

IC 36-9-37

Chapter 37. Barrett Law Funding for Municipalities

IC 36-9-37-1

Application of chapter

Sec. 1. This chapter applies to all municipalities.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-2

Repealed

(Repealed by P.L.97-2004, SEC.133.)

IC 36-9-37-3

Municipalities owning and operating water utilities; water main extensions

Sec. 3. For municipalities that own and operate a water utility, water main extensions from the water utility may be made under this chapter only within the corporate boundaries of the municipality.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-4

Prerequisites for enforcement and collection of special assessments

Sec. 4. If a municipality levies special assessments against specific parcels of property under the Barrett Law, the municipal fiscal officer shall collect and enforce the special assessments and pay the bonds issued in anticipation of the collections of the special assessments if the following conditions are met:

- (1) The municipal legislative body has by ordinance declared that the proposed improvement will be:
 - (A) a general benefit to the municipality and the citizens of the municipality; and
 - (B) a special benefit to the property owners in the area where the improvement is to be located.
- (2) The ordinance has established the following:
 - (A) The general and special benefits described in subdivision (1).
 - (B) The proportions of the general and special benefits described in subdivision (1).
- (3) The provisions of the Barrett Law have been followed.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-5

Assumption by municipality of responsibility for payment of bonds

Sec. 5. (a) A municipality may assume primary responsibility for the full payment of principal and interest of all bonds issued under this chapter (or under IC 36-9-19 before its repeal in 1993) for the improvement.

(b) The following apply if the municipality assumes the responsibility under subsection (a) for the full payment of principal and interest:

- (1) All payments of principal and interest shall be made by the municipal fiscal officer out of appropriations for the project.
- (2) The municipality shall be reimbursed by the collection of special assessments under the Barrett Law.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-6

Responsibility for payment of bonds; election to pay assessment in installments; collection

Sec. 6. If a property owner elects to pay the property owner's assessments in installments, the assessment shall be entered for collection on the improvement duplicate and shall be collected in the same manner as other taxes.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-7

Municipal fiscal officers; surety bonds; personal liability

Sec. 7. (a) A municipal fiscal officer acting under this chapter shall, in the manner prescribed by IC 5-4-1, obtain, execute, and file a bond conditioned upon the following:

- (1) The faithful compliance of the municipal fiscal officer with this chapter.
- (2) The faithful accounting for all money coming into the municipal fiscal officer's possession under the Barrett Law.

(b) A municipal fiscal officer who does any of the following is personally liable to a person suffering loss due to that action and may be removed from office by proper action filed under IC 5-8-1-35:

- (1) Fails to collect the interest or penalties provided for by this chapter on delinquent assessments and installments of assessments.
- (2) Fails to enforce the collection of the assessments by the sale of the property. However, this subdivision does not apply to a municipal fiscal officer of a municipality that has adopted an ordinance under section 24(a) of this chapter.
- (3) Otherwise fails to comply with this chapter.

(c) The surety on the municipal fiscal officer's bond is also liable to the extent of the bond.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-8

Payment of expenses

Sec. 8. (a) Each year the municipal legislative body shall include in the municipal legislative body's annual budget and tax levy the necessary expense of any of the following that will enable the municipal fiscal officer to perform the duties prescribed by this chapter:

- (1) Employing additional clerks.
- (2) Furnishing suitable quarters.
- (3) Obtaining necessary records, books, forms, and other supplies.

(b) If money for the purposes described in subsection (a) is needed before the collection of the tax levy, the money shall be:

- (1) supplied by appropriation from the general fund of the municipality; or
- (2) obtained from temporary loans in anticipation of the taxes levied.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-8.5

Assessments; installment payments

Sec. 8.5. (a) With respect to assessments imposed after June 30, 2001, the municipal 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 municipal works board shall establish the timing of the election under subsection (a) to permit the municipal 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 municipal 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 28 of this chapter.

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

(g) If the property owner is not an individual, the election under subsection (a) must be made in the following manner:

- (1) For a partnership, at least one (1) of the partners must sign the waiver and other instruments required for the election.
- (2) For a corporation, the president or vice president must do all of the following:
 - (A) Sign the waiver and other instruments required for the election.
 - (B) File a certified copy of the resolution of the board of directors or trustees authorizing the president or vice president to execute those instruments on behalf of the corporation.
- (3) For a church, a lodge, a charitable institution, or other

organization, the person or persons acting on behalf of the organization must sign the waiver and other instruments required for the election, but only after being instructed to do so by a resolution adopted at a meeting of the organization called for that purpose.

As added by P.L.62-2001, SEC.4.

IC 36-9-37-9

Certification of assessment roll; liens

Sec. 9. (a) When the assessment roll for an improvement ordered by the works board of a municipality is finally approved, the assessment roll shall be certified to the municipal fiscal officer. The fiscal officer shall then collect the special assessments listed on the assessment roll.

