

TITLE 43
IRRIGATION DISTRICTS

CHAPTER 25
LOCAL IMPROVEMENT DISTRICTS

43-2501. SHORT TITLE. [Chapter 25, title 43](#), Idaho Code, shall be known and cited as the "Local Improvement District Code for Irrigation Districts."

[43-2501, added 1993, ch. 407, sec. 1, p. 1476.]

43-2502. DEFINITIONS. The following words and phrases when used in this chapter shall, for the purposes of this chapter, have the meanings respectively given herein.

(1) "Board" means the board of directors of an irrigation district.

(2) "Costs and expenses" mean the contract price of all improvements, including any costs or expenses incurred for engineering, clerical, printing and legal services as well as for advertising, surveying, inspection of work, collection of assessments, interest upon bonds or warrants, and an amount for contingencies as shall be considered necessary by the board.

(3) "District or irrigation district" means irrigation districts organized pursuant to the provisions of [chapter 1, title 43](#), Idaho Code.

(4) "Engineer" means the official engineer of the irrigation district or one specially retained for purposes of operating under the provisions of this chapter.

(5) "Local improvement district" means a local improvement district created within the boundaries of an irrigation district or irrigation districts under the authority of this chapter.

(6) "Owner" or "owners" mean the owner of property within the limits of a local improvement district, or a proposed local improvement district; and a corporation, joint stock association, partnership, individual proprietor or other form of business enterprise owning real property, within any such district or proposed district.

(7) "Secretary," "treasurer" or "other irrigation district officer" means the appropriate irrigation district officers with regard to irrigation district local improvement districts.

[43-2502, added 1993, ch. 407, sec. 1, p. 1476.]

43-2503. POWERS CONFERRED. (1) The board shall have the power to make or cause to be made any one (1) or more, or combination of, the following improvements:

(a) To acquire, construct, operate, maintain, repair and replace pumping stations and pipelines and all necessary fittings, controls, components and equipment and other water facilities for the purpose of supplying water under pressure or by gravity flow for the irrigation of a described area within the boundaries of the district.

(b) To acquire, construct, reconstruct, extend, maintain or repair parks and other recreational facilities;

(c) To remove any nonconforming existing facility or structure in the areas to be improved;

(d) To construct, reconstruct, extend, maintain or repair optional improvements;

(e) To acquire by purchase, gift, condemnation, or otherwise, any real or personal property within the limits of the district as in the judgment of the board may be necessary or convenient in order to make any of such improvements;

(f) To make any other improvements now or hereafter authorized by any other law, the cost of which in whole or in part can properly be determined to be of particular benefit to a particular area within the district;

(g) To construct and install all such structures, equipment and other items and to do all such other work and to incur any such costs and expenses as may be necessary or appropriate to complete any of such improvements in a proper manner.

(2) For the purpose of making and paying for all or a part of the cost of any of such improvements, including optional improvements, the board may create local improvement districts pursuant to this chapter within the boundaries of the irrigation district, levy assessments on the property within such a district which is benefited by the making of the improvements and issue interim or registered warrants and local improvement bonds as provided in this chapter.

[43-2503, added 1993, ch. 407, sec. 1, p. 1477.]

43-2504. INITIATION OF ORGANIZATION OF LOCAL IMPROVEMENT DISTRICT. The organization of any local improvement district herein provided for may be initiated upon a petition signed by not less than sixty percent (60%) of the owners of property subject to assessment within such local improvement district, or by resolution of the board adopted by an affirmative vote of a majority of the members of the full board at a regular or special meeting thereof. The terms of a petition shall include a description of the boundaries of a proposed local improvement district, the improvements to be made and the property to be assessed.

The board may, in its discretion, authorize a preliminary study to determine the feasibility and costs and expenses of a proposed local improvement district and pay for such study out of the general fund of the district. In the event the local improvement district is formed, the cost of the study may be included in the cost of the local improvement district and added to the assessment roll. In the event the local improvement district is not formed, for any reason, the board may authorize the cost of the study to be added to the general assessment rolls of the district as to the property within the proposed local improvement district.

In the alternative, the board may, in its discretion, as a condition of the board proceeding further with the formation of the local improvement district, require the petitioners to provide to the district a deposit in an amount determined in the board's discretion to pay for a preliminary study of the proposed local improvement district to determine the feasibility and costs and expenses of the project.

