

HB0168S01 compared with HB0168

~~{deleted text}~~ shows text that was in HB0168 but was deleted in HB0168S01.

Inserted text shows text that was not in HB0168 but was inserted into HB0168S01.

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Representative R. Curt Webb proposes the following substitute bill:

POLITICAL SUBDIVISION LIEN AUTHORITY

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: R. Curt Webb

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses provisions related to political subdivision lien authority.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ clarifies certain existing grants of political subdivision lien authority to ensure that each grant provides an identifiable effective date, notice mechanism, and enforcement mechanism;
- ▶ imposes limits on political subdivision liens;
- ▶ provides that certain political subdivision liens are invalid against a subsequent bona fide purchaser if the lien is not recorded before the purchase;
- ▶ prohibits a county treasurer from including an item on the property tax notice unless

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the item's inclusion is expressly authorized in statute;

- ▶ amends the items that a county treasurer is required to include on a property tax notice;
- ▶ addresses the priority status of a political subdivision lien listed on the property tax notice;
- ▶ allows a tax sale for delinquencies of any item that is statutorily authorized to be included on the property tax notice; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-7-30, Utah Code Annotated 1953

10-8-17, as last amended by Laws of Utah 2010, Chapter 378

10-8-19, Utah Code Annotated 1953

10-11-4, as last amended by Laws of Utah 2017, Chapter 460

11-42-501, as last amended by Laws of Utah 2015, Chapter 349

11-42-502, as last amended by Laws of Utah 2016, Chapter 85

11-42-502.1, as enacted by Laws of Utah 2016, Chapter 85

11-42a-201, as enacted by Laws of Utah 2017, Chapter 470

11-42a-301, as enacted by Laws of Utah 2017, Chapter 470

11-42a-303, as enacted by Laws of Utah 2017, Chapter 470

17B-1-902, as last amended by Laws of Utah 2017, Chapter 460

17B-2a-506, as last amended by Laws of Utah 2015, Chapter 349

17B-2a-1007, as last amended by Laws of Utah 2015, Chapter 258

59-2-1317, as last amended by Laws of Utah 2016, Chapter 353

59-2-1331, as last amended by Laws of Utah 2015, Chapter 201

59-2-1332.5, as last amended by Laws of Utah 2016, Chapter 368

59-2-1343, as last amended by Laws of Utah 1995, Chapter 181

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ENACTS:

11-58-101, Utah Code Annotated 1953

11-58-102, Utah Code Annotated 1953

11-58-103, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **10-7-30** is amended to read:

10-7-30. Failure to pay for repairs -- Lien on company's property.

(1) In the event of the refusal of any [~~such~~] company to pave, repave, or repair as required [~~herein~~] in this section when so directed, upon the paving or repaving of any street upon which [~~its~~] the company's track is laid, the municipality [~~shall have power to~~] may:

(a) pave, repave, or repair the [~~same~~] street; and

(b) collect the cost and expense of [~~such~~] the paving, repaving, or repairing [~~may be collected~~] by levy and sale of any property of [~~such~~] the company in the same manner as special taxes are [~~now or may be~~] collected. [~~Special~~]

(2) The municipality may levy special taxes, for the purpose [~~of paying the cost of any such paving or repaving, macadamizing~~] described in Subsection (1)(b) or repairing of [~~any such~~] the railway [~~may be levied~~], upon:

(a) all as one property:

(i) the track, including the ties, iron, roadbed, right of way, sidetracks, and appurtenances[~~;~~]; and

(ii) buildings and real estate belonging to [~~any such~~] the company and used for the purpose of [~~such~~] the railway business [~~all as one property~~]; or [~~upon such~~]

(b) the parts of [~~such~~] the track, appurtenances, and property as may be within the district paved, repaved, macadamized, or repaired[~~, and shall be a lien upon the property levied upon from the time of the levy until satisfied. No~~].

(3) (a) The municipality may record the levied special taxes described in Subsection (2) as a political subdivision lien, as that term is defined in Section 11-58-102, upon the levied property, in accordance with Title 11, Chapter 58, Political Subdivision Lien Authority.

(b) Any mortgage, conveyance, pledge, transfer, or encumbrance of [~~any such~~] the property or of any rolling stock or personal property of [~~any such~~] the company[~~, created or~~

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suffered by it after the time when any street or part thereof upon which any railway shall have been laid shall have been ordered paved, repaved, macadamized or repaired shall be made or ~~suffered except~~ that the company creates or suffers is subject to the lien [of such special taxes, if such levy is in contemplation].

Section 2. Section **10-8-17** is amended to read:

10-8-17. City may act as distributing agent -- Collection of operating costs from users.

(1) When the governing body of a city is acting as distributing agent of water, not the property of the corporation, outside of or within its corporate limits, the governing body may annually ~~[prior to], before~~ the commencement of the irrigation season, determine and fix the sum ~~[deemed]~~ considered necessary to meet the expense of the current year for the purpose of:

(a) controlling, regulating, and distributing [such] the water; and
(b) constructing and keeping in repair the necessary means for diverting, conveying, and distributing the [same, and they] water.

(2) (a) The governing body may collect [such] the sum described in Subsection (1) from the persons entitled to the use of [such] the water, pro rata according to acreage, whether the acreage is situate within or without the corporate boundary of the city[; provided, that the funds so derived may not be appropriated or used].

(b) The governing body may not appropriate or use the derived funds for any other purpose[; and in] than the purposes described in Subsection (1).

(c) In the event that the governing body collects a greater sum [is collected] in any one year than is necessary [for said purpose, the excess thereof shall be carried] under Subsection (1), the governing body shall carry the excess to the account of the year next following and [applied to the purpose for which it was collected. Such sum shall be fixed and collected as provided by ordinance, and until collected the same shall be] apply the excess to the purposes described in Subsection (1).

(d) The governing body shall enact an ordinance fixing and providing for the collection of the sum described in Subsection (1).

(3) (a) Until the governing body collects the sum described in Subsection (1), the sum is a political subdivision lien, as that term is defined in Section 11-58-102, on [such] the subject water rights and the land irrigated [thereby] by the water, in accordance with Title 11,

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Chapter 58, Political Subdivision Lien Authority.

(b) If the lien amount is not paid in full by September 15 of a given year:

(i) the governing body shall certify any unpaid amount to the treasurer of the county in which the lien property is located; and

(ii) the county treasurer shall include the certified amount on the property tax notice required by Section 59-2-1317 for that year.

Section 3. Section **10-8-19** is amended to read:

10-8-19. Water supply -- Special tax for increasing supply when city acting as distributing agent.

(1) Whenever a city is acting as distributing agent of water, not the property of the corporation, outside of or within the corporate limits of such city, upon written petition of the owners of [such] the water, [it] the city may increase the supply of water [owned by such persons] that the petitioners own by any means provided in Section 10-8-18[; and for that purpose].

(2) (a) To increase the supply of water under Subsection (1), the city may levy and collect from the owners of [such] the water a tax not exceeding [such] the sum per acre of land owned [by such persons as may have been] as agreed upon and designated in [said] the petition[; said tax when so collected to be appropriated exclusively to said purposes, except such part thereof].

(b) The city shall appropriate the tax collected under Subsection (2)(a) exclusively to increase the supply of water under Subsection (1), except as is necessary to pay the expense of levying and collecting the [same. Said tax shall constitute] tax.