(b) Each special assessment constitutes a lien against the property on which the special assessment is levied.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-10

Liability of municipalities for assessments for public improvements

Sec. 10. (a) A political subdivision has the same powers and is subject to the same duties and liability in respect to municipal assessments for the cost of public improvements affecting the political subdivision's real property as private owners of real property.

(b) The real property of a political subdivision is subject to liens for the assessments if the real property would have been subject if owned by a private owner at the time the lien attached. However, a penalty or attorney's fees arising from such an assessment may not be collected from a political subdivision.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-11

Assessment installments; interest

Sec. 11. If a municipal works board orders any of the following improvements and assessments are imposed after June 30, 2001, to pay for the improvements or to repay bonds issued under this chapter after June 30, 2001, each owner of property assessed for that improvement may elect to pay the owner's assessment in installments with interest as described in section 8.5(a) of this chapter:

- (1) Streets.
- (2) Alleys.
- (3) Other paved public places.
- (4) Lighting.
- (5) For municipalities that own and operate a water utility, water main extensions from the water utility.
- (6) Sanitary sewers.
- (7) Emergency warning systems.

As added by P.L.98-1993, SEC.8. Amended by P.L.62-2001, SEC.5; P.L.45-2004, SEC.1; P.L.42-2006, SEC.2.

IC 36-9-37-12

Payment of assessment in deferred installments; time for making payments

Sec. 12. (a) If a property owner has elected to pay the property owner's assessment in installments and the assessment roll for the cost of the improvement was finally approved before July 1 of a year, the first installment of the principal of the assessment, together with accrued interest, is payable on November 10 of that year.

(b) If a property owner has elected to pay the property owner's assessment in installments and the assessment roll for the cost of the improvement was finally approved after June 30 of a year, the first installment of the principal of the assessment, together with accrued interest, is payable on May 10 of the following year.

(c) Subsequent installments of principal and interest are payable at:

- (1) one (1) year intervals after the date of payment of the first installment under subsection (a) or (b) if the property owner elected annual payments; or
- (2) one (1) month intervals after the date of payment of the first installment under subsection (a) or (b) if the property owner elected monthly payments.

(d) This subsection applies if the property owner elected annual installment payments. With the first installment of principal, and interest to the first bond maturity date, an amount sufficient to cover six (6) months interest in advance on the assessment shall also be collected. With each succeeding installment of principal, except the last installment, six (6) months interest shall be collected in advance, so that only one (1) annual payment is made by the property owner on the assessment.

(e) This subsection applies if the property owner elected monthly installment payments. With each of the first six (6) installments of principal, and interest to the first bond maturity date, an amount sufficient to cover one (1) additional month's interest in advance on the assessment shall also be collected. With each succeeding installment of principal, except the last six (6) installments, one (1) month's interest shall be collected in advance.

As added by P.L.98-1993, SEC.8. Amended by P.L.62-2001, SEC.6.

IC 36-9-37-13

Payment of assessment in installments; proceeds; special fund

Sec. 13. Proceeds from assessments for the payment of a particular improvement may not be used for the payment of other improvements. The proceeds from assessments for the payment of a particular improvement constitute a special fund for the following:

- (1) Payment of contractors for the particular improvement if allowance of the estimates has been made by the works board of the municipality.
- (2) Security and payment of bonds issued in anticipation of the collection of the assessments for the improvements, including debt service reserves to secure the payment of the bonds.

(3) Payment of expenses incurred by the municipal fiscal officer in performing the municipality's duties under this chapter, IC 36-9-36, IC 36-9-38, or IC 36-9-39 (or under IC 36-9-18 through IC 36-9-21, before the repeal of those provisions in 1993), including any expenses, duties, and costs associated with the issuance, sale, or payment of the bonds.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-14

Prepayment of assessment installments

Sec. 14. (a) A property owner who has secured the right to pay the property owner's assessments in deferred installments by the filing of a waiver may, at any time after the expiration of the first year after the filing, pay the entire balance of the assessment and be relieved of the lien on the property owner's property. A property owner may not pay the property owner's entire balance under this subsection unless at the same time the property owner pays all interest due at the next interest paying period.

(b) If a person who exercises the right to prepay the person's assessment fully pays the assessment and interest, all interest and liability as to the assessed property ceases.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-15

Prepaid assessments; proceeds; special fund; investment; redemption of outstanding bonds

Sec. 15. (a) Prepaid assessments constitute a special fund to be held in trust by the municipality for the owner or owners of the bonds upon which the prepayments have been made.

(b) The municipal fiscal officer shall promptly invest and reinvest the special fund in securities of the federal government so that the principal will be available to pay the bonds upon which prepayments were collected as the bonds become due. The interest collected on these securities shall be applied to the payment of the interest lost on account of the prepayment of the assessments. The difference between the interest lost on account of the prepayment of assessments and the amount of interest earned by the investment in federal securities shall be paid by the municipal corporation that issued the improvement bonds.

