

IC 36-9-36

Chapter 36. Barrett Law Funding for Counties and Municipalities

IC 36-9-36-1

Application of chapter

Sec. 1. This chapter applies to all units except townships.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-2

Authorized improvements

Sec. 2. (a) The following improvements may be made under this chapter by a county:

- (1) Sanitary sewers and sanitary sewer tap-ins.
- (2) Sidewalks.
- (3) Curbs.
- (4) Streets.
- (5) Storm sewers.
- (6) Lighting.
- (7) Emergency warning systems.
- (8) Any other structures necessary or useful for the collection, treatment, purification, and sanitary disposal of the liquid waste, sewage, storm drainage, and other drainage of a municipality.

(b) The following improvements may be made under this chapter by a municipality:

- (1) Sidewalks.
- (2) Curbs.
- (3) Streets.
- (4) Alleys.
- (5) Paved public places.
- (6) Lighting.
- (7) A water main extension for a municipality that owns and operates a water utility.
- (8) Emergency warning systems.

As added by P.L.98-1993, SEC.7. Amended by P.L.31-2004, SEC.1; P.L.42-2006, SEC.1.

IC 36-9-36-3

Limitations on authorized improvements; location of improvement; water main extensions

Sec. 3. (a) The following apply to improvements made under this chapter by a county:

- (1) An improvement may be made only in unincorporated areas that contain residential or business buildings.
- (2) An improvement may not be made on a tract of land that:
 - (A) consists of at least ten (10) acres and contains only one
 - (1) building that is used for residential purposes; or
 - (B) is used solely for agricultural purposes.

(b) A water main extension made under this chapter by a municipality may be made only within the corporate boundaries of

the municipality.
As added by P.L.98-1993, SEC.7.

IC 36-9-36-4

Preliminary resolutions; cross-sections, plans, and specifications

Sec. 4. (a) If the works board of a unit wants to make an improvement under this chapter, the works board must first do the following:

- (1) Adopt a preliminary resolution for the improvement.
- (2) Adopt and place on file cross-sections, general plans, and specifications for the work at the time the preliminary resolution is adopted.

(b) This subsection does not apply to a county. The cross-sections, plans, and specifications filed under subsection (a) must conform to any paving standards adopted by the works board, unless engineering practice justifies a different design.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-5

Estimate of costs; incidental, inspection, and engineering costs

Sec. 5. (a) If an improvement is to be paid for in whole or in part by special assessments levied against the property to be benefited by the improvement, the works board must adopt and file an estimate of the cost of the public improvement.

(b) The estimate may include all incidental, inspection, and engineering costs caused by the proposed improvement. However, the estimate of the costs to be paid by special assessment may not include the following:

- (1) Salaries and expenses of the necessary and regularly employed personnel of the engineering department of the unit.
- (2) Ordinary operating costs of the department.

(c) If the works board finds that it is necessary to employ additional engineering services for a particular improvement, the cost of the additional service actually performed in connection with the improvement may be included in the estimate.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-6

Incidental, inspection, and engineering costs; inclusion on assessment roll

Sec. 6. (a) The incidental, inspection, and engineering costs that are authorized by the preliminary resolution and included in the estimate may be added to the cost of an improvement and included in the assessment roll in the aggregate amount to be apportioned and assessed against the benefited property.

(b) The amount of incidental, inspection, and engineering costs included in the assessment roll may not exceed the amount of the incidental, inspection, and engineering costs included in the estimate.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-7**Incidental, inspection, and engineering costs; inclusion in contracts; subrogation rights of contractor**

Sec. 7. The following applies if the preliminary resolution provides for the inclusion and assessment of incidental, inspection, and engineering costs:

(1) The works board shall include in a contract for an improvement a provision that requires all incidental, inspection, and engineering costs to be advanced and paid by the contractor or to the board, upon the final acceptance of the improvement, for payment by the board to persons entitled to the incidental, inspection, and engineering costs.

(2) The contractor is then subrogated to all rights of the unit and those persons to all the incidental, inspection, and engineering costs subsequently included in and assessed upon the assessment roll.

(3) The costs belong to the contractor as a part of the assessments.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-8**Notice of hearing on preliminary resolution; publication; mailing to property owners**

Sec. 8. (a) Notice of a hearing on the preliminary resolution shall be published in accordance with IC 5-3-1. The notice must state that the works board has adopted the preliminary resolution and the time and place at which the works board will do the following:

(1) Hear all interested persons.

(2) Decide whether the benefits to the property liable to be assessed for the improvement will equal the estimated cost of the improvement.

(b) A notice containing the information required under subsection (a) shall be sent to each property owner affected by the proposed improvement. The mailing of the notice complies with this subsection if the mailing is to owners as the owners appear in the records of the assessor of the county in which the property is located.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-9**Estimate of maximum cost**

Sec. 9. (a) At least ten (10) days before the date fixed for a hearing under section 8 of this chapter, the engineer of the unit shall file with the works board an estimate of the maximum cost of the improvement proposed by the works board.

(b) The estimate must include the following:

(1) The cost of the guarantee under section 25 of this chapter.

(2) The cost of the maintenance of the improvements for at least three (3) years.

(c) A unit may not enter into a contract under the preliminary resolution if the contract exceeds the engineer's estimate filed under

subsection (a).

As added by P.L.98-1993, SEC.7.

IC 36-9-36-9.5

Assessments; installment payments

Sec. 9.5. (a) With respect to assessments imposed after June 30, 2001, the works board shall establish a procedure to permit owners of real property in the unit to elect whether to pay assessments in:

- (1) ten (10), twenty (20), or thirty (30) annual installments; or
- (2) a number of monthly installments that corresponds to ten (10), twenty (20), or thirty (30) annual installments.

(b) The works board shall establish the timing of the election under subsection (a) to permit the works board to structure the maturities of the principal of the bonds in a number of annual series that is consistent with the installment periods elected by owners of real property under subsection (a).