(3) (a) Until the city collects the tax described in Subsection (2), the unpaid tax is a political subdivision lien, as that term is defined in Section 11-58-102, upon the owner's water rights [of the persons] and the land [irrigated thereby, and shall be levied and collected as provided in Section 10-8-17] that the water irrigates, in accordance with Title 11, Chapter 58, Political Subdivision Lien Authority.

(b) If the lien amount is not paid in full by September 15 of a given year:

(i) the city shall certify any unpaid amount to the treasurer of the county in which the lien property is located; and

(ii) the county treasurer shall include the certified amount on the property tax notice

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required by Section 59-2-1317 for that year.

Section 4. Section **10-11-4** is amended to read:

10-11-4. Costs of removal to be included in tax notice.

(1) A municipality may certify to the treasurer of the county in which a property described in Section 10-11-3 is located, the unpaid costs and expenses that the municipality has incurred under Section 10-11-3 with regard to the property.

(2) If the municipality certifies with the treasurer of the county any costs or expenses incurred for a property under Section 10-11-3, the treasurer shall enter the amount of the costs and expenses on the assessment and tax rolls of the county in the column prepared for that purpose.

(3) If current tax notices have been mailed, the treasurer of the county may carry the costs and expenses described in Subsection (2) on the assessment and tax rolls to the following year.

(4) (a) After entry by the treasurer of the county[;] under Subsection (2):

(i) the amount entered[: (a) shall have the force and effect of a valid judgment of the district court; (b)] is a nonrecurring direct charge that constitutes a political subdivision lien, as those terms are defined in Section 11-58-102, upon the property[: and] in accordance with Title 11, Chapter 58, Political Subdivision Lien Authority; and

[(c)] (ii) [shall be collected by the] the treasurer of the county in which the property is located shall collect the amount entered at the time of the payment of general taxes.

(b) (i) Notwithstanding Subsection (7), the municipality may pursue judicial foreclosure to enforce the lien rather than relying on a tax sale.

(ii) If the municipality pursues judicial foreclosure under this Subsection (4)(b):

(A) the municipality shall record the lien in the office of the recorder of the county in which the lien property is located; and

(B) the priority date of the lien, for the purpose of the judicial foreclosure, is the date on which the municipality records the lien.

(5) Upon payment of the costs and expenses that the treasurer of the county enters under Subsection (2):

[(a) the judgement is satisfied;]

[(b)] (a) the lien described in Subsection (4) is released from the property; [and]

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(b) the municipality shall record a release of the lien in the office of the recorder of the county in which the liened property is located; and

~~[(c)]~~ (c) [receipt shall be acknowledged] the treasurer shall acknowledge receipt upon the general tax receipt [issued by] that the treasurer issues.

(6) (a) If a municipality certifies unpaid costs and expenses under this section, the treasurer of the county shall provide a notice, in accordance with this Subsection (6), to the owner of the property for which the municipality has incurred the unpaid costs and expenses.

(b) In providing the notice required in Subsection (6)(a), the treasurer of the county shall:

(i) include the amount of unpaid costs and expenses that a municipality has certified on or before July 15 of the current year;

(ii) provide contact information, including a phone number, for the property owner to contact the municipality to obtain more information regarding the amount described in Subsection (6)(b)(i); and

(iii) notify the property owner that:

(A) unless the municipality completes a judicial foreclosure under Subsection (4)(b), if the amount described in Subsection (6)(b)(i) is not paid in full by September 15 of the current year, any unpaid amount will be included on the property tax notice required by Section 59-2-1317; and

(B) the failure to pay the amount described in Subsection (6)(b)(i) has resulted in a lien on the property in accordance with ~~[this section]~~ Subsection (4).

(c) The treasurer of the county shall provide the notice required by this Subsection (6) to a property owner on or before August 1.

(d) If the municipality pursues judicial foreclosure under Subsection (4)(b) and completes the judicial foreclosure, before any tax sale proceedings on a property described in Subsection (1), the treasurer of the county shall remove from the assessment roll any costs or expenses that the treasurer added to the assessment roll under Subsection (2).

(7) If the amount described in Subsection (6)(b)(i) is not paid in full by September 15 of a given year, the county treasurer shall include any unpaid amount on the property tax notice required by Section 59-2-1317 for that year.

~~[(7)]~~ (8) This section does not apply to any public building, public structure, or public

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improvement.

Section 5. Section 11-42-501 is amended to read:

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

(1) ~~{(a)}~~ [Each] If the governing body of the local entity that adopts an assessment resolution or ordinance records the assessment resolution or ordinance and the notice of proposed assessment, in accordance with Section 11-42-206, in the office of the recorder of the county in which the assessed property is located, each assessment levied under this chapter, including any installment of an assessment, interest, and any penalties and costs of collection, constitutes a political subdivision lien, as that term is defined in Section 11-58-102, against the property assessed, in accordance with Title 11, Chapter 58, Political Subdivision Lien Authority, as of the effective date of the assessment resolution or ordinance.

~~{ (b) If an assessment levied under a recorded assessment resolution or ordinance is not paid in full by September 15 of a given year:~~

~~—— (i) the governing body of the local entity that levies the assessment shall certify any unpaid amount to the treasurer of the county in which the assessed property is located; and~~

~~—— (ii) the county treasurer shall include the certified amount on the property tax notice required by Section 59-2-1317 for that year.~~

‡ (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:

(i) a sale of the property for or on account of a delinquent general property tax, special tax, or other assessment; or

(ii) the issuance of a tax deed, an assignment of interest by the county, or a sheriff's certificate of sale or deed.

Section 6. Section 11-42-502 is amended to read:

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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) (a) If an assessment or an installment of an assessment is not paid when due ~~(b)~~ (a):

(i) (A) the governing body of the local entity that levies the assessment shall certify any unpaid amount to the treasurer of the county in which the assessed property is located; and

(B) the county treasurer shall include the certified amount on the property tax notice required by Section 59-2-1317 for that year; and

(ii) 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)~~ (A) by resolution or ordinance of the local entity;

~~(b)~~ (B) in Title 59, Chapter 2, Part 13, Collection of Taxes, for the sale of property for delinquent general property taxes; or

~~(c)~~ (C) in Title 57, Chapter 1, Conveyances, as though the property were the subject of a trust deed in favor of the local entity.

(b) Nothing in Subsection (2)(a)(i) or in Title 11, Chapter 58, Political Subdivision Lien Authority, prohibits or diminishes a local entity's authority to pursue any remedy in Subsection (2)(a)(ii).

(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

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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.

Section 7. Section 11-42-502.1 is amended to read:

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

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11-42-502(1)(b).

(2) (a) If an assessment or an installment of an assessment is not paid when due ~~(c)~~ (a):

(i) (A) the governing body of the local entity that levies the assessment shall certify any unpaid amount to the treasurer of the county in which the assessed property is located; and

(B) the county treasurer shall include the certified amount on the property tax notice required by Section 59-2-1317 for that year; and

(ii) the local entity may sell the property on which the assessment has been levied for the amount due plus interest, penalties, and costs:

(a) (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) (B) by judicial foreclosure; or

(c) (C) in the manner described in Title 57, Chapter 1, Conveyances, if ~~(c)~~

~~(i)~~ (i) the property is in a voluntary assessment area (i) and ~~(c)~~

~~(ii)~~ (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)(i) that includes a provision described in Subsection 11-42-202(1)(iv).