The petition shall include an acknowledgment by the petitioners that the district may require the petitioners to provide to the district a deposit in an amount determined in the board's discretion to pay for a preliminary study or that the board may, in its discretion, authorize the cost of the study to be paid out of the general fund of the district, with the cost of the study to be included in the cost of the local improvement district and added to the assessment roll if one is formed or to be added to the general

assessment rolls of the district as to the property within the proposed local improvement district if the local improvement district is not formed.

[43-2504, added 1993, ch. 407, sec. 1, p. 1477; am. 2008, ch. 301, sec. 1, p. 838.]

43-2505. RESOLUTION OF INTENTION TO CREATE DISTRICT. Upon the filing of a petition or upon initiation of a local improvement district by board action, the board shall, at a regular or special meeting, adopt a resolution giving notice of its intention to create the local improvement district, to make the improvements and to levy assessments to pay all or a part thereof. The notice shall contain:

(1) A description of the boundaries of the local improvement district to be created and the property to be assessed, sufficient to inform the owners thereof that their property is to be assessed.

(2) A general description of the improvements contemplated, together with an estimate of the total cost and expenses of the same, and a statement of the percentage or other calculation of the total cost and expenses of the improvements which will be paid from a levy of assessments on property benefited and the percentage or calculation of the total costs and expenses, if any, which will be paid from the general funds of the district or from such other source specified in the notice.

(3) A statement that the costs and expenses of the improvements will be assessed against the lots and lands to which irrigation water shall be delivered from the main system of the district to the lots and lands benefited by such improvements and included in the local improvement district to be created according to a gross acreage method, and the board shall state the method in said notice.

(4) A statement that the local improvement district is to be an enlarged local improvement district within the meaning of this act, if the same is true, and the boundaries of such enlarged local improvement district shall be given.

(5) A statement of the time within which and the place at which protests shall be filed and of the time and place at which the board will conduct a public hearing to consider such protests.

[43-2505, added 1993, ch. 407, sec. 1, p. 1478.]

43-2506. NOTICE OF INTENTION AND HEARING. The notice of intention shall be published in the official newspaper of the district. If the district is located in more than one (1) county, the notice of intention may be published only in the county where the property to be assessed in the proposed local improvement district is located. Publication shall be in three (3) consecutive issues if a daily newspaper, or in two (2) issues if a weekly newspaper or in case no newspaper is published in such district then by posting for five (5) days in three (3) public places within the proposed local improvement district. A copy of such notice shall be mailed to each owner of property, if known, or his agent, if known, within the limits of the proposed local improvement district, addressed to such person at his post office address if known, or if unknown, to a post office in the district where the improvement is to be made. Ownership of property shall be determined as of the date of the adoption of the resolution of intent to create. The hearing shall take place not less than ten (10) days from the date of the first of said publications or postings or the date of said mailing, whichever is later.

[43-2506, added 1993, ch. 407, sec. 1, p. 1478; am. 2008, ch. 301, sec. 2, p. 839.]

43-2507. PROTESTS AND HEARINGS. Any owner of property to be assessed in the proposed local improvement district described in the notice of intention shall have the right, in advance of the hearing, to file, in writing, a protest to the creation of the district or making any other objections in relation thereto. At the date, time and place specified in the notice of intention the board shall, in open and public session, consider all protests which have been filed in writing in advance of the hearing, and the hearing may be adjourned one (1) or more times at the discretion of the board to a fixed future time and place for the same, by publicly announcing at the hearing the continued date and time for such hearing, until all such protests have been heard. No further or additional notice of any kind shall be required. At any continued hearing, the board shall not consider any protests that were filed after the original hearing date. The decision of the board as to all protests shall be conclusive and final, and if it should so determine, the board may delete any improvements on any property which had originally been contemplated in the said notice. If owners of more than two-thirds (2/3) of the property to be assessed protest any of the proposed improvements which affect their property, the board shall not proceed further with the work so protested unless a majority of the members of the full board shall vote to proceed with such work. The vote on the hereinafter mentioned resolution creating the local improvement district shall constitute the vote as to whether or not the board will proceed. Any property owner who fails to file a protest within the time specified, or having filed one withdraws said protest, shall be deemed to have waived any objection to the creation of the local improvement district, the making of the improvements, and the inclusion of his property in the local improvement district. Such waiver shall not preclude his right to object to the amount of the assessment at the later hearing provided for such purpose.