(c) A person who elects to pay the person's assessment in installments under this section must, when directed by the works board, enter into a written agreement stating that in consideration of that privilege the person:

- (1) will not make an objection to an illegality or irregularity regarding the assessment against the person's property; and
- (2) will pay the assessment as required by law with specified interest.

(d) The agreement under subsection (c) shall be filed in the office of the disbursing officer.

(e) The interest rate specified for the installments of the assessment may be equal to or greater than the interest rate on bonds issued under section 44 of this chapter.

(f) An assessment of less than one hundred dollars (\$100) may not be paid in installments.

As added by P.L.62-2001, SEC.1.

IC 36-9-36-10

Hearing on preliminary resolution; determination of special benefits accruing to property

Sec. 10. (a) At the hearing specified in the notice under section 8 of this chapter, the works board shall do the following:

- (1) Hear interested persons.
- (2) Decide whether the benefits that will accrue to the property liable to be assessed for the improvement will equal the maximum estimated cost of the improvement.

(b) If the works board finds that the benefits will not equal the maximum estimated cost of the improvement, the board shall determine the aggregate amount of special benefits that will accrue to the property liable to be assessed for the improvement.

(c) Except as provided in sections 13 and 14 of this chapter, the works board's determination concerning the aggregate amount of special benefits that will accrue to the property liable to be assessed for the improvement is final and conclusive.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-11

Levy of special assessments; improvement cost as maximum amount of assessment; improvement cost payable by unit

Sec. 11. (a) The works board shall levy special assessments for the amount determined under section 10 of this chapter if:

- (1) the contract for the improvement is executed; and
- (2) the improvement is made.

(b) The special assessments levied under this section may not exceed the cost of the improvement.

(c) If the amount determined under section 10 of this chapter is less than the contract price, the remainder of the cost of the improvement is payable by the unit.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-12

Allowances against assessment and contract price

Sec. 12. (a) The works board shall make an allowance to the owner of any property if:

- (1) an improvement exists in front of the property before the improvement is ordered; and
- (2) the improvement conforms to the general plan.

(b) An allowance under subsection (a) shall be made from the owner's assessment and from the total amount of the contract price.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-13

Confirmation, modification, or rescission of preliminary resolution

Sec. 13. (a) After the works board determines the amount of special benefits that will accrue to the property liable to be assessed for the improvement, the works board may do any of the following:

- (1) Confirm the preliminary resolution.
- (2) Modify the preliminary resolution.
- (3) Rescind the preliminary resolution.

(b) Except as provided in section 14 of this chapter, the preliminary resolution is final and conclusive on all parties if:

- (1) the preliminary resolution is modified or confirmed under this section; and
- (2) the improvement is ordered.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-14

Remonstrances and appeals

Sec. 14. (a) A majority of the persons who own the property to be assessed for the improvement may remonstrate against the improvement or take an appeal. The remonstrance or appeal must be made not later than ten (10) days after the hearing under section 10 of this chapter.

(b) If there is a remonstrance, the improvement may not be made

unless specifically ordered by an ordinance passed by a two-thirds (2/3) vote of the unit's legislative body. An ordinance under this subsection must be passed not later than sixty (60) days after the remonstrance is made.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-15

Objections to final resolution; filing; bond; prior assessments

Sec. 15. (a) If the works board finally orders an improvement, forty percent (40%) of the persons who own property abutting the improvement and who are subject to assessment may file written objections with the board. The written objections must:

(1) state at least one (1) of the following:

(A) The improvement is not needed by the public.

(B) The cost of the proposed improvement would be excessive considering the character and value of the property to be assessed.

(C) The cost of the proposed improvement will exceed the benefits to the property to be assessed.

(D) The works board does not have the legal authority to order the improvement.

(2) be filed not later than five (5) days after the making of the final order.

(b) If the works board does not abandon the proposed improvement, the following shall, not later than five (5) days after the filing of the objections with the works board, file with the clerk of the circuit or superior court of the county a copy of the order of improvement and the objections:

(1) The auditor, in the case of a county.

(2) The clerk, in the case of a municipality.

(c) Objectors must file with their objections a bond with security to the satisfaction of the court. The following apply to a bond filed under this subsection:

(1) The bond shall be in a sum fixed by the court.

(2) The bond must be conditioned on the objectors paying all or any part of the costs of the hearing as the court may order.

(d) In considering an objection described in subsection (a)(1)(A), the court may at the hearing under section 16 of this chapter consider the amount of the assessments made against the property for public improvement during the preceding five (5) years.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-16

Court hearing on objections to final resolution

Sec. 16. (a) The court shall set a hearing as early as possible, but not later than twenty (20) days after the filing of the objections with the court. All interested parties shall appear in court without further notice. The unit may not hold further proceedings concerning the improvement until the matters presented by the objections are heard and determined by the court. The matters shall be heard and

determined by the court without a jury.

(b) The court shall hear the evidence on the date fixed under subsection (a). The court may confirm the order of the works board or sustain the objections. The order of the court is conclusive, and all subsequent proceedings concerning the improvement must conform to the order.

(c) A special judge may be appointed if for any reason the regular judge of the court cannot hear the objections within the twenty (20) day time limit established by subsection (a).

As added by P.L.98-1993, SEC.7.

IC 36-9-36-17

Construction or repair of sidewalks and curbs; notice to abutting property owner of order requiring construction or repair

Sec. 17. (a) The works board may require the owners of abutting property to construct or repair the owners' own sidewalks or curbs if the works board:

- (1) desires to improve or repair any sidewalks or curbs in the unit; and
- (2) adopts a final resolution to that effect.

(b) The works board must give notice of the order concerning the construction or repair to the abutting property owners in person or by mail. Mailing of notices to owners as the names of the owners appear on the assessor's books of the county in which the land is located complies with this requirement.

(c) A property owner has thirty (30) days from the date of the notice to construct the sidewalks or curbs or make the repairs as required by the notice.

(d) If a property owner fails to comply with the order, the works board may have the sidewalk or curb constructed or repaired by an independent contractor.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-18

Contracting by works board for construction or repair of sidewalk or curb

Sec. 18. (a) The works board may let a general contract for the making or repairing of all sidewalks or curbs of a specified material within the unit. The contract shall include an agreed price per square yard for the sidewalk construction.