(b) Nothing in Subsection (2)(a)(i) or in Title 11, Chapter 58, Political Subdivision Lien Authority, prohibits or diminishes a local entity's authority to pursue any remedy in Subsection (2)(a)(ii).

(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.

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(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.

Section ~~6~~8. Section **11-42a-201** is amended to read:

11-42a-201. Resolution or ordinance designating an energy assessment area, levying an assessment, and issuing an energy assessment bond.

(1) (a) Except as otherwise provided in this chapter, and subject to the requirements of this part, at the request of a property owner on whose property or for whose benefit an improvement is being installed or being reimbursed, a governing body of a local entity may adopt an energy assessment resolution or an energy assessment ordinance that:

- (i) designates an energy assessment area;
- (ii) levies an assessment within the energy assessment area; and
- (iii) if applicable, authorizes the issuance of an energy assessment bond.

(b) The boundaries of a proposed energy assessment area may:

- (i) include property that is not intended to be assessed; and
- (ii) overlap, be coextensive with, or be substantially coterminous with the boundaries of any other energy assessment area or an assessment area created under Title 11, Chapter 42, Assessment Area Act.

(c) The energy assessment resolution or ordinance described in Subsection (1)(a) is adequate for purposes of identifying the property to be assessed within the energy assessment area if the resolution or ordinance describes the property to be assessed by legal description and tax identification number.

(2) (a) A local entity that adopts an energy assessment resolution or ordinance under Subsection (1)(a) shall give notice of the adoption by:

(i) ~~(A)~~ publishing a copy or a summary of the resolution or ordinance once in a newspaper of general circulation where the energy assessment area is located; or

~~(ii) (B)~~ if there is no newspaper of general circulation where the energy assessment area is located, posting a copy of the resolution or ordinance in at least three public places within the local entity's jurisdictional boundaries for at least 21 days ~~(C)~~

~~(ii) recording the original or certified copy of the energy assessment resolution or ordinance in the office of the recorder of the county in which the property to be assessed is~~

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located; and

~~_____ (iii) filing with the recorder of the county in which the property to be assessed is located a notice of proposed assessment that:~~

~~_____ (A) states that the local entity has designated an energy assessment area; and~~

~~_____ (B) lists, by legal description and tax identification number as identified on county records, the property proposed to be assessed.~~

~~};~~

(b) Except as provided in Subsection (2)(a), a local entity is not required to make any other publication or posting of the resolution or ordinance.

~~{(c)}~~ (3) Notwithstanding any other statutory provision regarding the effective date of a resolution or ordinance, each energy assessment resolution or ordinance takes effect:

(a) on the date of publication or posting of the notice under Subsection (2); or

(b) at a later date as provided in the resolution or ordinance.

(4) (a) The governing body of each local entity that has adopted an energy assessment resolution or ordinance under Subsection (1) shall, within five days after the effective date of the resolution or ordinance, file a notice of assessment interest with the recorder of the county in which the property to be assessed is located.

(b) Each notice of assessment interest under Subsection (4)(a) shall:

(i) state that the local entity has an assessment interest in the property to be assessed;

and

(ii) describe the property to be assessed by legal description and tax identification number.

(c) [A local entity's failure] If a local entity fails ~~{ to comply with the requirements of Subsection (2)(a)}~~ to file a notice of assessment interest under this Subsection (4) [has no effect on the validity of an assessment levied under an energy assessment resolution or ordinance adopted under Subsection (1)].:

(i) the failure does not invalidate the designation of an energy assessment area; 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

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(C) the subsequent purchaser purchased the property after a corrected notice was filed under Subsection (2)(d).

(d) The local entity may file a corrected notice ~~under Subsection (2)(a)(ii) or (iii)~~ if the entity fails to comply with the date or other requirements for ~~recording~~ filing a notice of ~~the energy~~ assessment ~~resolution or ordinance~~ interest.

(e) If a governing body has filed a corrected notice under Subsection (2)(d), 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)(c):

~~—— (3) Notwithstanding any other statutory provision regarding the effective date of a resolution or ordinance, each energy assessment resolution or ordinance takes effect:~~

~~—— (a) on the date of publication or posting of the notice under Subsection (2); or~~

~~—— (b) at a later date as provided in the resolution or ordinance.~~

~~—— (4) (a) The governing body of each local entity that has adopted an energy assessment resolution or ordinance under Subsection (1) shall, within five days after the effective date of the resolution or ordinance, file a notice of assessment interest with the recorder of the county in which the property to be assessed is located.~~

~~—— (b) Each notice of assessment interest under Subsection (4)(a) shall:~~

~~—— (i) state that the local entity has an assessment interest in the property to be assessed; and~~

~~—— (ii) describe the property to be assessed by legal description and tax identification number.~~

~~—— (c) A local entity's failure to file a notice of assessment interest under this Subsection (4) has no effect on the validity of an assessment levied under an energy assessment resolution or ordinance adopted under Subsection (1).~~

~~—— Section ~~7~~(4)(c).~~

Section 9. Section 11-42a-301 is amended to read:

11-42a-301. Assessment constitutes a lien -- Characteristics of an energy assessment lien.

(1) ~~(a)~~ [Each] If a local entity that adopts an assessment resolution or ordinance records the assessment resolution or ordinance and the notice of proposed assessment, in

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accordance with Section 11-42a-201, in the office of the recorder of the county in which the assessed property is located, each assessment levied under this chapter, including any installment of an assessment, interest, and any penalties and costs of collection, constitutes a political subdivision lien, as that term is defined in Section 11-58-102, against the assessed property, in accordance with Title 11, Chapter 58, Political Subdivision Lien Authority, beginning on the effective date of the energy assessment resolution or ordinance that the local entity adopts under Subsection 11-42a-201(1)(a).

~~{ (b) If an energy assessment levied under a recorded energy assessment resolution or ordinance is not paid in full by September 15 of a given year:~~

~~— (i) the local entity that levies the energy assessment shall certify any unpaid amount to the treasurer of the county in which the assessed property is located; and~~

~~— (ii) the county treasurer shall include the certified amount on the property tax notice required by Section 59-2-1317 for that year.~~

‡ (2) An energy assessment 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:

(i) a lien for general property taxes; or

(ii) any other energy assessment lien levied under this chapter;

(c) applies to any reduced payment obligations without interruption, change in priority, or alteration in any manner; and

(d) continues until the assessment and any related reduced payment obligations, interest, penalties, and costs are paid, regardless of:

(i) a sale of the property for or on account of a delinquent general property tax, special tax, or other assessment; or

(ii) the issuance of a tax deed, an assignment of interest by the county, or a sheriff's certificate of sale or deed.

Section 10. Section 11-42a-303 is amended to read:

11-42a-303. Enforcement of an energy assessment lien.