(c) If the terms of the bonds allow early redemption for and to the extent of prepayments of the assessments in anticipation of which the bonds were issued, the municipality may use prepaid assessments to redeem outstanding bonds. However, if the bonds are issued on each parcel of real property covering the assessment against the real property, the municipality shall pay the prepayment to the holder of the bonds and cancel the bonds.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-16

Negligent investment of special fund money; liability of

municipality

Sec. 16. If a municipality negligently fails to invest or reinvest the special fund in the manner prescribed by section 15 of this chapter, the municipality is liable to the special fund for interest on the fund, calculated at the rate of interest of the bonds issued on account of the assessments. A holder of bonds upon which prepayments have been made may compel compliance with section 15 of this chapter by mandamus or other appropriate remedy. However, the failure of a bondholder to compel compliance does not relieve the municipality or any of the municipality's officers from liability under this chapter. *As added by P.L.98-1993, SEC.8.*

IC 36-9-37-17

Special fund created under IC 36-9-37-15; warrants for disbursements

Sec. 17. Warrants for disbursements from the special fund established under section 15 of this chapter shall be drawn and issued in the manner provided by statute for disbursements from municipal funds. The officer having custody of the special fund shall honor and pay those warrants.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-18

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

Sec. 18. If a bond owner receives a payment of interest or principal, or both, that was to have been collected by the fiscal officer of a municipality under this chapter (or under IC 36-9-19 before its repeal in 1993), the bond owner shall notify the fiscal officer of the payment.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-19

Notice of default on installment payments

Sec. 19. (a) If a person defaults in the payment of a waived installment of principal or interest of an assessment, the municipal fiscal officer shall mail notice of the default to the person. The notice must meet the following conditions:

- (1) Be mailed not more than sixty (60) days after the default.
- (2) Show the amount of the default, plus interest on that amount for the number of months the person is in default at one-half (1/2) the rate prescribed by IC 6-1.1-37-9(b).
- (3) State that the amount of the default, plus interest, is due by the date determined as follows:
 - (A) If the person selected monthly installments under section 8.5(a)(2) of this chapter, within sixty (60) days after the date the notice is mailed.
 - (B) If the person selected annual installments under section 8.5(a)(1) of this chapter, within six (6) months after the date the notice is mailed.

(b) A notice that is mailed to the person in whose name the property is assessed and addressed to the person within the municipality is sufficient notice. However, the fiscal officer shall also attempt to determine the name and address of the current owner of the property and send a similar notice to the current owner.

(c) Failure to send the notice required by this section does not preclude or otherwise affect the following:

- (1) The sale of the property for delinquency as prescribed by IC 6-1.1-24.
- (2) The foreclosure of the assessment lien by the bondholder.
- (3) The preservation of the assessment lien under section 22.5 of this chapter.

As added by P.L.98-1993, SEC.8. Amended by P.L.172-1994, SEC.2; P.L.45-2004, SEC.2; P.L.67-2006, SEC.16; P.L.113-2010, SEC.156.

IC 36-9-37-20

Collection of delinquent assessments; interest penalties

Sec. 20. (a) If any principal and interest, or an installment of principal and interest, is not paid in full when due, the municipal fiscal officer shall enforce payment of the following:

- (1) The unpaid amount of principal and interest.
- (2) A penalty of interest at the rate prescribed by subsection (b).

(b) If payment is made after a default, the municipal fiscal officer shall also collect a penalty of interest on the delinquent amount at one-half (1/2) the rate prescribed by IC 6-1.1-37-9(b) for each six (6) month period, or fraction of a six (6) month period, from the date when payment should have been made.

As added by P.L.98-1993, SEC.8. Amended by P.L.67-2006, SEC.17; P.L.113-2010, SEC.157.

IC 36-9-37-21

Interest penalty collections; surplus Barrett Law account; use of funds

Sec. 21. (a) Interest penalties collected under section 20(b) of this chapter shall be credited to an account to be known as the surplus Barrett Law account. The amount credited shall be a part of the waived municipal improvement funds. The money in the surplus Barrett Law account may be used as follows:

- (1) To pay the interest on improvement assessments that is lost or forgiven due to the prepayment of installments of assessments.
- (2) If the amount of money in the account exceeds five (5) times the average annual amount of lost or forgiven interest paid under subdivision (1) during the preceding three (3) years, that excess may be used for any of the following:
 - (A) The purchase of equipment for or pay expenses incurred by the municipal fiscal officer in performing the municipal fiscal officer's duties under the Barrett Law.
 - (B) Providing debt service reserves or other security for bonds issued by the municipality under this chapter,

IC 36-9-36, IC 36-9-38, or IC 36-9-39 (or under IC 36-9-18 through IC 36-9-21 before the repeal of those provisions in 1993).

(b) If payments of delinquent principal, delinquent interest, and interest penalties that are collected during any six (6) month period ending on May 10 or November 10 are sufficient to pay one percent (1%) of the face value of the bonds, all payments during that six (6) month period shall be applied to the payment of bonds after the next February 1 or August 1. However, if there are no more delinquent collections to be made, payment of the amounts collected shall be made in full.