(b) If the contract is for work in a municipality, the contract may also specify the following:

- (1) The price per cubic yard for excavation and filling.
- (2) The price per lineal foot for curb.

(c) The letting of a contract under this section is governed by the statutes regulating contractual authority of the unit.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-19

Levy and collection of assessments for construction or repair of

sidewalk or curb

Sec. 19. (a) Assessments for the construction or repair of sidewalks or curbs shall be levied and collected according to this chapter.

(b) The entire cost of the sidewalk or curb improvements or repairs that the board undertakes by one (1) resolution shall be assessed and apportioned against each lot or parcel of property abutting on the improvement in the proportion the improved lineal front footage of each lot or parcel of property bears to the entire length of the improvement.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-20**Improvements on streets occupied by railroad tracks; procedure**

Sec. 20. (a) This section does not apply to a county.

(b) If the track of a railroad, an interurban, or an interurban street railroad occupies part of a street that is ordered improved under this chapter, the works board may, on petition of the railroad, provide in the plans and specifications for the improvement for a different material and plan of construction for the part of the street occupied by the railroad.

(c) If the railroad is bound by contract to improve or pay the cost of improving the part of the street occupied by the railroad, the railroad is entitled to construct all of that part of the improvement if the railroad does the following:

(1) Elects to do so by written notice filed as follows:

(A) With the works board or other department of the unit having power to order the improvement.

(B) At any time before the adoption of the final resolution or ordinance providing for the improvement.

(2) On request of the works board or other department of the unit, files with the board or other department a bond in the amount and with the surety required by the works board or other department. The bond must be conditioned on the railroad's improvement of that part of the street:

(A) according to the plans and specifications;

(B) within the required time; and

(C) to the satisfaction of the engineer of the unit in charge of the work.

(d) The works board may issue a written improvement order requiring a railroad, an interurban, or an interurban street railroad to comply with IC 8-6-12.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-21**Roadway grading; assessment**

Sec. 21. (a) This section does not apply to a county.

(b) The works board may grade the roadway of a street and assess the cost of the grading against the property specially benefited.

(c) The works board may let the contract under the statutes

regulating contractual authority of units. The unit shall levy and collect the assessments for the grading according to this chapter.
As added by P.L.98-1993, SEC.7.

IC 36-9-36-22

Advertisement for bids; opening and consideration of bids

Sec. 22. (a) If the works board finally orders an improvement, the works board shall advertise for bids for the work as required by IC 36-1-12.

(b) The advertisement must state the following:

(1) That on the date named, the unit will receive bids for the improvement according to the resolution as modified or confirmed.

(2) The part of the cost of the improvement, if any, that will be paid by the unit.

(c) On the date named, all bids shall be publicly opened and considered.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-23

Bid bond or deposit

Sec. 23. (a) If the works board finally orders an improvement and has advertised for bids, the works board shall require each bidder to deposit with the bidder's bid, at the bidder's option, either a bid bond or a certified check to ensure the execution of the contract.

(b) The bid bond or certified check must be equal to the greater of the following:

(1) An amount not less than two and one-half percent (2 1/2%) of the engineer's estimate of the cost of the improvement.

(2) One hundred dollars (\$100).

(c) The following applies if a bidder elects to deposit a bid bond:

(1) The bond must be payable to the works board with sufficient sureties.

(2) The bond must be conditioned upon the bidder's execution of a contract in accordance with the bidder's bid if accepted by the works board.

(3) The bond must provide for forfeiture of the amount of the bond upon the bidder's failure to execute the contract in accordance with the bidder's bid.

(d) The works board shall do the following:

(1) Return all checks and bonds submitted by unsuccessful bidders.

(2) Return a successful bidder's check or bond when the bidder enters into a contract with the works board.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-24

Contracts; scope; actions to enjoin performance

Sec. 24. (a) The contract for an improvement must be for the entire improvement.

(b) After the execution of a contract for an improvement, the validity of the contract may be questioned only in an action to enjoin the performance of the contract. This action must be brought:

(1) before the actual commencement of work under the contract, for an improvement by a county; or

(2) before the later of the following, for an improvement by a municipality:

(A) The actual commencement of work under the contract.

(B) Not later than ten (10) days after the execution of the contract.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-25

Contractor's guarantee

Sec. 25. (a) A contractor for an improvement must guarantee the contractor's workmanship and all materials used in the work.

(b) The guarantee required under subsection (a) must be in the following form:

"The contractor warrants the contractor's workmanship and all materials used in the work and agrees that during the guarantee period specified the contractor will at the contractor's own expense make all repairs that may become necessary by reason of improper workmanship or defective materials. The maintenance obligation, however, does not include repair of any damage resulting from any force or circumstance beyond the control of the contractor, nor is the contractor a guarantor of the plans and specifications furnished by the (county, city, or town).".

As added by P.L.98-1993, SEC.7.

IC 36-9-36-26

Repairs by contractor

Sec. 26. (a) If repairs become necessary, the unit must give written notice to the contractor to make the repairs. If the contractor fails to begin the repairs not later than thirty (30) days after the notice is received, the unit may do the following:

(1) Make the repairs using the unit's own employees or an independent contractor.

(2) Recover from the contractor and the contractor's sureties the reasonable cost of the repairs and the cost of the supervision and inspection of the repairs.

(b) At the expiration of the guarantee period, the unit has sixty (60) days in which to notify the contractor of any necessary repairs.

(c) This subsection does not apply to a county. If the repairs necessary to be made at the expiration of the guarantee period amount to more than one-half (1/2) the surface of one (1) block, the entire pavement of the block shall be taken up and relaid in accordance with the original specifications.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-27**Monthly payments to contractor**

Sec. 27. (a) A contractor for an improvement is entitled to monthly estimates of the work done during each month. The estimates shall be made by the engineer of the unit and approved by the works board.

