligations in accordance with their terms; and
 - (b) all proceedings before April 30, 2007 related to the authorization and issuance of local entity obligations are validated, ratified, and confirmed.
- (2) Nothing in this section may be construed to affect the validity of local entity obligations, a guaranty fund, or a reserve fund whose legality is being contested on April 30, 2007.
- (3)
 - (a) This chapter applies to all local entity obligations issued after April 30, 2007, even though proceedings were taken before that date under provisions of the law then in effect but repealed or modified on or after that date.
 - (b) Proceedings taken as described in Subsection (3)(a) under the law in effect before April 30, 2007 are validated, ratified, and confirmed, subject to question only as provided in Section 11-42-106.
- (4) The validity of local entity obligations issued before April 30, 2007 is not affected by changes to the law under which they were issued that become effective on or after April 30, 2007.

Enacted by Chapter 329, 2007 General Session