In cases where written protests are filed and sixty percent (60%) of the owners or the owners of two-thirds (2/3) of the lots and lands within such proposed local improvement district have signed such protest, the board shall not be allowed to proceed with the creation of the local improvement district for a period of one hundred eighty (180) days.

After expiration of the one hundred eighty (180) day period, the district may recommence the initiation of a local improvement district as originally proposed or as modified as provided in this chapter.

[43-2507, added 1993, ch. 407, sec. 1, p. 1479; am. 2008, ch. 301, sec. 3, p. 839.]

43-2508. RESOLUTION CREATING LOCAL IMPROVEMENT DISTRICT AND PROCEDURE FOR CONSTRUCTION BIDS. If, after the hearing on the creation of the district, the board finds that the local improvement district will be for the best interest of the property affected and the district; that there is reasonable probability that the obligations of such local improvement district will be paid; and the value of the property within the proposed local improvement district is sufficient; it shall then adopt a resolution providing for such improvements and creating a local improvement district to be called "Local Improvement District No. ... for Irrigation District, Idaho," which shall include all of the property within said local improvement district in accordance with the findings of the board, and said

resolution shall set forth the boundaries of the local improvement district, provide the improvements which shall be made, and state that the total cost and expenses thereof shall be assessed according to the percentage or calculation hereinbefore mentioned on all benefited property in the local improvement district by using the gross acreage method of assessment contemplated in the notice of intention subject to any variation therefrom as a result of the board's determining that the benefits to be derived by certain lots or parcels of property warrant such variations. The board shall appoint an engineer and shall have prepared the necessary plans and specifications for the construction work ordered. Except as hereinafter otherwise provided, the board shall authorize the advertisement for bids therefor by giving notice calling for sealed bids for the construction of the work in accordance with the provisions of [chapter 28, title 67](#), Idaho Code.

Any contract made by a district for any improvements authorized by this code shall be made by the board in the name of the district upon such terms of payment as shall be fixed by the board. The contract shall be authorized by resolution empowering the authorized officer of the district to execute the contract. The resolution need not set out the contract in full but it shall be sufficient if the resolution refers to a copy of the contract on file in the office of the secretary where it is available for public inspection.

Any provision in this local improvement district for irrigation districts code notwithstanding, if any district shall elect to exercise the powers herein granted jointly with another irrigation district or districts, or with any other public agency or agencies as authorized by the provisions of section [67-2328](#), Idaho Code, the improvements as contemplated within the local improvement district may be constructed jointly and as part of a larger project with such other agency or agencies upon the letting of a single contract after compliance with the required bidding procedure for any Idaho public agency jointly participating in the work.

[43-2508, added 1993, ch. 407, sec. 1, p. 1480; am. 2005, ch. 213, sec. 16, p. 652.]

43-2509. LIMITATION ON ASSESSMENTS AGAINST PROPERTY. No district shall order any improvement to be paid for by local assessment where the estimated costs of such improvement, if such costs are to be assessed to the property in the local improvement district, or that portion of the estimated costs to be assessed, if a portion only of said total costs are to be assessed, when added to all other outstanding and unpaid local improvement assessments against the property included in the local improvement district, excluding penalties and interest, shall exceed the actual value of the real property in the local improvement district, including the value of the improvements thereon.

The board shall provide, by resolution, the method of determining the actual value of the real property including the improvements thereon in the local improvement district and when the valuation is so determined, such valuation shall be final and conclusive in the absence of fraud or gross mistake.

[43-2509, added 1993, ch. 407, sec. 1, p. 1481.]