(1) (a) If an assessment or an installment of an assessment is not paid when due ~~{ } []~~:

(i) (A) the governing body of the local entity that levies the assessment shall certify any

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unpaid amount to the treasurer of the county in which the assessed property is located; and

(B) the county treasurer shall include the certified amount on the property tax notice required by Section 59-2-1317 for that year; and

(ii) the local entity may sell the property on which the assessment has been levied for the amount due plus interest, penalties, and costs:

~~[(a)]~~ (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)]~~ (B) by judicial foreclosure; or

~~[(c)]~~ (C) in the manner provided in Title 57, Chapter 1, Conveyances, as though the property were the subject of a trust deed in favor of the local entity if 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, has executed a property owner's consent form ~~[that:]~~ in accordance with Subsection (1)(b).

(b) The local entity shall ensure that the consent form described in Subsection (1)(a)(ii)(C):

(i) estimates the total assessment to be levied against the particular parcel of property;

(ii) describes any additional benefits that the local entity expects the assessed property to receive from the improvements;

(iii) designates the date and time by which the fully executed consent form is required to be submitted to the local entity; and

(iv) (A) appoints a trustee that satisfies the requirements described in Section 57-1-21;

(B) gives the trustee the power of sale; and

(C) explains that if an assessment or an installment of an assessment is not paid when due, the local entity may sell the property owner's property to satisfy the amount due plus interest, penalties, and costs, in the manner described in Title 57, Chapter 1, Conveyances.

(c) Nothing in Subsection (1)(a)(i) or in Title 11, Chapter 58, Political Subdivision Lien Authority, prohibits or diminishes a local entity's authority to pursue any remedy in Subsection (1)(a)(ii).

(2) If the local entity has assigned the local entity's rights to a third-party lender under Section 11-42a-302, the local entity shall provide written instructions to the third-party lender as to which method of enforcement the third-party lender shall pursue.

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(3) Except as otherwise provided in this chapter, each tax sale under Subsection (1)(b) is 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 (1)(c):

(i) the local entity may bid at the sale;

(ii) 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

(iii) the local entity's chief financial officer may substitute and appoint one or more successor trustees, as provided in Section 57-1-22.

(b) (i) The local entity shall disclose the designation of a trustee under Subsection (4)(a)(ii) in the notice of default that the trustee gives to commence the foreclosure.

(ii) The local entity is not required to disclose the designation of a trustee under Subsection (4)(a)(ii) in an instrument separate from the notice described in Subsection (4)(b)(i).

(5) (a) The redemption of property that is the subject of a tax sale under Subsection (1)(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 (1)(c) is governed by Title 57, Chapter 1, Conveyances.

(6) The remedies described in this part for the collection of an assessment and the enforcement of an energy assessment lien are cumulative, and the use of one or more of those remedies does not deprive the local entity of any other available remedy, means of collecting the assessment, or means of enforcing the energy assessment lien.

Section ~~8~~11. Section **11-58-101** is enacted to read:

CHAPTER 58. POLITICAL SUBDIVISION LIEN AUTHORITY

11-58-101. Title.

This chapter is known as "Political Subdivision Lien Authority."

Section ~~9~~12. Section **11-58-102** is enacted to read:

11-58-102. Definitions.

As used in this chapter:

(1) "Direct charge" means a charge, fee, assessment, or amount, other than a property

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tax, that a political subdivision charges to a property owner.

(2) "Notice of lien" means a notice that:

(a) a political subdivision records in the office of the recorder of the county in which a property that is the subject of a nonrecurring direct charge is located; and

(b) describes the nature and amount of the nonrecurring direct charge and whether the political subdivision intends to certify the charge to the county treasurer under statutory authority that allows the treasurer to place the charge on the property tax notice described in Section 59-2-1317.

(~~2~~3) "Nonrecurring direct charge" means a direct charge that a political subdivision assesses or imposes on a one-time or case-by-case basis rather than a regular assessment over multiple calendar years.

(~~3~~4) "Political subdivision" means:

(a) a county, as that term is defined in Section 17-50-101;

(b) a municipality, as that term is defined in Section 10-1-104;

(c) a local district, as that term is defined in Section 17B-1-102;

(d) a special service district, as that term is defined in Section 17D-1-102;

(e) an interlocal entity, as that term is defined in Section 11-13-103;

(f) a community reinvestment agency created under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;

(g) a local building authority, as that term is defined in Section 17D-2-102; ~~or~~

(h) a conservation district, as that term is defined in Section 17D-3-102; or

(i) a local entity, as that term is defined in Sections 11-42-102 and 11-42a-102.

(~~4~~5) "Political subdivision lien" means a lien that a statute expressly authorizes a political subdivision to hold and record, including a direct charge that constitutes, according to an express statutory provision, a lien.

(~~5~~6) "Property tax" means a tax imposed on real property under Title 59, Chapter 2, Property Tax Act, Title 59, Chapter 3, Tax Equivalent Property Act, or Title 59, Chapter 4, Privilege Tax.

(~~6~~7) "Tax sale" means the tax sale described in Title 59, Chapter 2, Part 13, Collection of Taxes.

Section ~~(10)~~13. Section **11-58-103** is enacted to read:

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11-58-103. Political subdivision liens -- Status -- Limitations.

(1) Unless expressly granted in statute, a political subdivision has no lien authority or lien rights when a property owner fails to pay a direct charge for:

- (a) a service that the political subdivision renders; or
- (b) a product, an item, or goods that the political subdivision delivers.

(2) A political subdivision lien other than a lien described in Subsection (3):

- (a) (i) is not equivalent to and does not have the same priority as property tax; and
- (ii) is not subject to the same collection and tax sale procedures as a property tax;

(b) is effective as of the date on which the lienholder records the lien in the office of the recorder of the county in which the property is located;

(c) is subordinate in priority to all encumbrances on the property existing on the date on which the municipality records the lien; and

(d) is invalid and does not attach to the property if:

(i) the lienholder does not record the lien; or

(ii) a subsequent bona fide purchaser purchases the lien property for value before the lienholder records the lien.

(3) (a) A political subdivision lien that is included on the property tax notice in accordance with Section 59-2-1317 or another express statutory provision:

(i) under Subsection 59-2-1317(3), has the same priority as tax and is ~~collected~~ subject to collection in a tax sale in accordance with Title 59, Chapter 2, Part 13, Collection of Taxes, if:

(A) in order to hold the lien, statute requires the lienholder to record the lien or a resolution, notice, ordinance, or order, and the lienholder makes the required recording; or

(B) statute does not require the lienholder to record the lien or a resolution, notice, ordinance, or order; and

(ii) except as provided in Subsection (3)(b):

(A) attaches to the property; and

(B) is valid against a subsequent bona fide purchaser of the property.

(b) Notwithstanding Subsection (3)(a)(ii), regardless of inclusion on the property tax notice in accordance with Section 59-2-1317, if a political subdivision fails to record a lien or a notice of lien for a nonrecurring direct charge in the office of the recorder of the county in

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which the lien property is located before a subsequent bona fide purchaser purchases the property, the lien:

- (i) does not attach to the property; and
- (ii) is invalid against the subsequent bona fide purchaser.

(4) If the holder of a political subdivision lien records the lien or a notice of lien, upon payment of the amount that constitutes the lien:

- (a) the lien is released from the property; and
- (b) the lienholder shall record a release of the lien or the notice of lien in the same

recorder's office in which the lienholder recorded the lien or the notice of the lien.

(5) Nothing in this section limits a political subdivision's lien authority or lien rights otherwise provided in statute, a contract, a judgment, or another property interest.