(b) The works board shall issue to the contractor certificates for eighty-five percent (85%) of the amount due the contractor by the estimates. The contractor is entitled to receive the amounts named in the certificates in cash or improvement bonds to be collected or issued by the unit. The certificates are negotiable instruments.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-28**Completed improvements; acceptance; cost estimates**

Sec. 28. (a) An improvement that is completed according to contract must be accepted by the works board.

(b) Upon the completion of an improvement according to contract, the cost of the improvement shall be estimated according to the entire length of the improvement.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-29**Assessments; abutting lands or lots; street and alley intersections**

Sec. 29. (a) The total cost of an improvement as determined under section 28(b) of this chapter, except for one-half (1/2) of the cost of street and alley intersections, shall be assessed on the abutting land or lots in the manner prescribed by this chapter.

(b) The remaining one-half (1/2) of the cost of street and alley intersections shall be assessed on the land or lots abutting on the streets or alleys that intersect the improved street or alley.

(c) Land and lots may be assessed for the following distances:

(1) One (1) block in either direction along the intersecting street or alley if the intersecting street or alley crosses the improved street or alley.

(2) One (1) block along the intersecting street or alley if the intersecting street or alley enters but does not cross the improved street or alley.

(d) For purposes of this section, the distance from the intersection of:

(1) a street or an alley improved under this chapter; and

(2) another street or alley;

along the other street or alley to the street line of the next intersecting street or alley is considered one (1) block.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-30**Assessments; basis; back lots; platted subdivisions**

Sec. 30. (a) Lots, parcels, and tracts of land bordering on an improvement shall be assessed on the basis set forth in this chapter, without regard to the depth of the lots, parcels, or tracts back from the

front line of the improvement.

(b) After the final hearing before the works board concerning the actual benefits to abutting and adjacent property, the works board may assess other property behind the first lot if the following conditions are met:

(1) The back lot is within one hundred fifty (150) feet of the line of the improvement.

(2) The works board finds at the hearing that properties behind the abutting lot and within one hundred fifty (150) feet of the improvement are specially benefited by the improvement.

(c) Land and lots assessed under subsection (b) shall be assessed only in the amount the lands or lots are specially benefited by the improvement.

(d) Lots or land adjacent to the improvement are liable for the payment of the assessment as set forth on the final assessment roll.

(e) This subsection applies only to counties. If an improvement is constructed within a platted subdivision, the works board may assess all or part of the lots in that subdivision or any other platted subdivision connected to that platted subdivision by the improvement.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-31

Preparation of assessment roll

Sec. 31. (a) As soon as a contract for an improvement has been completed, the works board shall have an assessment roll prepared for the property abutting on and adjacent to the improvement. The property abutting on and adjacent to the improvement is liable to assessment under this chapter.

(b) The assessment roll must include the following:

(1) The name of the owner of each parcel of property.

(2) A description of each parcel of property.

(3) The total assessment, if any, against each parcel of property.

The total assessment must be listed opposite each name and description.

(c) A mistake in the name of the owner or the description of property does not void the assessment or lien against the property.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-32

Presumptive finality of assessments; publication of notice

Sec. 32. (a) The following apply to the assessment indicated against each lot, tract, or parcel of land on the assessment roll:

(1) The assessment is presumed to be the special benefit to the lot, parcel, or tract of land.

(2) The assessment is the final and conclusive assessment unless the assessment is changed under section 33 of this chapter.

(b) Immediately after the assessment roll is completed and filed, the works board shall publish a notice according to IC 5-3-1. The notice must do the following:

- (1) Describe the general character of the improvement.
- (2) State that the assessment roll, with the names of owners and descriptions of property subject to assessment and the amounts of any presumptive assessments, is on file and may be inspected at the works board's office.
- (3) Name a time and date after the date of the last publication on which the works board will do the following at the works board's office:
 - (A) Receive and hear remonstrances against the amounts assessed on the roll.
 - (B) Determine whether the lots or tracts of land have been or will be benefited by the improvement in the following amounts:
 - (i) The amounts listed on the assessment roll.
 - (ii) Amounts greater or lesser than the amounts listed on the assessment roll.
 - (iii) Any amount at all.

(c) This subsection applies only to counties. The notice must also describe the platted subdivision or the parts of the subdivision on which there is property that is benefited and liable for assessment.

(d) This subsection applies only to municipalities. The notice must also describe the following:

- (1) The public way or public place on which the improvement has been made.
- (2) The terminals of the improvement.
- (3) The public ways:
 - (A) that:
 - (i) intersect the improvement; or
 - (ii) are parallel to the improvement and within one hundred fifty (150) feet of the improvement; and
 - (B) on which there is property that is benefited and liable for assessment.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-33

Remonstrance hearings; final determination of assessments

Sec. 33. (a) On the date fixed under section 32 of this chapter, the works board shall receive and hear all remonstrances from the owners of property described in the notice or the representatives of the owners.

(b) After the hearing, the works board shall sustain or modify the presumptive assessment as indicated on the assessment roll by confirming, increasing, or reducing the presumptive assessment against all or part of the property described in the roll. The works board's decision must be based on the works board's findings concerning the special benefits that the property has received or will receive on account of the improvement.

(c) If any property liable for assessment is initially omitted from the assessment roll or a presumptive assessment has not been made against the property, the works board may place on the assessment

roll any special benefit that the omitted property has sustained or will sustain by the improvement.

(d) The aggregate amount of assessments approved by the works board under this section may not exceed the cost of the improvement and must be equal to the aggregate amount of special benefits determined by the board under section 10 of this chapter.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-34

Completion and delivery of assessment roll; appeals

Sec. 34. (a) The works board shall complete the assessment roll and render the works board's decision by modifying or confirming the roll. The assessment roll shall show the total amount of special benefits opposite each name and a description of the property on the roll. When completed, the assessment roll shall be delivered to the following:

- (1) The county assessor, for an improvement by a county.
- (2) The municipal fiscal officer, for an improvement by a municipality.