43-2510. PREPARATION OF ASSESSMENT ROLL AND NOTICE OF HEARING THEREON. After the contract has been awarded and at such time as the board shall determine, the engineer shall prepare a duly certified report to the

board showing in detail the total cost and expenses of the improvements and the dollar amounts of the same payable from assessments and from other sources. The report shall also contain a form of assessment roll numbering each assessment, giving the name, if known, of the owner of each lot or parcel of property assessed, and showing the amount chargeable to each lot or parcel of property according to the method of assessment originally contemplated by the board subject to any variations therefrom as a result of the engineer's recommendation that benefits to be received by any lot or parcel of property warrant such a variation from the method chosen. Each lot or parcel of property shall be described with sufficient clearness to identify it, and if the engineer recommends any variations from the contemplated method of assessment, those variations shall be pointed out and the reasons for the same shall be given in the report.

Upon receipt of the report, the board shall cause the assessment roll contained therein to be filed in the office of the treasurer where it shall be available for public inspection. The board shall thereupon fix a time and place when and where the board will meet in open session and consider the report and the assessment roll and hear all objections to the assessment roll by the property owners of the local improvement district.

[43-2510, added 1993, ch. 407, sec. 1, p. 1481.]

43-2511. NOTICE OF HEARING ON ASSESSMENT ROLL. After the board fixes the time and place for said hearing on the assessment roll, the secretary of the district shall give notice by publication in the official newspaper of such district. If the district is located in more than one (1) county, the notice may be published only in the county where the property to be assessed is located. Publication shall be in three (3) successive issues if published in a daily newspaper, or by publication in two (2) issues if published in a weekly newspaper, the first of which publication shall be at least fifteen (15) days before the date fixed for hearing objections to said assessment roll, that such assessment roll is on file in his office. The notice shall further state the date, time and place at which the board will hear and consider objections to the assessment roll by the parties aggrieved by such assessments. The secretary shall, not less than fifteen (15) days before the date fixed for hearing objections to said assessment roll, mail a substantially similar notice to each owner of property if known, or his agent if known, within the limits of the local improvement district, addressed to such person at his post office address if known, or if unknown, to the post office in such district where the improvement is to be made. The mailed notice shall also state the amount of the individual assessment and that at the specified time and place the board will hold a hearing to hear and determine all objections to the regularity of the proceedings in making such assessment, the correctness of the assessment, and the amount levied on the particular lot or parcel in relation to the benefits accruing thereon and in relation to the proper proportionate share of the total cost of the improvements in the project. It shall further state that each owner of property within the district is given notice that in revising the assessment roll at or after the hearing, the board may increase any assessment or assessments up to twenty percent (20%) of the original amount thereof without giving further notice and holding a new hearing thereon. The owner or owners of any property which is assessed in such assessment roll, whether named or not in such roll, may, before the date and time fixed for the hearing, file with the secretary his objections in writing to said assessment.

[43-2511, added 1993, ch. 407, sec. 1, p. 1482; am. 2008, ch. 301, sec. 4, p. 841.]

43-2512. HEARING OBJECTIONS TO ASSESSMENT ROLL AND CONFIRMATION. At the time appointed for hearing objections to such assessment roll, the board shall consider the engineer's report and the assessment roll and shall hear and determine all objections which have been filed by any owner of property, or his agent, to the regularity of the proceedings in making such assessment, to the correctness of such assessment, to the amount levied on any particular lot or parcel of land, including the benefits accruing thereon and the proper proportionate share of the total cost of the improvements to be borne thereby and to the inclusion of any lot or parcel of land in the proposed district. The board shall have the power: to adjourn such hearing from time to time and, in its discretion, to revise, correct, conform or set aside any assessment and to order that such assessment be made de novo; and to exclude any lot or parcel of land from an assessment roll which, in the judgment of the board, it finds will not be benefited by improvements to be made. If any assessments are increased in an amount greater than twenty percent (20%) of the amount of the assessments as set out in the notice of the hearing, then a new notice of the hearing shall be given and a new hearing held as aforesaid. No new hearing shall be required in the event that any assessments are decreased in any amount or are increased in an amount up to twenty percent (20%) of the original amount.

[43-2512, added 1993, ch. 407, sec. 1, p. 1482.]

