

11-42-415 Pledge and use of improvement revenues -- Reducing installment payments -- Notice -- Overpayment of installment.

- (1) A local entity may, by resolution adopted by the governing body, provide for the pledge and use of any improvement revenues to pay:
 - (a) some or all of the costs and expenses of making, operating, and maintaining improvements, to the extent permitted under this chapter; and
 - (b) some or all of the principal of and interest on assessment bonds, interim warrants, and bond anticipation notes issued against the assessment area to make improvements within the assessment area.
- (2)
 - (a) If the governing body adopts a resolution under Subsection (1), the local entity:
 - (i) may:
 - (A) provide for assessments to be levied in the full amount of the estimated cost of the improvements, as determined by a project engineer;
 - (B) agree to use installment payments from assessments to pay the costs of the improvements and to pay principal of and interest on any assessment bonds, interim warrants, and bond anticipation notes when due; and
 - (C) reduce installment payments, as provided in Subsection (2)(a)(ii), if the local entity receives net improvement revenues and pledges them to pay operation and maintenance costs of the improvements and to pay principal of and interest on assessment bonds, interim warrants, or bond anticipation notes; and
 - (ii) shall authorize a local entity official to:
 - (A) determine on each installment payment date the amount of net improvement revenues that the local entity has received since the last installment payment date; and
 - (B) reduce the amount of the installment payment due on the next succeeding installment payment date by an amount that is no greater than the amount of the net improvement revenues described in Subsection (2)(a)(ii)(A).
 - (b) A local entity may not reduce installment payments under Subsection (2)(a)(ii) if:
 - (i) the reduction exceeds the amount of net improvement revenues that have been pledged to pay:
 - (A) operation and maintenance costs of the improvements; and
 - (B) principal of and interest on assessment bonds, interim warrants, and bond anticipation notes; or
 - (ii) after the reduction, the sum of the assessment installment payments and the net improvement revenues are insufficient to pay:
 - (A) operation and maintenance costs of the improvements; and
 - (B) principal of and interest on assessment bonds, interim warrants, and bond anticipation notes.
 - (c) The local entity shall require that each reduction of installment payments be made so that the assessments levied against each assessed property receive a proportionate share of the reduction.
 - (d) A reduction under Subsection (2)(a)(ii) does not apply to an assessment or interest on an assessment that has been paid.
- (3)
 - (a) Not more than 14 days after making a determination under Subsection (2)(a)(ii) to reduce an installment payment, the local entity's governing body shall mail notice of the reduction to each owner of property within the assessment area at the property owner's mailing address.

- (b) The governing body may include the notice required under Subsection (3)(a) with or in any other notice regarding the payment of assessments and interest on assessments that the governing body sends to owners.
- (4)
 - (a) If an owner of assessed property pays more than the amount of the reduced installment payment on the installment payment date after a notice under Subsection (3) is mailed, the local entity may, by following the procedure under Subsection (3), provide additional notice to the owner that:
 - (i) the owner has overpaid the assessment installment payment; and
 - (ii) the local entity will:
 - (A) credit the amount of the overpayment against the next installment payment due; or
 - (B) if no further installment payment is due, refund the amount of the overpayment upon receipt of a written refund request from the owner.
 - (b) If a local entity receives an overpayment of an installment payment, it shall:
 - (i) credit the amount of the overpayment against the next installment payment due; or
 - (ii) refund the amount of the overpayment to the owner if:
 - (A) no further installment payment is due; and
 - (B) the owner submits a written request for a refund.
 - (c) A local entity is not required to pay interest on an overpayment that it holds.

Enacted by Chapter 329, 2007 General Session