(b) The decision of the works board as to all benefits is final and conclusive on all parties. However, an owner of an assessed lot or parcel of land who has filed a written remonstrance with the board may appeal to the circuit or superior court for the county.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-35

Delivery of primary assessment roll; payment of assessments to disbursing officer

Sec. 35. (a) The works board shall deliver a certified copy of the assessment roll completed under section 34 of this chapter to the disbursing officer of the unit after the works board:

- (1) approves and accepts the entire work under any contract; and
- (2) allows a final estimate.

(b) The duplicate assessment roll, to be known as the primary assessment roll, must show the following:

- (1) The amount due on each piece of property if paid in cash within the time limit.
- (2) The amount of waivers filed.

(c) The primary assessment roll must also have an appropriate column in which payments may be properly credited by the disbursing officer.

(d) This subsection does not apply to a county. All assessments, regardless of whether the assessments are payable in installments, are payable to the disbursing officer. The disbursing officer shall receive the payments, give proper receipts, and enter the proper credit.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-36

Assessment installments; notice when due

Sec. 36. (a) Upon receipt of the primary assessment roll, the

disbursing officer shall by mail notify each affected person of the amount of the assessment against the person's property.

(b) The notice must state when the assessment is due, or when the assessment installments are due.

As added by P.L.98-1993, SEC.7. Amended by P.L.62-2001, SEC.2.

IC 36-9-36-37

Cash payment of assessments; interest on delinquencies

Sec. 37. (a) Except as provided in section 38 of this chapter, the entire assessment is payable in cash without interest not later than thirty (30) days after the approval of the assessment roll by the works board if an agreement has not been signed and filed under section 36 of this chapter.

(b) If the assessment is not paid when due, the total assessment becomes delinquent and bears interest at the rate prescribed by IC 6-1.1-37-9(b) per year from the date of the final acceptance of the completed improvement by the works board.

As added by P.L.98-1993, SEC.7. Amended by P.L.172-1994, SEC.1; P.L.67-2006, SEC.14; P.L.113-2010, SEC.154.

IC 36-9-36-38

Appeal of assessment; payment by property owner following court certification

Sec. 38. (a) If a property owner appeals the assessment made against the owner's property to the circuit court or superior court, the clerk of the court shall certify the judgment of the court to the unit's disbursing officer. The disbursing officer shall immediately notify the property owner of the amount of the assessment fixed by the court.

(b) The property owner has thirty (30) days from the date the notice is sent to:

- (1) pay the assessment in cash; or
- (2) elect to pay the assessment in installments by entering into an agreement under section 36 of this chapter.

(c) The unit shall then issue bonds in the amount of the assessment fixed by the court. The bonds must bear the date of the final acceptance of the work.

(d) The assessment bears interest as follows:

- (1) From the date of the final acceptance of the work.
- (2) At a specified rate per year that is not less than the interest rate specified for installments under section 36 of this chapter.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-39

Appeal of assessment; payment of part ordered to be assessed against unit

Sec. 39. The following applies to any part of the assessment that the court orders to be assessed against the unit:

- (1) The assessment bears interest:
 - (A) from the date of the final acceptance of the work; and
 - (B) at a specified rate per year that is not less than the

interest rate specified for installments under section 36 of this chapter.

(2) The assessment may be paid by the unit in any manner provided by law for paying other assessments against the unit for similar work.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-40

Assessment liens

Sec. 40. (a) The unit has a lien against each parcel of real property that is assessed for:

- (1) the construction, maintenance, or repair of an improvement; or
- (2) the taking of lands for any purpose of the unit.

(b) The lien is established when the assessments are certified to the disbursing officer for collection. The unit may bring a foreclosure action to enforce the lien against a person who defaults in payment of the assessment.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-41

Installment payment procedure; proceeds constituting special fund for payment of improvement; diversion prohibited

Sec. 41. (a) The disbursing officer of the unit shall do the following:

- (1) Receive the payment of assessment installments.
- (2) Keep all accounts and give proper vouchers for the payment of assessment installments.

(b) Proceeds arising from assessments for the payment of a particular improvement may not be diverted to the payment of any other improvement.

(c) The proceeds from assessments for the payment of a particular improvement constitute a separate special fund for the following:

- (1) The payment of contractors for the particular work, upon the allowance of estimates by the works board.
- (2) The security and payment of any bonds issued in anticipation of the collection of the assessments for the improvement, including debt service reserves to secure the payment of the bonds.
- (3) The payment of expenses incurred by the unit in performing the unit's duties under this chapter, IC 36-9-37, IC 36-9-38, and IC 36-9-39 (or under IC 36-9-18 through IC 36-9-21, before the repeal of those provisions in 1993), including expenses, duties, and costs associated with the issuance, sale, or payment of the bonds.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-42

Notice; payments to bond owner; process collectable by fiscal officer

Sec. 42. If a bond owner receives a payment of interest or principal, or both, that was to have been collected under this chapter (or under IC 36-9-18 before its repeal in 1993) by the fiscal officer of a unit, the bond owner shall notify the fiscal officer of the payment.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-43

Delinquent installments; acceleration; foreclosure of lien; notice of delinquency

Sec. 43. (a) Failure to pay an installment of principal or interest when the installment is due makes all installments of principal yet unpaid due and payable immediately, unless the unpaid installment of principal or interest is paid within the grace period provided.

(b) If the unit fails to collect an unpaid assessment or installment when due, liability does not accrue against the unit. However, the owner of the bonds or the person to whom the amount of the unpaid assessment for the performance of the work is due and owing is entitled to proceed in court to do the following:

- (1) Enforce the lien or the unpaid assessment.
- (2) Recover interest, costs, and reasonable attorney's fees.
- (3) Have the proceeds of sale applied to the owner's or person's claim.

(c) If a person defaults in the payment of an installment of principal or interest, the disbursing officer shall mail a notice of the delinquency to the person in accordance with IC 36-9-37 regardless of whether a waiver has been signed. A notice mailed to the person in whose name the lands are assessed, addressed to the person within the unit, is sufficient notice. The person is not liable for attorney's fees unless an action is actually brought on the assessment.

