

Part 2 Assessments

16-4-201 Assessments.

- (1) The shares of a nonprofit corporation are subject to assessment for any corporate purpose, except to the extent proscribed by the articles of incorporation.
- (2) The shares of a profit corporation are subject to assessment if:
 - (a) those shares were subject to assessment before May 1, 2007; and
 - (b) the assessment is not proscribed by the corporation's articles of incorporation.

Enacted by Chapter 367, 2007 General Session

16-4-202 Procedure for assessment in absence of provisions in articles or bylaws.

- (1) An assessment shall be levied in the manner this chapter provides, unless other commercially reasonable procedures are provided in the articles of incorporation or bylaws.
- (2) Each assessment shall comply with the requirements of Section 16-4-203.

Enacted by Chapter 367, 2007 General Session

16-4-203 Equitable assessment.

- (1)
 - (a) Subject to Subsection (2), all shares subject to assessment shall be assessed equitably.
 - (b) Different classes of shares, and shares with different rights or benefits, may be subject to differing assessments.
- (2) Shares may also be assessed on any basis required by:
 - (a) any existing or future contract between:
 - (i) the United States and a water company;
 - (ii) the United States and the shareholders of a water company; or
 - (iii) a water company and one or more shareholders of the water company; or
 - (b) any contract of subscription for shares in a water company contracting with the United States.
- (3) For purposes of Subsection (2), "contract" does not include the articles of incorporation or the bylaws.

Enacted by Chapter 367, 2007 General Session

16-4-204 Order levying assessment -- Contents.

- (1) An assessment may be levied by order of the board of directors.
- (2) An order levying an assessment shall:
 - (a) specify the amount of the levy on each share;
 - (b) specify when, to whom, and where the assessment is payable; and
 - (c) identify the day on which an unpaid assessment becomes delinquent.
- (3) The date on which an unpaid assessment is considered delinquent shall be at least 30 days after notice of assessment is given as provided in Section 16-4-206.
- (4) If assessments are not levied on an equal basis for all shares, the order shall state the equitable basis for the differing assessments.

Enacted by Chapter 367, 2007 General Session

16-4-205 Notice of assessment -- Form and contents.

When the board of directors levies an assessment, the secretary shall prepare a notice of assessment, including:

- (1) the name of the corporation;
- (2) the location of the corporation's principal place of business;
- (3) the date of the meeting at which the board of directors adopted the order levying the assessment;
- (4) a description of the class or classes of shares assessed, and the amount of assessment per share;
- (5) the time, place, and manner of payment;
- (6) the day on which payment is considered delinquent;
- (7) if assessments are not levied on an equal basis, a statement that the equitable basis for the assessments is set forth in the order; and
- (8) a general statement that the board of directors may elect various remedies to enforce payment, including the auctioning of shares.

Enacted by Chapter 367, 2007 General Session

16-4-206 Service and publication of notice of assessment.

- (1) The notice of assessment required by Section 16-4-205 shall be:
 - (a) personally served on each shareholder; or
 - (b) sent by first-class mail to each shareholder at the address shown on the corporation's records.
- (2) A shareholder is responsible for providing the shareholder's current mailing address to the corporation for purposes of Subsection (1).
- (3)
 - (a) Except as provided in Subsection (3)(b), a notice of assessment shall be published:
 - (i) once a week for two weeks in a newspaper of general circulation in the location of the corporation's principal place of business; and
 - (ii) in accordance with Section 45-1-101 for two weeks.
 - (b) A water company may elect not to publish notice under Subsection (3)(a).

Amended by Chapter 388, 2009 General Session