(c) The fact that collections during a six (6) month period are insufficient to pay one percent (1%) of the face value of the bonds does not require the bonds to be marked "not paid for want of funds".
As added by P.L.98-1993, SEC.8.

IC 36-9-37-22

Default on single installment

Sec. 22. Except as provided in section 22.5 of this chapter, the following apply if at least one (1) installment of an assessment is in default:

- (1) The total amount of the assessment that remains unpaid is considered to be in default.
- (2) The assessed property is subject to sale under sections 23 through 24 of this chapter to pay that amount.
- (3) The assessment is subject to the:
 - (A) requirements and duties imposed;
 - (B) rights and remedies provided; and
 - (C) procedures available to the county treasurer;for the collection of delinquent property taxes.

As added by P.L.98-1993, SEC.8. Amended by P.L.45-2004, SEC.3.

IC 36-9-37-22.5

Preservation of assessment in default as a lien

Sec. 22.5. (a) The municipal fiscal officer and the municipal works board may jointly establish procedures allowing a municipality to avoid a sale, on property that is not delinquent for property taxes, penalties, and other special assessments, that:

- (1) is required under section 22 of this chapter; and
- (2) would be conducted under IC 6-1.1-24;

by preserving an assessment that is in default as a lien against the property on which the assessment was imposed. A lien created under this section applies to the total assessment principal, interest, and penalties owed by the property owner on the date on which the municipality determines that the assessment is in default.

(b) Except as provided in subsection (c), an assessment preserved as a lien under this section shall be paid by the person liable for the assessment when ownership of the property is transferred.

(c) The following apply to an assessment preserved as a lien under this section:

(1) Additional penalties do not accrue to the lien after the date described in subsection (a).

(2) The procedures established under subsection (a) must specify when additional interest shall accrue to the lien after the date described in subsection (a).

(3) The lien must be recorded.

(4) The amount owed by the property owner must be paid by the person liable for the assessment before the final bond maturity date.

(d) When the person liable pays an assessment preserved as a lien under this section, the proceeds of the collection are subject to the same requirements as the proceeds of a sale conducted under section 24 of this chapter.

As added by P.L.45-2004, SEC.4.

IC 36-9-37-23

Certification of delinquent assessments

Sec. 23. (a) This section does not apply to a municipality if the legislative body of the municipality adopts an ordinance providing that this section does not apply to the municipality.

(b) Except as provided in subsection (d), before June 1 of each year the municipal fiscal officer shall certify to the county auditor a list of all delinquent waived and nonwaived assessments. The list must include the following:

(1) The name or names of the owner or owners of each piece of real property on which the assessments for principal and interest are in default.

(2) The description of each of those pieces of property as shown by the records of the county auditor.

(3) The total amount of principal, interest, and penalty due on each of those pieces of property.

(c) The county auditor shall immediately enter the list in a special duplicate and transmit the list to the county treasurer for collection.

(d) After the county treasurer receives the list, payments on the delinquent assessments shall be made only to the county treasurer and may not be accepted by the municipal fiscal officer. However, this subsection does not apply to payments from the county under section 24 of this chapter.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-24

Delinquent assessments; sale of property

Sec. 24. (a) This section does not apply to a municipality if the legislative body of the municipality adopts an ordinance providing that this section does not apply to the municipality.

(b) After the county auditor receives the list of delinquencies from the municipal fiscal officer under section 23 of this chapter, the real property on the list is subject to collection by the county treasurer in the same way that delinquent property taxes are collected and may be sold in the manner that property is sold for taxes. The owners and

purchasers of the property have the same rights and remedies as the owners and purchasers would have at a tax sale.

(c) The county auditor shall issue a county warrant for the principal, interest, and penalty to the municipal fiscal officer originally charged with the collection of the principal, interest, and penalty after the following:

- (1) The collection of the principal, interest, and penalty.
- (2) Settlement for principal, interest, and penalty by the county treasurer.

(d) This section does not require a county or any of the county's officers to include the amount of delinquent principal, interest, or penalty in a certificate of sale to the county.

(e) If a county or municipal officer fails to perform the officer's duties under this section or section 20(a) of this chapter, a person aggrieved by the failure may bring an action against the officer to compel performance.

As added by P.L.98-1993, SEC.8. Amended by P.L.172-1994, SEC.3.

IC 36-9-37-25

Procedures to avoid a foreclosure action

Sec. 25. (a) To avoid a foreclosure action on a special assessment, a municipality may:

- (1) defer collection of the assessment under section 22.5 of this chapter; or
- (2) accept a conveyance in satisfaction of the assessment from the owner of the assessed property.

(b) If there are bondholders other than the municipality holding bonds on the improvement for which the assessment was made, the municipality may do any of the following:

- (1) Join with the other bondholders in accepting a conveyance of an undivided interest in the property.
- (2) Cause a conveyance of the property to be made to a bank or trust company in the municipality and held under a trust agreement by the bank or trust company for the use and benefit of the municipality and the other bondholders.