(d) An action to collect an unpaid assessment may not be brought until the notice required by subsection (c) has been given.

(e) An action for foreclosure must be commenced not more than five (5) years after the cause of action accrues.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-44

Bonds in anticipation of assessment proceeds; authorization

Sec. 44. (a) The works board may issue bonds in anticipation of the collection of the assessments for an improvement. Except as provided in subsections (b) and (c), the bonds shall be issued and sold in the manner prescribed for other bonds of the unit. A unit issuing bonds under this section is not required to attach coupons to the bonds.

(b) The works board may provide for the issuance of the bonds directly to the contractor in the works board's preliminary resolution for the improvement. If direct issuance is authorized by the resolution, the disbursing officer shall issue the bonds directly to the contractor.

(c) The works board may by resolution choose to:

- (1) sell the bonds by negotiated private sale to a financial institution; and
 - (2) remit the proceeds of the sale to the contractor.
- (d) The following applies after the issuance of bonds:
- (1) An action to enjoin the collection of an assessment or to challenge the validity of the bonds or the sale of the bonds may not be brought.
 - (2) The validity of the assessment may not be questioned.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-45

Bonds; date; tax exemption

Sec. 45. (a) This section applies only to municipalities.

(b) Bonds issued in anticipation of the collection of assessments for an improvement must bear the date of the completion of the improvement under the contract and the acceptance of the improvement by the works board. The bonds draw interest from that date.

(c) The bonds are exempt from taxation for all purposes.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-46

Bonds; maturation; interest rate

Sec. 46. (a) The works board may provide in the preliminary resolution that the bonds issued in anticipation of the collection of the assessments shall be issued so as to mature not less than ten (10) years and not more than thirty (30) years from the date of issuance.

(b) The interest on the bonds shall be payable semiannually from the date of issue. The works board shall fix the rate of interest on the bonds issued.

(c) Bonds issued in the manner described in subsection (a) shall mature serially, so that some bonds mature each year until the final maturity date of the issue is reached. The terms of the bonds may allow early redemption of the bonds in the event of and to the extent of prepayment of the assessments in anticipation of which the bonds were issued.

(d) The works board must issue the bonds to mature as provided under subsection (c) if a petition requesting the bonds to mature in that manner is filed by a majority of the resident property owners affected by the improvement not later than sixteen (16) days after the resolution is first published.

As added by P.L.98-1993, SEC.7. Amended by P.L.62-2001, SEC.3.

IC 36-9-36-47

Transfer of assessment liens to bond owners

Sec. 47. (a) Bonds issued in anticipation of the collection of assessments convey and transfer to the owner of the bonds all interests in the assessments and liens upon the respective lots or parcels of land.

(b) The liens stand as security for the bonds and interest until the

bonds and interest are paid. A bond owner has full power to enforce the lien by foreclosure in court as provided in this chapter if the bond or interest is not paid when presented to the disbursing officer.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-48

Bond owners; foreclosure actions; procedure

Sec. 48. (a) Except as provided in subsection (b), sales to satisfy the bonds and interest shall be made as provided in this chapter for sales upon judgments or decrees foreclosing liens for assessments levied for improvements.

(b) The first bondholder who brings a foreclosure action against the property or any part of the property is entitled to have the proceeds of the action applied pro rata to the payment of that bondholder's own bonds and of bonds held by others.

(c) Only one (1) foreclosure action may be brought against one (1) lot or parcel of land. However, all lots or parcels of land against which the assessments are in default may be joined in one (1) proceeding.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-49

Sale of property following foreclosure action; amount

Sec. 49. (a) The property upon which the assessment is placed may not be sold for less than the amount of the assessment, attorney's fees, and costs. The proceeds of the sale shall be distributed as provided in this chapter.

(b) If the property sells for an amount greater than the amount necessary to pay the principal, interest, attorney's fees, and costs, the excess amount shall be paid to the property owner or party lawfully entitled to that excess amount.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-50

Negotiability of bonds

Sec. 50. (a) The bonds issued in anticipation of the collection of assessments are negotiable instruments and are free from all defenses by property owners.

(b) It is not necessary that the bonds include language describing the actions taken in ordering the improvement or directing the assessment. The bonds may instead include a general reference to this chapter.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-51

Foreclosure actions by contractors

Sec. 51. (a) This section applies to a contractor that is entitled to enforce liens or assessments.

(b) The contractor or the contractor's assignee may bring an action against a person who has defaulted in payment of an assessment to

foreclose the lien established by the assessment.
As added by P.L.98-1993, SEC.7.

IC 36-9-36-52

Foreclosure actions; complaint; proof

Sec. 52. (a) The complaint for a foreclosure action under this chapter need not set forth the specific proceedings leading to the final assessment. However, the complaint must include the following information:

- (1) The date on which the contract for the improvement was finally let.
- (2) The name of the improvement.
- (3) The amount and date of the assessment.
- (4) A statement that the assessment is unpaid.
- (5) A description of the property on which the assessment was levied.

(b) At the trial of a foreclosure action, the plaintiff is not required to introduce proof of the proceedings before the works board leading to the final assessment. However, the plaintiff must introduce the final assessment roll or a copy of the final assessment roll. The final assessment roll or the copy of the final assessment roll must be properly certified.

(c) The final assessment roll or the copy is presumptive evidence that the works board took all actions required to be taken in making the final assessment.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-53

Foreclosure actions; defenses

Sec. 53. (a) A defense to a foreclosure action may not be based on any of the following:

- (1) Any irregularity in the proceedings making, ordering, or directing the assessment.
- (2) The propriety or expediency of any improvement.

(b) A property owner may not raise any defense to a foreclosure action if the owner has done the following:

- (1) Exercised the option to pay the owner's assessment in installments.
- (2) Signed a waiver.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-54

Foreclosure actions; amount of recovery; sale procedure

Sec. 54. (a) In a foreclosure action brought under this chapter, the plaintiff is entitled to recover the amount of the assessment, principal and interest, and reasonable attorney's fees. The court shall order the sale to be made without relief from valuation or appraisal law.