43-2513. CONFIRMATION OF ASSESSMENT ROLL. After said hearing the board shall pass a resolution confirming the assessment roll as corrected by them in relation to the benefits accruing thereon as a result of the improvements being made. The resolution shall be the final determination of the regularity, validity and correctness of the assessment roll, of each assessment contained therein, and of the amount thereof levied on each lot or parcel of land, which resolution shall contain a finding that each lot or parcel of land is benefited to the amount of assessment levied thereon subject to appeal as provided herein. Upon passage of the resolution, the secretary shall certify and file the confirmed assessment roll with the treasurer of the district and the assessments therein shall be due and payable to the treasurer within thirty (30) days from the date of the adoption of the resolution. The confirmed assessment roll and the assessments made by the confirmed assessment roll shall be a lien upon the property assessed from and after the date the following notice is recorded. Immediately upon passage of the confirming resolution the secretary shall file with the county recorder a notice which shall contain the date of the confirming resolution and a description of the area or boundaries of the local improvement district. If any assessment is not paid in full within said thirty (30) day period, such assessment shall become delinquent and shall be collected in the same manner and with the same penalties and interest added thereto as hereinafter provided for delinquent assessments. The board may, in the alternative, determine to make assessments unpaid at the end of said thirty (30) day period payable in installments and to issue and sell registered warrants or installment bonds payable from such unpaid installments as herein provided. If the board chooses to do so, it shall provide in said resolution that any property owner who has not paid his assessment in full within said thirty (30) day period will be conclusively presumed to have chosen to pay the

same in installments, and the resolution shall then establish the number of years said installments shall run, the dates of payment of the same and the rate of interest that the unpaid assessments shall bear, which rate shall not be less than the rate of interest borne by the warrants or bonds payable therefrom, said interest running from the date of the passage of the assessment resolution, irrespective of the date of its official publication, and being payable at the same time and place as the installment payments of assessments. Said installments shall be due and payable in not to exceed thirty (30) years to the treasurer or other proper officer as provided by the board. The resolution shall establish the due date of the first installment payment and that the local or special assessments may be carried on the rolls of the district and collected as hereinafter provided. If any installment is not paid within twenty (20) days from the date it is due, the same shall become delinquent and the treasurer shall add a penalty of two percent (2%) thereto. In addition to any other method of collection provided in this code, the board may certify delinquent installments to the treasurer, and when so certified they shall be extended on the assessment rolls and collected as other assessments levied upon lands in the district. In the event that any property owner should choose to pay his assessment in full after such time as it has been conclusively presumed that he will pay in installments, such payment in full shall include the full amount of the unpaid assessment plus penalties and all interest payable on the same plus additional interest thereon at the rate provided in the bonds from the date of the last installment due to one (1) year after the next interest date of said bonds.

Any errors in description, ownership of property or amounts in any assessment resolution adopted pursuant to this section may be corrected by the passage of an amendatory resolution which need set forth only the corrected descriptions or amounts. The passage of such amendatory resolution shall serve only to postpone the thirty (30) day period for payment in full of the assessments actually affected by such amendatory resolution and the due dates of installments of such affected assessments shall be the same as the due dates of installments not affected. Notice of any assessments so affected shall be given in the same manner as hereinafter provided for the giving of notice of assessments.

[43-2513, added 1993, ch. 407, sec. 1, p. 1483.]

43-2514. NOTICE AND PAYMENT OF ASSESSMENTS. Upon passage of the assessment roll, the treasurer of the district shall mail a postcard or letter to each property owner assessed at his post-office address if known, or if unknown, to the post office in the district where the improvement is being made, stating the total amount of his assessment, plus the substance of the terms of payments of the same as set out in the resolution confirming the assessment roll.

An affidavit of the mailing of the notice shall be filed, before the date of delinquency, in the office of the treasurer in the file of the local improvement district, but the failure of the treasurer to give any notice required in this section or to do any other act or thing required in this section, shall not affect the validity of the assessments or installments thereof due nor extend the time for payment, but shall subject the district to liability to a property owner for any damage sustained by the latter by reason of such failure.

[43-2514, added 1993, ch. 407, sec. 1, p. 1484.]