Section ~~{11}~~14. Section 17B-1-902 is amended to read:

17B-1-902. Lien for past due service fees -- Notice -- Partial payment allocation.

(1) (a) A local district may ~~[file]~~ hold a lien on a customer's property for past due fees for commodities, services, or facilities that the district has provided to the customer's property by certifying, subject to Subsection (3), to the treasurer of the county in which the customer's property is located the amount of past due fees, including, subject to Section 17B-1-902.1, applicable interest and administrative costs.

(b) (i) Upon certification under Subsection (1)(a), the past due fees, and if applicable, interest and administrative costs, become a nonrecurring direct charge that constitutes a political subdivision lien, as those terms are defined in Section 11-58-102, on the customer's property to which the commodities, services, or facilities were provided in accordance with Title 11, Chapter 58, Political Subdivision Lien Authority.

~~[(c)]~~ (ii) A lien ~~[filed in accordance with this section]~~ described in this Subsection (1) has the same priority as, but is separate and distinct from, a property tax lien.

(2) (a) If a local district certifies past due fees under Subsection (1)(a), the treasurer of the county shall provide a notice, in accordance with this Subsection (2), to the owner of the property for which the local district has incurred the past due fees.

(b) In providing the notice required in Subsection (2)(a), the treasurer of the county shall:

- (i) include the amount of past due fees that a local district has certified on or before

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July 15 of the current year;

(ii) provide contact information, including a phone number, for the property owner to contact the local district to obtain more information regarding the amount described in Subsection (2)(b)(i); and

(iii) notify the property owner that:

(A) if the amount described in Subsection (2)(b)(i) is not paid in full by September 15 of the current year, any unpaid amount will be included on the property tax notice required by Section 59-2-1317; and

(B) the failure to pay the amount described in Subsection (2)(b)(i) has resulted in a lien on the property in accordance with ~~[this section]~~ Subsection (1)(b).

(c) The treasurer of the county shall provide the notice required by this Subsection (2) to a property owner on or before August 1.

(3) (a) If a local district certifies ~~[past due fees under]~~ an unpaid amount in accordance with Subsection (1)(a), the county treasurer shall include the unpaid amount on a property tax notice issued in accordance with Section 59-2-1317 ~~[an unpaid fee, administrative cost, or interest described in Subsection (1)(a)]~~.

(b) If an unpaid fee, administrative cost, or interest is included on a property tax notice in accordance with Subsection (3)(a), the county treasurer shall on the property tax notice:

(i) clearly state that the unpaid fee, administrative cost, or interest is for a service provided by the local district; and

(ii) itemize the unpaid fee, administrative cost, or interest separate from any other tax, fee, interest, or penalty that is included on the property tax notice in accordance with Section 59-2-1317.

(4) A lien under Subsection (1) is not valid if the local district makes certification under Subsection ~~[(1) is made]~~ (1)(a) after the filing for record of a document conveying title of the customer's property to a new owner.

(5) Nothing in this section may be construed to:

(a) waive or release the customer's obligation to pay fees that the district has imposed;

(b) preclude the certification of a lien under Subsection (1) with respect to past due fees for commodities, services, or facilities provided after the date that title to the property is transferred to a new owner; or

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(c) nullify or terminate a valid lien.

(6) After all amounts owing under a lien established as provided in this section have been paid, the local district shall file for record in the county recorder's office a release of the lien.

Section ~~{12}~~15. Section **17B-2a-506** is amended to read:

17B-2a-506. Different use charges for different units -- Use charges based on the size of the land served -- Use charge may not be based on property value.

(1) An irrigation district may:

(a) divide the district into units and apply different use charges to the different units;

and

(b) base use charges upon the amount of water or electricity the district provides, the area of the land served, or any other reasonable basis, as determined by the board of trustees.

(2) If an irrigation district imposes a use charge based on the size of the land served or the amount of water allotted to the land:

(a) the assessor of the county in which the land is located shall assist the irrigation district in ascertaining the identity of a parcel served by the district;

(b) the district shall notify the treasurer of the county in which the land is located of the charge to be imposed for each parcel of land served by the district; and

(c) the treasurer of the county in which the land is located:

(i) shall:

(A) provide each landowner a notice of use charges as part of the annual tax notice required in Section 59-2-1317 as an additional charge separate from ad valorem taxes;

(B) collect, receive, and provide an accounting for all money belonging to the district from use charges; ~~[and]~~

(C) remit to the irrigation district, by the tenth day of each month, the funds previously collected by the county as use charges on the district's behalf; and

(D) collect any unpaid use charges in accordance with Title 59, Chapter 2, Part 13, Collection of Taxes; and

(ii) may receive and account for use charges separately from taxes upon real estate for county purposes.

(3) (a) A use charge described in Subsection (2)(b) [~~shall become a lien~~] is a political

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subdivision lien, as that term is defined in Section 11-58-102, on the land served, as provided in [~~Section 17B-1-902~~] Subsection 17B-1-902(1), except that the certification described in Subsection 17B-1-902(1)(a) is not required if the district makes the notification to the county treasurer required in Subsection (2)(b).

(b) A lien described in Subsection (3)(a) shall remain in force until the use charge is paid.

(c) The county treasurer shall release a lien described in Subsection (3)(a) upon receipt of full payment of the use charge.

(4) A use charge may not be calculated on the basis of property value and does not constitute an ad valorem property tax or other tax.

Section ~~{13}~~16. Section **17B-2a-1007** is amended to read:

17B-2a-1007. Contract assessments.

(1) As used in this section:

(a) "Assessed land" means:

(i) for a contract assessment under a water contract with a private water user, the land owned by the private water user that receives the beneficial use of water under the water contract; or

(ii) for a contract assessment under a water contract with a public water user, the land within the boundaries of the public water user that is within the boundaries of the water conservancy district and that receives the beneficial use of water under the water contract.

(b) "Contract assessment" means an assessment levied as provided in this section by a water conservancy district on assessed land.

(c) "Governing body" means:

(i) for a county, city, or town, the legislative body of the county, city, or town;

(ii) for a local district, the board of trustees of the local district;

(iii) for a special service district:

(A) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(B) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301; and

(iv) for any other political subdivision of the state, the person or body with authority to

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govern the affairs of the political subdivision.

(d) "Petitioner" means a private petitioner or a public petitioner.

(e) "Private petitioner" means an owner of land within a water conservancy district who submits a petition to a water conservancy district under Subsection (3) to enter into a water contract with the district.

(f) "Private water user" means an owner of land within a water conservancy district who enters into a water contract with the district.

(g) "Public petitioner" means a political subdivision of the state:

(i) whose territory is partly or entirely within the boundaries of a water conservancy district; and

(ii) that submits a petition to a water conservancy district under Subsection (3) to enter into a water contract with the district.

(h) "Public water user" means a political subdivision of the state:

(i) whose territory is partly or entirely within the boundaries of a water conservancy district; and

(ii) that enters into a water contract with the district.

(i) "Water contract" means a contract between a water conservancy district and a private water user or a public water user under which the water user purchases, leases, or otherwise acquires the beneficial use of water from the water conservancy district for the benefit of:

(i) land owned by the private water user; or

(ii) land within the public water user's boundaries that is also within the boundaries of the water conservancy district.

(j) "Water user" means a private water user or a public water user.

(2) A water conservancy district may levy a contract assessment as provided in this section.