(b) The county sheriff shall sell the property in the same way that lands are sold on execution. The sheriff shall, not later than five (5) days after the sale, execute a certificate of sale to the purchaser. The

certificate of sale vests title in the purchaser when the certificate of sale is delivered. Title vested by a certificate of sale is subject only to the right to redeem under section 55 of this chapter.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-55

Foreclosure sales; irregularities; redemption

Sec. 55. (a) An irregularity or error in making a foreclosure sale under this chapter does not make the sale ineffective, unless the irregularity or error substantially prejudiced the property owner.

(b) A property owner has two (2) years from the date of sale in which to redeem the owner's property. The property owner may redeem the owner's property by paying the principal, interest, and costs of the judgment, plus interest on the principal, interest, and costs at the rate prescribed by IC 6-1.1-37-9(b).

(c) If the property is not redeemed, the sheriff shall execute a deed to the purchaser. The deed relates back to the final letting of the contract for the improvement and is superior to all liens, claims, and interests, except liens for taxes.

As added by P.L.98-1993, SEC.7. Amended by P.L.67-2006, SEC.15; P.L.113-2010, SEC.155.

IC 36-9-36-56

Foreclosure actions; parties; appearances; disposition of proceeds

Sec. 56. (a) In a foreclosure action under this chapter, other than a foreclosure action in which the unit is the plaintiff, the plaintiff must do the following:

(1) Name the officer who has custody of the improvement funds of the unit as a party defendant.

(2) Name that officer as custodian of the improvement assessment fund of the unit.

(b) The officer described in subsection (a) shall then notify the attorney of the unit to appear in the action.

(c) The fiscal officer of the unit shall do the following:

(1) Trace the proceeds of the foreclosure so that proceeds arising from assessments for the improvement of a particular project are not diverted to the payment of any other improvement.

(2) Ensure that in each case the judgment proceeds constitute a special fund for the payment of contractors or bondholders for the particular work.

(d) The judgment proceeds shall be allocated to the proper public improvement fund for pro rata distribution to the bondholders or contractors who are entitled to those proceeds.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-57

Foreclosure actions; payment of judgment; costs and attorney's fees; decree

Sec. 57. (a) The court costs and the attorney's fees allowed in

foreclosure actions shall be paid directly to the clerk of the court to satisfy that part of a judgment. The remainder of the judgment shall be paid directly to the disbursing officer for the benefit of the special improvement fund of the department that is entitled to the foreclosure proceeds.

(b) The disbursing officer shall do the following:

- (1) Enter the payment under subsection (a) on the records and duplicates.
- (2) Satisfy the judgment docket as to the payment of the judgment.

(c) The court decree of foreclosure must assign the duties described in subsection (b) to the disbursing officer.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-58

Foreclosure actions; copy of complaint forwarded to disbursing officer; certification to disbursing officer of dismissals and sheriff's sales

Sec. 58. (a) In every foreclosure action under this chapter, other than a foreclosure action in which the unit is the plaintiff, the plaintiff must forward to the disbursing officer a copy of the complaint that sets out, among other allegations, the following:

- (1) The name of the owner or owners being sued.
- (2) The description of the property.
- (3) The name of the improvement.
- (4) The number of the assessment roll.

(b) The disbursing officer shall enter the facts upon the duplicate involving the litigated assessment while the action is pending.

(c) All dismissals of foreclosure litigation and all proceedings of sheriff's sales in foreclosures of assessment liens shall be certified to the disbursing officer.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-59

Foreclosure actions; suspension of collection of assessments

Sec. 59. The following apply while a foreclosure action is pending:

- (1) The assessment may not be certified for collection.
- (2) Bills or statements for payments may not be given to anyone except the plaintiff or the plaintiff's attorney of record.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-60

Reduction of installments

Sec. 60. (a) A statement showing the amount of the reduction of the installments shall be certified to the disbursing officer if:

- (1) the property is sold by the sheriff under this chapter and the money collected is insufficient to pay the principal and interest in full; or
- (2) a court orders a reduction of principal and interest as

assessed.

(b) Upon the receipt of the statement, the disbursing officer shall do the following:

- (1) Calculate the reduction that applies to each installment.
- (2) Enter on the bonds the amount of the reduction when the bonds are presented for payment.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-61

Disposition of foreclosure proceeds contrary to chapter

Sec. 61. (a) A person who disposes of the proceeds of foreclosure litigation in a way other than as provided by this chapter is considered to be a receiver for those entitled to the proceeds.

(b) In such instances the statute of limitations does not apply.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-62

Improvement costs to be paid by unit; bonds and certificates of indebtedness

Sec. 62. (a) A difference between the total assessments for an improvement and the contract price of the improvement shall be paid by the unit.

(b) The unit's part of the cost of an improvement shall, if possible, be paid from the general fund of the unit. If payment from the unit's general fund is not possible, the unit may issue bonds or certificates of indebtedness to the contractor for the amount of the unit's part of the cost. The unit's fiscal officer shall issue the bonds or certificates and shall fix the denominations of the bonds or certificates at the time of the approval of the final assessment roll and at the time of a subsequent reduction of assessments on appeal.

(c) The certificates of indebtedness issued under this section (or under IC 36-9-18 before its repeal in 1993) entitle the contractor to the amounts the certificates specify when a fund for redemption of the certificates has been provided.

(d) The certificates of indebtedness are negotiable instruments and bear interest from the date of the final acceptance of the work.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-63

Certificates of indebtedness issued under IC 36-9-36-62; authorization; interest; payment; maturity date

Sec. 63. (a) The certificates of indebtedness issued under section 62 of this chapter must be authorized by a resolution adopted by the works board and shall be signed by the following:

- (1) The county auditor, for an improvement by a county.
- (2) The municipal executive and fiscal officer, for an improvement by a municipality.

(b) The rate of interest on the certificates of indebtedness shall be fixed in the resolution of the works board. The rate may not be less than the current rate being paid on bonds then being issued in

anticipation of the collection of special assessments.