(c) A conveyance under this section may be accepted by the municipality only if the head of the municipal legal department makes a written recommendation to the city executive or town legislative body that the conveyance be accepted.

As added by P.L.98-1993, SEC.8. Amended by P.L.45-2004, SEC.5.

IC 36-9-37-26

Disposition of property acquired by foreclosure or conveyance; procedure

Sec. 26. (a) If a municipality acquires an undivided interest in real property by foreclosure of a special assessment or by a voluntary conveyance under section 25(a) of this chapter, the municipality may dispose of the municipality's interest in the manner prescribed by this section.

(b) The municipality must have the municipality's interest in the

property appraised by two (2) disinterested appraisers residing in the municipality. After appraisal, the city executive or town legislative body may sell the property interest for not less than the full appraised value of the property interest. Before selling the property interest, the city executive or the town legislative body must first provide notice of the proposed sale by publication in accordance with IC 5-3-1.

(c) This subsection applies if the municipality sells the property by acceptance of bids. A bid submitted by a trust (as defined in IC 30-4-1-1(a)) must identify all of the following:

- (1) Each beneficiary of the trust.
- (2) Each settlor empowered to revoke or modify the trust.

(d) A conveyance under this section must be executed by the municipal executive and attested by the municipal clerk.

(e) The municipality shall return all money received from sales under this section to the fund for the use and benefit of which the property interest is held. Any money in excess of the amount necessary to provide full compensation to the fund for the obligations of the person liable for the assessment shall be returned to that person.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-27

Disposition of property held by bank or trust company

Sec. 27. (a) If property is held by a bank or trust company under section 25(b)(2) of this chapter, the trust agreement between the municipality and the bank or trust company may provide for the sale or conveyance of the property by the bank or trust company. The sale may not be made for less than the full appraised value of the property.

(b) The municipality may, in case of a sale, join in the conveyance of the property.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-28

Bonds; contents; issuance; denominations

Sec. 28. (a) When property owners have elected to pay special assessments for a public improvement in installments, the bonds issued in anticipation of the collection of those assessments must bear the date of the final acceptance of the improvement by the municipal works board. The bonds begin to bear interest on this date at a rate determined by the works board.

(b) Except as provided in subsection (d), the bonds may be issued in any denomination.

(c) Except as provided in subsection (d), the municipal fiscal officer shall choose the denomination that the municipal fiscal officer finds appropriate for the following:

- (1) The circumstances of the particular improvement project.
- (2) The efficient administration of the municipal fiscal officer's office.

(d) The last bond in a series need not be issued in a denomination

of a multiple of one hundred dollars (\$100) if the total cost of the particular improvement project for which the series is issued is not an exact multiple of one hundred dollars (\$100).

As added by P.L.98-1993, SEC.8.

IC 36-9-37-29

Bonds; series; redemption; time for payment; computation of interest; actions challenging validity

Sec. 29. (a) The municipal legislative body shall 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 terms of the bonds may allow early redemption of the bonds for and to the extent of prepayment of the assessments in anticipation of which the bonds were issued.

(c) If the assessment roll for the cost of an improvement was finally approved before July 1 of a year, the first of the series of bonds issued for the payment of the improvement is payable on February 1 of the following year, and the interest on the bonds shall be computed accordingly.

(d) If the assessment roll for the cost of an improvement was finally approved after June 30 of a year, the first of the series of bonds issued for the payment of the improvement is payable on August 1 of the following year, and the interest on the bonds shall be computed accordingly.

(e) Interest on the bonds is payable semiannually, beginning on the date prescribed by subsection (c) or (d).

(f) The municipal works board may by ordinance or resolution choose to:

- (1) sell the bonds by negotiated private sale to a financial institution; and
- (2) remit the proceeds of the bonds to the contractor for the public improvement.

(g) An action to challenge the validity of the bonds or the sale of the bonds may not be brought after issuance of the bonds.

As added by P.L.98-1993, SEC.8. Amended by P.L.62-2001, SEC.7.

IC 36-9-37-30

Payment of bonds at maturity

Sec. 30. (a) Bonds issued in anticipation of the collection of special assessments bear interest until the date of maturity if sufficient money is available to pay the principal of and interest on the bonds at that date.

(b) If sufficient money is not available to pay the principal of and interest on the bonds, any available money that was assessed to pay the bonds shall be paid to the holders of the bonds on a pro rata basis. The unpaid balances of the principal of and interest on the bonds bear interest until the delinquent assessments have been collected. The rate of interest on the unpaid balances must be the same as the rate paid

by the bonds before their maturity.

(c) If the principal of and interest on the bonds are not paid in full at their maturity, the bonds must be marked with the following:

- (1) The date of payment.
- (2) The amount of principal and interest paid.
- (3) The balance unpaid.