43-2515. INSTALLMENT DOCKET. Whenever any improvement bonds or warrants are issued as herein provided, the treasurer shall immediately thereafter mark on the assessment roll of such local improvement district opposite each assessment which has been paid, the word "paid" together with the date of payment, and shall immediately thereafter enter in a docket to be kept for that purpose, known as "local improvement installment docket" under separate heads for each local improvement district, all unpaid assessments as shown on such assessment roll, said docket to be made up from the assessment roll, and shall contain in separate columns the number of the assessment, the name of the owner, the description of the property, the amount of the total assessment, the amount and date when due of each annual installment with interest added, and a blank column in which shall be marked the date of payment of each installment. Such docket shall stand thereafter as a lien docket for such assessments so shown until paid.

[43-2515, added 1993, ch. 407, sec. 1, p. 1484.]

43-2516. APPEAL PROCEDURE -- EXCLUSIVE REMEDY. Any person who properly has filed objections to the assessment roll or any other person who feels aggrieved by the decision of the board in confirming the same shall have the right to appeal to the district court of any county in which the local improvement district or any portion thereof may be situated. Such appeal shall be made within thirty (30) days from the date of publication of the resolution confirming the assessment roll by filing a written notice of appeal with the secretary of the district and with the clerk of the district court aforesaid describing the property and objections of the appellant. The appellant shall also provide a bond to the district in a sum to be fixed by the court, but not less than two hundred dollars (\$200) with sureties to be approved by the court, conditioned to pay all costs to be awarded to the respondent upon such an appeal. After said thirty (30) day appeal period has run, no one shall have any cause or right of action to contest the legality, formality or regularity of said assessments for any reason whatsoever and, thereafter, said assessments and the liens thereon shall be considered valid and incontestable without limitation.

If an appeal is filed within said period, the case shall be docketed by the clerk of said court in the name of the person taking the appeal against the district as "an appeal from assessments." Said cause shall then be at issue and have precedence over all civil cases pending in said court, except proceedings under the act relating to eminent domain by cities and actions of forcible entry and detainer. Such appeal shall be tried in said court as in the case of equitable causes except that no pleadings shall be necessary. The judgment of the court shall be either to confirm, modify or annul the assessment insofar as the same affects the property of the appellant, from which judgment an appeal may be taken to the supreme court as provided by law. In case the assessment is confirmed, the fees of the secretary of the district for copies of the record shall be taxed against the appellant with other costs.

[43-2516, added 1993, ch. 407, sec. 1, p. 1485.]

43-2517. ADDITIONAL IMPROVEMENTS. Whenever any assessment is levied on any property for further, separate or additional improvement under the

provisions of this code or any law of this state, such assessment shall be a subsequent lien upon the property so assessed to the lien of the unpaid assessments theretofore made for the original improvement. Whenever any assessment is made for such further, separate or additional improvement on property on which an existing assessment has been levied for improvements, such further, separate or additional assessment for improvement shall not be construed or considered as for one and the same improvement, or for the same purpose or for the same benefit, or as a double assessment for improvements against the property being assessed for the payment of the cost and expense of such improvement but shall be considered and construed as a separate, distinct, single and independent improvement on and of benefit to the property so assessed. All assessments so levied or bonds or warrants issued payable from the same shall be considered and construed as assessments levied or bonds or warrants issued for separate, distinct, single and independent improvements and benefits on and to the property so assessed.

[43-2517, added 1993, ch. 407, sec. 1, p. 1485.]

43-2518. REASSESSMENT OF BENEFITS. In all cases of assessments for local improvements of any kind against any property wherein said assessments have failed to be valid in whole or in part for want of form or sufficiency, informality, irregularity or nonconformance with the bylaws, resolutions or laws governing such assessments, the board shall be and is hereby authorized to reassess such assessments and to enforce their collection in accordance with the provisions of law existing at the time the reassessment is made. No mistake in description of the property or the name of the owner thereof shall affect the validity of any assessment or any lien created thereby under the provisions of this code, or any law of this state, unless such mistake or error renders it impossible to identify the property so assessed.

When for any cause, mistake or inadvertence, the amount assessed on any property is insufficient to pay the cost and expenses of the improvement made and enjoyed by the owner of such property, it shall be lawful, and the board is hereby directed and authorized, to make reassessments on said property sufficient in amount to pay for such improvements, the reassessment to be made and collected in accordance with the provisions of law existing at the time of its levy.

[43-2518, added 1993, ch. 407, sec. 1, p. 1486.]