(3) (a) The governing body of a public petitioner may authorize its chief executive officer to submit a written petition on behalf of the public petitioner to a water conservancy district requesting to enter into a water contract.

(b) A private petitioner may submit a written petition to a water conservancy district requesting to enter into a water contract.

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(c) Each petition under this Subsection (3) shall include:

(i) the petitioner's name;

(ii) the quantity of water the petitioner desires to purchase or otherwise acquire;

(iii) a description of the land upon which the water will be used;

(iv) the price to be paid for the water;

(v) the amount of any service, turnout, connection, distribution system, or other charge to be paid;

(vi) whether payment will be made in cash or annual installments;

(vii) a provision requiring the contract assessment to become a lien on the land for which the water is petitioned and is to be allotted; and

(viii) an agreement that the petitioner is bound by the provisions of this part and the rules and regulations of the water conservancy district board of trustees.

(4) (a) If the board of a water conservancy district desires to consider a petition submitted by a petitioner under Subsection (3), the board shall:

(i) publish notice of the petition and of the hearing required under Subsection (4)(a)(ii) at least once a week in two successive weeks in a newspaper of general circulation within the county in which the political subdivision or private petitioner's land, as the case may be, is located; and

(ii) hold a public hearing on the petition.

(b) Each notice under Subsection (4)(a)(i) shall:

(i) state that a petition has been filed and that the district is considering levying a contract assessment; and

(ii) give the date, time, and place of the hearing required under Subsection (4)(a)(ii).

(c) (i) At each hearing required under Subsection (4)(a)(ii), the board of trustees of the water conservancy district shall:

(A) allow any interested person to appear and explain why the petition should not be granted; and

(B) consider each written objection to the granting of the petition that the board receives before or at the hearing.

(ii) The board of trustees may adjourn and reconvene the hearing as the board considers appropriate.

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(d) (i) Any interested person may file with the board of the water conservancy district, at or before the hearing under Subsection (4)(a)(ii), a written objection to the district's granting a petition.

(ii) Each person who fails to submit a written objection within the time provided under Subsection (4)(d)(i) is considered to have consented to the district's granting the petition and levying a contract assessment.

(5) After holding a public hearing as required under Subsection (4)(a)(ii), the board of trustees of a water conservancy district may:

(a) deny the petition; or

(b) grant the petition, if the board considers granting the petition to be in the best interests of the district.

(6) The board of a water conservancy district that grants a petition under this section may:

(a) make an allotment of water for the benefit of assessed land;

(b) authorize any necessary construction to provide for the use of water upon the terms and conditions stated in the water contract;

(c) divide the district into units and fix a different rate for water purchased or otherwise acquired and for other charges within each unit, if the rates and charges are equitable, although not equal and uniform, for similar classes of services throughout the district; and

(d) levy a contract assessment on assessed land.

(7) (a) The board of trustees of each water conservancy district that levies a contract assessment under this section shall:

(i) cause a certified copy of the resolution, ordinance, or order levying the assessment to be recorded in the office of the recorder of each county in which assessed land is located; and

(ii) on or before July 1 of each year after levying the contract assessment, certify to the auditor of each county in which assessed land is located the amount of the contract assessment.

(b) Upon the recording of the resolution [~~or ordinance under~~], ordinance, or order, in accordance with Subsection (7)(a)(i) ~~];~~

(i) the contract assessment associated with allotting water to the assessed land under the water contract becomes a [~~perpetual lien~~] political subdivision lien, as that term is defined

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in Section 11-58-102, on the assessed land[-], in accordance with Title 11, Chapter 58, Political Subdivision Lien Authority, as of the effective date of the resolution, ordinance, or order; and

(ii) (A) the board of trustees of the water conservancy district shall certify the amount of the assessment to the county treasurer; and

(B) the county treasurer shall include the certified amount on the property tax notice required by Section 59-2-1317 for that year.

(c) (i) Each county in which assessed land is located shall collect the contract assessment in the same manner as taxes levied by the county.

(ii) If the amount of a contract assessment levied under this section is not paid in full by September 15 of a given year:

(A) the governing body of the water conservancy district that levies the contract assessment shall certify any unpaid amount to the treasurer of the county in which the property is located; and

(B) the county treasurer shall include the certified amount on the property tax notice required by Section 59-2-1317 for that year.

(8) (a) The board of trustees of each water conservancy district that levies a contract assessment under this section shall:

(i) hold a public hearing, before August 8 of each year in which a contract assessment is levied, to hear and consider objections filed under Subsection (8)(b); and

(ii) twice publish a notice, at least a week apart:

(A) (I) in a newspaper of general circulation in each county with assessed land included within the district boundaries; or

(II) if there is no newspaper of general circulation within the county, in a newspaper of general circulation in an adjoining county;

(B) that contains:

(I) a general description of the assessed land;

(II) the amount of the contract assessment; and

(III) the time and place of the public hearing under Subsection (8)(a)(i).

(b) An owner of assessed land within the water conservancy district who believes that the contract assessment on the owner's land is excessive, erroneous, or illegal may, before the hearing under Subsection (8)(a)(i), file with the board of trustees a verified, written objection to

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the assessment, stating the grounds for the objection.

(c) (i) At each hearing under Subsection (8)(a)(i), the board of trustees shall hear and consider the evidence and arguments supporting each objection.

(ii) After hearing and considering the evidence and arguments supporting an objection, the board of trustees:

(A) shall enter a written order, stating its decision; and

(B) may modify the assessment.

(d) (i) An owner of assessed land may file a petition in district court seeking review of a board of trustees' order under Subsection (8)(c)(ii)(A).

(ii) Each petition under Subsection (8)(d)(i) shall:

(A) be filed within 30 days after the board enters its written order;

(B) state specifically the part of the board's order for which review is sought; and

(C) be accompanied by a bond with good and sufficient security in an amount not exceeding \$200, as determined by the court clerk.

(iii) If more than one owner of assessed land seeks review, the court may, upon a showing that the reviews may be consolidated without injury to anyone's interests, consolidate the reviews and hear them together.

(iv) The court shall act as quickly as possible after a petition is filed.

(v) A court may not disturb a board of trustees' order unless the court finds that the contract assessment on the petitioner's assessed land is manifestly disproportionate to assessments imposed upon other land in the district.

(e) If no petition under Subsection (8)(d) is timely filed, the contract assessment is conclusively considered to have been made in proportion to the benefits conferred on the land in the district.

(9) Each resolution, ordinance, or order under which a water conservancy district levied a Class B, Class C, or Class D assessment before April 30, 2007, under the law in effect at the time of the levy is validated, ratified, and confirmed, and a water conservancy district may continue to levy the assessment according to the terms of the resolution, ordinance, or order.

(10) A contract assessment is not a levy of an ad valorem property tax and is not subject to the limits stated in Section 17B-2a-1006.

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Section ~~{14}~~17. Section 59-2-1317 is amended to read:

59-2-1317. Tax notice -- Contents of notice -- Procedures and requirements for providing notice.

(1) As used in this section, "political subdivision lien" means the same as that term is defined in Section 11-58-102.