(c) The certificates of indebtedness are payable out of the proceeds of the special tax levy or sale of bonds under section 64 of this chapter (or under IC 36-9-18 before its repeal in 1993). This fact must be recited on the face of the certificates.

(d) All of the certificates mature on December 31 of the year in which the special levy to pay the certificates is collected unless the resolution authorizing the issuance of the certificates of indebtedness provides the following:

- (1) That not more than one-half (1/2) of the certificates are payable on June 30 of the year in which the special levy to pay the certificates is collected if a levy has been made in place of the sale of bonds.
- (2) That the balance is payable on December 31 of the same year.

(e) The certificates of indebtedness do not draw interest after the maturity date named in the certificates unless the certificates are presented for payment on that date and stamped "not paid for want of funds". If not paid for want of funds, the certificates may be presented for payment again at six (6) month intervals after the maturity date, until the certificates are paid.

(f) If a sufficient levy or sale of bonds is not made in any year for the payment of the certificates of indebtedness, the certificates shall be paid when money becomes available for that purpose out of taxes collected from any subsequent levy of the special tax or sale of bonds.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-64

Funding for payment of certificates of indebtedness; special tax levy

Sec. 64. (a) For the purpose of raising money for the payment of certificates of indebtedness issued under section 62 of this chapter (or under IC 36-9-18 before its repeal in 1993) the fiscal body of the unit may do any of the following:

- (1) Levy a special tax on all property in the unit each year.
- (2) Issue and sell the bonds of the unit.
- (3) Appropriate money from the general fund of the unit or from any other source.

(b) A special tax levied under this section shall be fixed at a rate on each one hundred dollars (\$100) of assessed valuation of taxable property in the unit sufficient for the payment of the certificates, together with interest, that were or will be issued between July 1 of the preceding year and July 1 of the year in which the levy of taxes is made.

(c) A special tax levied under this section shall be:

- (1) levied, certified to the county auditor, and collected in the same manner as other taxes are levied, certified, and collected; and
- (2) deposited in a separate fund known as the county (or

municipal) improvement certificate fund for application to the payment of the certificates.

(d) The balance of the improvement certificate fund does not revert to the unit's general fund at the end of the unit's fiscal year, but remains in the fund for the next fiscal year.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-65

Special assessments to pay improvement costs; issuance of anticipatory certificates

Sec. 65. (a) This section applies only to municipalities.

(b) In addition to issuing bonds and certificates of indebtedness under section 62 of this chapter, a unit may pay the unit's part of the cost of an improvement from a fund raised by special assessments against all of the lands and lots in the unit. The unit comprises a special assessment district for that purpose.

(c) The following apply to special assessments under this section:

(1) The special assessments shall be levied in proportion to the value of the land or lots, excluding the value of improvements on the land or lots, as the land or lots are assessed for general taxation.

(2) The special assessments shall be levied annually at the time of the levy of general taxes. The levy must be for the amount necessary to pay the cost, with interest, of all work done during the year for which the special assessments are levied.

(3) The special assessments are payable at the time of payment of general taxes.

(d) The fund raised under this section is a specific fund to be held and used only for the purpose prescribed by this section.

(e) In anticipation of the collection of the special assessments, certificates in denominations not exceeding five hundred dollars (\$500) shall be issued under a resolution adopted by the works board in the name of the unit. The fiscal officer shall sell the certificates or deliver the certificates to the contractor, as directed by the works board.

(f) The certificates entitle the holder to the amounts named in the certificates when a fund for redemption of the certificates has been collected. The certificates are negotiable instruments. One-half (1/2) of the certificates are payable on June 30 of the year after the special assessments for payment of the certificates have been made, and the remaining one-half (1/2) are payable on December 31 of that year. The certificates must be dated as of the date of the final acceptance of the improvement and may bear interest at any rate.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-66

Correction of defects and irregularities

Sec. 66. If a defect or an irregularity results in the invalidity of a contract, an assessment, or a lien under this chapter, the defect or irregularity shall be corrected by supplementary proceedings that

substantially comply with this chapter.
As added by P.L.98-1993, SEC.7.

IC 36-9-36-67

Surface improvements on public ways; performance by municipality; procedure

Sec. 67. (a) This section applies only to municipalities.

(b) As an additional method of making surface improvements on public ways, the works board may do the following:

(1) Make the improvements with the municipality's materials and employees.

(2) Assess the cost of the improvements against the abutting property owners.

(c) An improvement under this section must be at least one (1) city block long.

(d) A works board acting under this section shall determine a feasible cost for labor and materials per square yard for nonpermanent and permanent types of street surfaces. The works board shall, on the works board's own motion or on the petition of an owner of property abutting on any residential street, then do the following:

(1) Name certain public ways, including those petitioned for, for which an improvement is proposed.

(2) Give notice of the proposed improvement, in person or by mail, to the owners of property abutting on and affected by the proposed improvement.

(3) Hold a public hearing at the time and place set out in the notice.

(e) Notice of the hearing shall be given by publication in accordance with IC 5-3-1. At the hearing, the works board shall do the following:

(1) Inform the abutting owners of each owner's individual cost for each type of surface improvement.

(2) Inform the owners that the board shall order the improvement if, within the time fixed at the hearing, the owners do the following:

(A) Determine by a majority vote the type of improvement the owners want.

(B) Tender the cost of the improvement to the municipality.

(f) After the hearing, the works board shall order the improvement unless:

(1) the works board finds that the improvements should not be made; or

(2) the abutting owners do not comply with the conditions listed in subsection (e)(2).

(g) A municipality acting under this chapter may establish a revolving fund and may appropriate an amount of not more than ten thousand dollars (\$10,000) for the fund. Payments made by property owners under this section shall be paid into the fund, and the cost of material and labor for the improvements shall be paid out of the fund.

The fund, which may be used only for the purposes of this section, does not revert to the municipality's general fund until the municipality ceases to act under this section.

As added by P.L.98-1993, SEC.7.