(d) At every six (6) month period after the maturity of the bonds, the delinquent collections for the payment of the principal of and interest on the bonds and interest on the unpaid balances of the bonds shall be paid on a pro rata basis. Each bond shall be marked with the following:

- (1) The amount of principal and interest paid.
- (2) The balance unpaid.
- (3) The amount of interest paid on unpaid balances.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-31

Bonds; presentation for payment; receipts

Sec. 31. (a) A person who holds bonds issued in anticipation of the collection of special assessments shall present the bonds for payment and arrange for the payment of interest with sufficient time before the maturity date or due date of the delinquencies so that the municipal fiscal officer has time to process the payment.

(b) The bondholder shall file with the bonds a list setting forth the following for the bonds:

- (1) The roll numbers.
- (2) The series numbers.
- (3) The face values or unpaid balances.
- (4) The total presented for payment.

(c) The municipal fiscal officer shall give a receipt to a bondholder presenting bonds for payment or receiving a payment of interest. The receipt holds the municipality responsible to the bondholders for the following:

- (1) The unpaid principal of and interest on the bonds that were presented for payment.
- (2) The unpaid balances of principal of and interest on those bonds.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-32

Schedule of amounts paid on bonds

Sec. 32. (a) If payment is made of principal or interest on bonds issued in anticipation of the collection of special assessments, the municipal fiscal officer shall prepare a schedule showing the following:

- (1) All bonds on which payment of principal or interest is made, with the amount paid on each. If payment is not made in full, the fiscal officer shall specify the balance of principal and interest unpaid on each bond.
- (2) The total of all principal of and interest on bonds on which

no payment is made.

(3) Interest paid on delinquency.

(4) The total amount of principal of and interest on bonds for which a receipt was issued.

(5) The total amount of principal and interest paid on bonds.

(6) The total amount of interest on delinquency paid.

(7) The total balance of principal of and interest on bonds unpaid.

(b) The fiscal officer shall give a copy of the schedule to the bondholder on the surrender of the bondholder's receipt.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-33

Matured bonds; notice to holder of money available for payment

Sec. 33. Upon request of the holder of any bond on which principal or interest has become due, the municipal fiscal officer shall do the following:

(1) Make a record of the following:

(A) The maturity of the principal of the bond or interest on the bond.

(B) The name and address of the holder.

(2) Notify the holder by mail immediately when money is available to pay the principal or interest.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-34

Bonds; tax exemption

Sec. 34. Bonds issued in anticipation of the collection of special assessments for public improvements are exempt from taxation for all purposes.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-35

Bonds; insufficient funds for payment; issuance of certificates of indebtedness

Sec. 35. (a) When the principal of or interest on bonds issued in anticipation of the collection of special assessments is due for payment, the municipal fiscal officer shall issue certificates of indebtedness to the owner of the bonds if:

(1) there is not enough money in the municipal improvement fund to pay the principal of or interest on the bonds in full; and

(2) at least one (1) of the conditions listed in subsection (b) is met.

(b) The municipal fiscal officer shall issue certificates of indebtedness for the amounts unpaid if the principal of or interest on the bonds cannot be paid because of any of the following:

(1) The stoppage of interest due to the prepayment of assessments.

(2) The failure to collect interest to the due date of the prepaid installments.

- (3) The failure to reinvest prepaid assessments in the manner prescribed by this chapter.
 - (4) The diversion of money paid on one (1) assessment roll and account to the payment of the principal of or interest on bonds to another assessment roll and account.
 - (5) The loss of improvement money due to the closing and insolvency of a bank or trust company in which the money was on deposit.
 - (6) Any other diversion or misapplication of money collected for payment of the principal of or interest on bonds for which the municipality is liable.
- (c) The amounts of certificates of indebtedness issued under this section shall be computed in the following manner:
- (1) If the certificates are issued for a deficiency resulting from prepayment of assessments, the amount:
 - (A) is limited to the amount of interest that would have been payable at the respective due dates of the installments of assessments if the assessments had not been prepaid; and
 - (B) does not include interest between the time of the due dates and the issuance of the certificates.
 - (2) If the certificates are issued for a deficiency resulting from a diversion of money, the amount:
 - (A) is limited to the amount that would have been due if the diversion had not occurred; and
 - (B) does not include any interest after the date on which payment of the principal of or interest on the bonds is due.
 - (3) If the certificates are issued for a deficiency resulting from the loss of improvement money due to the closing and insolvency of a bank or trust company in which the money was on deposit, the amount is limited to:
 - (A) the actual amount deposited, plus interest at the depository rate up to the time of the closing of the bank or trust company; less
 - (B) any amounts that are recovered from any source by reason of the deposits and loss.
- (d) No part of any delinquent assessments or installments, or of any interest on the delinquent assessments after the due date of the assessments, may be included in a certificate of indebtedness.
- (e) The deficiency and diversion remedial provisions of this section do not make a municipality liable in any manner for any of the following:
- (1) Assessments or installments of assessments not paid by the owner of the property assessed.
 - (2) Interest on any unpaid assessment or installment.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-36

Bonds; certificates of indebtedness; payment

Sec. 36. (a) Upon the delivery of certificates of indebtedness in payment of part of the principal of or interest on any bonds because

of a deficiency, the municipality shall, by proper endorsement of the bonds:

- (1) reduce the face value of the bonds or the interest payable on the bonds by a corresponding amount; or
- (2) cancel the bonds if the principal of and interest on the bonds are paid in full.