~~[(+)]~~ (2) Subject to the other provisions of this section, the county treasurer shall:

(a) collect the taxes; and

(b) provide a notice to each taxpayer that contains the following:

(i) the kind and value of property assessed to the taxpayer;

(ii) the street address of the property, if available to the county;

(iii) that the property may be subject to a detailed review in the next year under Section 59-2-303.1;

(iv) the amount of taxes levied;

(v) a separate statement of the taxes levied only on a certain kind or class of property for a special purpose;

(vi) property tax information pertaining to taxpayer relief, options for payment of taxes, and collection procedures;

(vii) if applicable, a political subdivision lien for municipal water distribution, as described in Section 10-8-17, or a political subdivision lien for an increase in supply from a municipal water distribution, as described in Section 10-8-19;

(viii) if applicable, a political subdivision lien for unpaid abatement fees as described in Section 10-11-4;

~~[(vii)]~~ (ix) if applicable, a political subdivision lien for the amount of an assessment assessed in accordance with Section 11-42-401 or 11-42a-203;

~~[(viii)]~~ (x) if applicable, for a local district in accordance with Section 17B-1-902, a political subdivision lien for an unpaid fee, administrative cost, or interest [for a local district in accordance with Section 17B-1-902];

(xi) if applicable, a political subdivision lien for an unpaid irrigation district use charge as described in Section 17B-2a-506;

(xii) if applicable, a political subdivision lien for a contract assessment under a water contract, as described in Section 17B-2a-1007;

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~~[(ix)]~~ (xiii) the date the taxes are due;

~~[(x)]~~ (xiv) the street address at which the taxes may be paid;

~~[(xi)]~~ (xv) the date on which the taxes are delinquent;

~~[(xii)]~~ (xvi) the penalty imposed on delinquent taxes;

~~[(xiii)]~~ (xvii) a statement that explains the taxpayer's right to direct allocation of a partial payment in accordance with Subsection ~~[(7)]~~ (9);

~~[(xiv)]~~ (xviii) other information specifically authorized to be included on the notice under this chapter; and

~~[(xv)]~~ (xix) other property tax information approved by the commission.

(3) (a) Unless expressly allowed under this section or another statutory provision, the treasurer may not add an amount to be collected to the property tax notice.

(b) If the county treasurer adds an amount to be collected to the property tax notice under this section or another statutory provision that expressly authorizes the item's inclusion on the property tax notice:

(i) the amount has the same priority as property tax; and

(ii) a delinquency of the amount triggers a tax sale, in accordance with Section 59-2-1343.

~~[(2)]~~ (4) For any property for which property taxes are delinquent, the notice described in Subsection ~~[(1)]~~ (2) shall state, "Prior taxes are delinquent on this parcel."

~~[(3)]~~ (5) Except as provided in Subsection ~~[(4)]~~ (6), the county treasurer shall:

(a) mail the notice required by this section, postage prepaid; or

(b) leave the notice required by this section at the taxpayer's residence or usual place of business, if known.

~~[(4)]~~ (6) (a) Subject to the other provisions of this Subsection ~~[(4)]~~ (6), a county treasurer may, at the county treasurer's discretion, provide the notice required by this section by electronic mail if a taxpayer makes an election, according to procedures determined by the county treasurer, to receive the notice by electronic mail.

(b) A taxpayer may revoke an election to receive the notice required by this section by electronic mail if the taxpayer provides written notice to the treasurer on or before October 1.

(c) A revocation of an election under this section does not relieve a taxpayer of the duty to pay a tax due under this chapter on or before the due date for paying the tax.

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(d) A county treasurer shall provide the notice required by this section using a method described in Subsection [~~(3)~~] (5), until a taxpayer makes a new election in accordance with this Subsection [~~(4)~~] (6), if:

(i) the taxpayer revokes an election in accordance with Subsection [~~(4)~~] (6)(b) to receive the notice required by this section by electronic mail; or

(ii) the county treasurer finds that the taxpayer's electronic mail address is invalid.

(e) A person is considered to be a taxpayer for purposes of this Subsection [~~(4)~~] (6) regardless of whether the property that is the subject of the notice required by this section is exempt from taxation.

~~[(5)]~~ (7) (a) The county treasurer shall provide the notice required by this section to a taxpayer on or before November 1.

(b) The county treasurer shall keep on file in the county treasurer's office the information set forth in the notice.

(c) The county treasurer is not required to mail a tax receipt acknowledging payment.

~~[(6)]~~ (8) This section does not apply to property taxed under Section 59-2-1302 or 59-2-1307.

~~[(7)]~~ (9) (a) A taxpayer who pays less than the full amount due on the taxpayer's property tax notice may, on a form provided by the county treasurer, direct how the county treasurer allocates the partial payment between:

(i) the total amount due for property tax;

(ii) the amount due for assessments;

(iii) the amount due for past due local district fees; and

(iv) any other amounts due on the property tax notice.

(b) The county treasurer shall comply with a direction submitted to the county treasurer in accordance with Subsection [~~(7)~~] (9)(a).

(c) The provisions of this Subsection [~~(7)~~] (9) do not:

(i) affect the right or ability of a local entity to pursue any available remedy for non-payment of any item listed on a taxpayer's property tax notice; or

(ii) toll or otherwise change any time period related to a remedy described in Subsection [~~(7)~~] (9)(c)(i).

Section 18. Section 59-2-1331 is amended to read:

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59-2-1331. Property tax due date -- Date tax is delinquent -- Penalty -- Interest -- Payments -- Refund of prepayment.

(1) (a) Except as provided in Subsection (1)(b) and subject to Subsections (1)(c) and (d), all property taxes, unless otherwise specifically provided for under Section 59-2-1332, or other law, and any other charge listed on the property tax notice in accordance with Section 59-2-1317 or another statutory authorization allowing the item's inclusion on the property tax notice, are due on November 30 of each year following the date of levy.

(b) If November 30 falls on a Saturday, Sunday, or holiday:

(i) the date of the next following day that is not a Saturday, Sunday, or holiday shall be substituted in Subsection (1)(a) and Subsection 59-2-1332(1) for November 30; and

(ii) the date of the day occurring 30 days after the date under Subsection (1)(b)(i) shall be substituted in Subsection 59-2-1332(1) for December 30.

(c) If a property tax is paid or postmarked after the due date described in this Subsection (1) the property tax is delinquent.

(d) A county treasurer or other public official, public entity, or public employee may not require the payment of a property tax before the due date described in this Subsection (1).

(2) (a) Except as provided in Subsection (2)(e), for each parcel, all delinquent taxes and items described in Subsection (1)(a) on each separately assessed parcel are subject to a penalty of 2.5% of the amount of the delinquent taxes and items described in Subsection (1)(a) or \$10, whichever is greater.

(b) Unless the delinquent taxes and items described in Subsection (1)(a), together with the penalty, are paid on or before January 31, the amount of taxes and items described in Subsection (1)(a) and penalty shall bear interest on a per annum basis from the January 1 immediately following the delinquency date.

(c) Except as provided in Subsection (2)(d), for purposes of Subsection (2)(b), the interest rate is equal to the sum of:

(i) 6%; and

(ii) the federal funds rate target:

(A) established by the Federal Open Markets Committee; and

(B) that exists on the January 1 immediately following the date of delinquency.

(d) The interest rate described in Subsection (2)(c) may not be:

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(i) less than 7%; or

(ii) more than 10%.

(e) The penalty described in Subsection (2)(a) is 1% of the amount of the delinquent taxes and items described in Subsection (1)(a) or \$10, whichever is greater, if all delinquent taxes, all items described in Subsection (1)(a), and the penalty are paid on or before the January 31 immediately following the delinquency date.

(3) (a) If the delinquency exceeds one year, the amount of taxes, items described in Subsection (1)(a), and penalties for that year and all succeeding years shall bear interest until settled in full through redemption or tax sale.

(b) The interest rate to be applied shall be calculated for each year as established under Subsection (2) and shall apply on each individual year's delinquency until paid.

(4) The county treasurer may accept and credit on account against taxes and items described in Subsection (1)(a) becoming due during the current year, at any time before or after the tax rates are adopted, but not subsequent to the date of delinquency, either:

(a) payments in amounts of not less than \$10; or

(b) the full amount of the unpaid tax and items described in Subsection (1)(a).

(5) (a) At any time before the county treasurer provides the tax notice described in Section 59-2-1317, the county treasurer may refund amounts accepted and credited on account against taxes and items described in Subsection (1)(a) becoming due during the current year.

(b) Upon recommendation by the county treasurer, the county legislative body shall adopt rules or ordinances to implement the provisions of this Subsection (5).

Section ~~{15}~~19. Section 59-2-1332.5 is amended to read:

59-2-1332.5. Mailing notice of delinquency or publication of delinquent list --

Contents -- Notice -- Definitions.

(1) As used in this section, "business entity" means:

(a) an association;

(b) a corporation;

(c) a limited liability company;

(d) a partnership;

(e) a trust; or

(f) a business entity similar to Subsections (1)(a) through (e).

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~~[(1)]~~ (2) The county treasurer shall provide notice of delinquency in the payment of property taxes and any other item allowed on the property tax notice under Section 59-2-1317 or another express statutory authorization:

(a) except as provided in Subsection ~~[(4)]~~ (5), on or before December 31 of each calendar year; and

(b) in a manner described in Subsection ~~[(2)]~~ (3).

~~[(2)-A]~~ (3) The notice [of delinquency in the payment of property taxes] described in Subsection (2) shall be provided by:

(a) (i) mailing a written notice that includes the information described in Subsection ~~[(3)]~~ (4)(a), postage prepaid, to:

(A) each delinquent taxpayer; and

(B) if the delinquent property taxes or other items described in Subsection (2) are assessed on a base parcel, the record owner of each subdivided lot; and

(ii) making available to the public a list of delinquencies in the payment of property taxes:

(A) by electronic means; and

(B) that includes the information required by Subsection ~~[(3)]~~ (4)(b); or

(b) publishing a list of delinquencies in the payment of property taxes and other items described in Subsection (2):

(i) in one issue of a newspaper having general circulation in the county;

(ii) that lists each delinquency in alphabetical order by:

(A) the last name of the delinquent taxpayer; or

(B) if the delinquent taxpayer is a business entity, the name of the business entity; and

(iii) that includes the information described in Subsection ~~[(3)]~~ (4)(b).

~~[(3)]~~ (4) (a) A written notice of delinquency [~~in the payment of property taxes~~] described in Subsection ~~[(2)]~~ (3)(a)(i) shall include:

(i) a statement that delinquent taxes and other items described in Subsection (2) are due;

(ii) the amount of delinquent taxes and other items described in Subsection (2) due, not including any penalties imposed in accordance with this chapter;

(iii) (A) the name of the delinquent taxpayer; or

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- (B) if the delinquent taxpayer is a business entity, the name of the business entity;
- (iv) (A) a description of the delinquent property; or
- (B) the property identification number of the delinquent property;
- (v) a statement that a penalty shall be imposed in accordance with this chapter; and
- (vi) a statement that interest accrues as of January 1 following the date of the delinquency unless on or before January 31 the following are paid:
 - (A) the delinquent taxes and other items described in Subsection (2); and
 - (B) the penalty.
- (b) The list of delinquencies described in Subsection [~~(2)~~] (3)(a)(ii) or [~~(2)~~] (3)(b) shall include:
 - (i) the amount of delinquent taxes and other items described in Subsection (2) due, not including any penalties imposed in accordance with this chapter;
 - (ii) (A) the name of the delinquent taxpayer; or
 - (B) if the delinquent taxpayer is a business entity, the name of the business entity;
 - (iii) (A) a description of the delinquent property; or
 - (B) the property identification number of the delinquent property;
 - (iv) a statement that a penalty shall be imposed in accordance with this chapter; and
 - (v) a statement that interest accrues as of January 1 following the date of the delinquency unless on or before January 31 the following are paid:
 - (A) the delinquent taxes and other items described in Subsection (2); and
 - (B) the penalty.
- [~~(4)~~] (5) Notwithstanding Subsection [~~(1)~~] (2)(a), if the county legislative body extends the property tax due date under Subsection 59-2-1332(1), the notice of delinquency [~~in the payment of property taxes~~] described in Subsection (2) shall be provided on or before January 10.
- [~~(5)~~] (6) (a) In addition to the notice of delinquency [~~in the payment of property taxes~~] required by Subsection [~~(1)~~] (2), a county treasurer may in accordance with this Subsection [~~(5)~~] (6) mail a notice that property taxes are delinquent:
 - (i) to:
 - (A) a delinquent taxpayer;
 - (B) an owner of record of the delinquent property;

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- (C) any other interested party that requests notice; or
- (D) a combination of Subsections ~~[(5)]~~ (6)(a)(i)(A) through (C); and
- (ii) at any time that the county treasurer considers appropriate.
- (b) A notice mailed in accordance with this Subsection ~~[(5)]~~ (6):
 - (i) shall include the information required by Subsection ~~[(3)]~~ (4)(a); and
 - (ii) may include any information that the county treasurer finds is useful to the owner of record of the delinquent property in determining:

(A) the status of taxes and other items described in Subsection (2) owed on the delinquent property;

- (B) any penalty that is owed on the delinquent property;
- (C) any interest charged under Section 59-2-1331 on the delinquent property; or
- (D) any related matters concerning the delinquent property.

~~[(6) As used in this section, "business entity" means:]~~

~~[(a) an association;]~~

~~[(b) a corporation;]~~

~~[(c) a limited liability company;]~~

~~[(d) a partnership;]~~

~~[(e) a trust; or]~~

~~[(f) a business entity similar to Subsections (6)(a) through (e).]~~

Section ~~{16}~~20. Section **59-2-1343** is amended to read:

59-2-1343. Tax sale listing.

(1)(a) If any property is not redeemed by March 15 following the lapse of four years from the date when ~~[the property tax]~~ any item in Subsection (1)(b) became delinquent, the county treasurer shall immediately file a listing with the county auditor of all properties whose redemption period is expiring in the nearest forthcoming tax sale to pay all outstanding charges statutorily allowed on the property tax notice.

(b) A delinquency of any of the following triggers the tax sale process described in Subsection (1)(a):

- (i) property tax; or
- (ii) an item other than property tax that the county treasurer lists on the property tax notice in accordance with Section 59-2-1317 or another express statutory provision that

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authorizes the item's inclusion on the property tax notice.

(2) The listing is known as the "[~~Tax Sale Listing~~] tax sale listing."

†

~~Legislative Review Note~~

~~Office of Legislative Research and General Counsel†~~