(b) The certificates of indebtedness shall be authorized, issued, and paid in the same manner as certificates of indebtedness issued under IC 36-9-36-62 and IC 36-9-36-64. However, the certificates draw interest only from the date of issue and the rate of interest shall be fixed by the resolution authorizing the issuance of the certificates.

(c) A municipality is not required to provide for or pay upon the certificates of indebtedness issued under section 35 of this chapter (or under IC 36-9-19 before its repeal in 1993) a total amount in any one (1) year in excess of the following:

- (1) Fifty thousand dollars (\$50,000) for a municipality having a population of at least thirty-five thousand (35,000).
- (2) Twenty-five thousand dollars (\$25,000) for a municipality having a population of at least ten thousand (10,000) but less than thirty-five thousand (35,000).
- (3) Ten thousand dollars (\$10,000) for a municipality having a population of less than ten thousand (10,000).

(d) A municipality shall make payments on the certificates of indebtedness issued under section 35 of this chapter (or under IC 36-9-19 before its repeal in 1993) in the order of the tender and demand for payment of outstanding certificates in each year. The municipality is not required to prorate the payments among all the outstanding certificates. The municipal fiscal officer is the sole judge of the order of tender and priorities of the certificates of indebtedness.

(e) Before issuing payment on a certificate, the fiscal officer shall, by audit and other investigation of the facts, determine the right to payment and the proper amount of the payment. The fiscal officer's determination is final and conclusive upon all the parties involved.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-37

Refunding bonds

Sec. 37. (a) Instead of issuing certificates of indebtedness under section 35 of this chapter, the municipal legislative body may by ordinance issue refunding bonds to meet a deficiency arising in the municipal improvement fund if the following conditions are met:

- (1) At least one (1) of the conditions listed in section 35(b) of this chapter is met.
- (2) The amount of the deficiency is clearly established.
- (3) The liability of the municipality for the deficiency is established. However, this subdivision does not require the liability of the municipality to be established by a judgment against the municipality.

(b) Refunding bonds issued under this section shall be issued in the manner prescribed by IC 5-1-9. The proceeds of the bonds may

be used only to discharge the liability of the municipality for the deficiency.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-38

Overpayment of special assessments; refunds

Sec. 38. (a) If excess payments have been made and collected on special assessments for public improvements, the municipal fiscal officer shall, not later than thirty (30) days after the discovery of the overpayment, give notice of the amount of the overpayment by mail to the owner of record of the property on which the payment was made.

(b) When the municipal fiscal officer determines the amount of the overpayment and the person or persons to whom the reimbursement should be made, the fiscal officer shall issue a refund of the overpayment to the proper person or persons.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-39

Overpayments; annual statement; notice; disposition

Sec. 39. (a) During January of each year, the municipal fiscal officer shall determine all amounts of overpayments on the special assessment rolls for public improvements that have been unclaimed for at least five (5) years. The fiscal officer shall prepare a detailed statement showing the following information for each overpayment:

- (1) The date.
- (2) The number of the receipt.
- (3) The amount overpaid.
- (4) The book and page where the overpayment is recorded.
- (5) The owner of record of the property on which the overpayment was made.

(b) After preparing the statement described in subsection (a), the municipal fiscal officer shall give notice by publication in accordance with IC 5-3-1. The notice must do all of the following:

- (1) Contain the names of the owners of record of the property affected by the assessment.
- (2) State the amounts of the respective overpayments.
- (3) State that the overpayments will be transferred to the general fund of the municipality unless the owners or the owners' legal successors or assigns appear and provide proof of their claims to the overpayments not later than thirty (30) days after the date of the first publication of the notice.

(c) At the expiration of the thirty (30) day redemption period under subsection (b), the municipal fiscal officer shall transfer and pay the unclaimed overpayments into the general fund of the municipality. The amounts transferred shall be used and expended in the same manner as other money in the general fund.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-40

Money collected as special assessments; disposition after five years

Sec. 40. (a) If:

- (1) all or part of any money collected as nonwaivered special assessments for public improvements has been in the possession of the municipal fiscal officer for at least five (5) years; and
- (2) a demand for the money has not been made by a party entitled to the money within one (1) year preceding the end of the five (5) year period;

the municipal fiscal officer shall prepare a detailed list of the unclaimed money.

(b) The fiscal officer shall then give notice of the list by publication in the manner prescribed by section 39 of this chapter.

(c) At the expiration of the thirty (30) day redemption period provided by section 39 of this chapter, the municipal fiscal officer shall transfer and pay all of the unclaimed money into the general fund of the municipality. Money transferred under this subsection may be used and expended in the same manner as other money in the general fund is used and expended.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-41

Money deposited in general fund; claims

Sec. 41. (a) A person who is legally entitled to any money paid into the municipal general fund under sections 39 and 40 of this chapter may file a claim for the money with the municipal fiscal officer.

(b) A claim under subsection (a) must be filed as follows:

- (1) In the same manner as other claims are filed against the municipality.
- (2) Not later than five (5) years after the money is paid into the general fund.

(c) The fiscal officer shall pay the claim out of the general fund of the municipality if, upon investigation and proper proof of the claim, the municipal officials charged with the duty of making payments from Barrett Law funds do the following:

- (1) Determine that the claimant is legally entitled to the money.
- (2) Approve the refund of the money.

(d) The payment of the claim by the fiscal officer under subsection (c) shall be made without an appropriation.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-42

Transfer of unclaimed money to surplus Barrett Law account

Sec. 42. Balances of money may be transferred to the surplus Barrett Law account established under section 21 of this chapter (or under IC 36-9-19 before its repeal in 1993) if the following conditions are met:

- (1) The balances have been on hand for at least ten (10) years.
- (2) The balances were collected as waived assessments for the payment of bonds.

- (3) At least one (1) of the following conditions is met:
- (A) Bonds have not been presented for payment.
 - (B) Bonds have:
 - (i) been presented for payment;
 - (ii) been withdrawn; and
 - (iii) have not been not presented for payment again for at least ten (10) years.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-43

Unpaid warrants or checks; cancellation

Sec. 43. (a) A warrant or check shall be canceled on December 31 of a year if the warrant or check:

- (1) is for:
 - (A) the payment of principal or interest on bonds;
 - (B) the payment of nonwaivered funds to contractors for public improvements; or
 - (C) damages sustained by a property owner on account of the operation of the public improvement assessment laws; and
- (2) has been written and not cashed for a period of at least two (2) years.

(b) The proceeds of the canceled warrants or checks shall be credited to the funds on which the warrants or checks were originally drawn. If the funds on which the checks or warrants were originally drawn cannot be determined, the proceeds shall be credited to the following:

- (1) The surplus Barrett Law account if the warrants or checks were drawn on waived accounts.
- (2) The nonwaivered account if the proceeds were drawn on the nonwaivered account.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-44

Prepaid interest; reimbursement

Sec. 44. (a) If:

- (1) a municipality purchased under threat of condemnation real property upon which there were any unpaid Barrett Law assessments; and
- (2) because of the purchase the vendor paid, under protest, the interest on the Barrett Law assessment for a period of ten (10) years in advance;

the vendor is entitled to a reimbursement for the interest paid in advance, less the interest for one (1) year.

(b) The vendor must present and prove a claim for the interest to the municipal fiscal officer. The reimbursement under this section shall be paid out of the surplus Barrett Law account of the municipality.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-45

Municipalities no longer using Barrett Law; transfer of surplus money

Sec. 45. Notwithstanding any other statute, a municipality may by ordinance transfer the surplus Barrett Law account money to the general fund or general improvement fund of the municipality if the following conditions are met:

- (1) The municipality:
 - (A) has money in the surplus Barrett Law account;
 - (B) has established a general improvement fund under IC 36-9-17 or a similar statute; and
 - (C) no longer uses the Barrett Law for public improvements.
- (2) There are no obligations or potential obligations arising out of the operation of the Barrett Law for which the surplus Barrett Law account money was accumulated or may be used.
- (3) Notice of intention to transfer the surplus Barrett Law account money to the general fund or general improvement fund has been published in accordance with IC 5-3-1.

As added by P.L.98-1993, SEC.8.

**IC 36-9-37-46
Barrett Law revolving improvement fund**

Sec. 46. (a) A Barrett Law revolving improvement fund may be established under the municipal fiscal officer. This fund shall be initially funded by transferring to the fund from the surplus Barrett Law account any amount approved by the municipal legislative body.

(b) If the legislative body decides that payment from the Barrett Law revolving improvement fund will increase the probability that competent contractors will bid on the project, the fiscal officer may pay all or part of the cost of the project from the Barrett Law revolving improvement fund to the contractor who is to do the work or has done the work.

(c) The municipality shall levy a special assessment against property that benefits from the improvement project. The provisions of this chapter concerning special assessments to repay bonds also apply to special assessments for projects paid for from the Barrett Law revolving improvement fund.

(d) When the cost of an improvement is paid from the Barrett Law revolving improvement fund, collections from the special assessment for the improvement shall be deposited in the surplus Barrett Law account.

(e) If the municipal works board determines that to do so will facilitate the initiation, progress, or completion of a public improvement project, the works board may ask the municipal legislative body to do the following:

- (1) Approve the amount of money the works board will advance from the Barrett Law revolving improvement fund for the project.
- (2) Decide upon what terms the works board will make the advancement.

(f) The municipal fiscal officer may invest the money in the

Barrett Law revolving improvement fund in the same manner that money in the surplus Barrett Law account is invested.
As added by P.L.98-1993, SEC.8.