43-2519. LIEN OF ASSESSMENT -- FORECLOSURE. Assessments levied to pay the cost and expense of any improvement authorized by the provisions of this chapter shall constitute a lien upon and against the property upon which such assessment or assessments are made and levied from and after the date upon which the resolution levying such assessment or assessments is passed, which lien shall be superior to the lien of any mortgage or other encumbrance, whether prior in time or not, and shall constitute such lien until paid, and until paid, such lien shall not be subject to extinguishment for any reason whatsoever, including but not limited to the sale of the property assessed on account of the nonpayment of general taxes or the conveyance of such property by any means to the United States of America, or any agency thereof, the state of Idaho, or any county, city, irrigation district, school district, college district or other public body, agency or taxing unit in said state. When bonds have not been issued and said assessments made payable in installments as herein provided, such assessments shall be collected, or the property

therein shall be foreclosed and sold for such assessments and costs, in a suit for that purpose by the district.

Such suit shall be in the name of the district as plaintiff and against any one (1) or more owners of property failing to pay such assessment or assessments as defendants. In any such proceedings where the court, trying the same, shall be satisfied that the improvements have been made or have been contracted for, which according to the true intent of this code would be properly chargeable to such property, a recovery shall be permitted and the lien enforced to the extent of the cost and expenses of the improvement which would be chargeable on such property notwithstanding any informality, irregularity or defect in any of the proceedings of such district or any of its officers, and such property shall be ordered sold for the payment of the assessment or assessments against it and the costs and expenses of such suit including reasonable attorney's fees to be fixed by the court and prorated to each separate piece of property to be sold.

[43-2519, added 1993, ch. 407, sec. 1, p. 1486.]

43-2520. SEGREGATION OF ASSESSMENTS. Whenever any land against which there has been levied any special assessment by any district shall have been sold in part or subdivided, the board of that district shall have the power to order a segregation of the assessment.

Any person desiring to have such a special assessment against a tract of land segregated to apply to smaller parts thereof shall apply to the district which levied the assessment. If the board determines that a segregation should be made, it shall by resolution order the treasurer to make segregation on the original assessment roll of the local improvement district as directed in the resolution and in accordance with section [43-701](#), Idaho Code. The segregation shall be made as nearly as possible on the same basis as the original assessment was levied, and the total of the segregated parts of the assessment shall equal the assessment before segregation. The resolution shall describe the original tract, the amount and date of the original assessment, and shall define the boundaries of the divided parts and the amount of the assessment chargeable to each part. A certified copy of the resolution shall be filed with the county recorder. The board may require, as a condition to the order of segregation, that the person seeking the segregation pay the district the reasonable engineering and clerical costs incident to making the segregation. No segregation need be made if the board shall find that by such segregation the security of the lien for the assessment will be so jeopardized as to reduce the security for any outstanding local improvement district obligations payable from such assessment.

[43-2520, added 1993, ch. 407, sec. 1, p. 1487.]

43-2521. BONDS -- REGISTERED WARRANTS -- INTERIM WARRANTS -- ELECTION NOT REQUIRED. If the board determines to make assessments payable in installments as is provided in section [43-2515](#), Idaho Code, it shall by resolution authorize to be issued, in the name of the district, improvement bonds of the local improvement district payable from assessments levied against the property within the local improvement district. Such bonds shall be payable each year from and after the date of the bonds and shall be of such denomination and bear interest, payable annually, at such rate as is determined by the board, but in no event shall such rate of interest be greater than the rate of interest borne by the unpaid assessments.

The bonds shall be in such form and denomination as may be provided by the board and they shall mature serially over a period not exceeding thirty (30) years. The board may reserve the right to redeem any of the bonds at its option on any interest payment at such price or prices as determined by the board. The bonds shall be signed by the president of the district, and shall be countersigned by the treasurer and attested by the secretary of the district. No bond or coupon shall be invalid because an officer whose manual or facsimile signature thereon has ceased to hold office at the time of the delivery of the bonds so long as he held the office at the time such signature was placed on the bond or coupon. The coupons attached thereto shall bear the facsimile signatures of said officers and each bond shall have the seal of the district affixed thereto. Each bond shall provide that the principal thereof and the interest thereon are payable solely from the principal of and interest on the unpaid assessments levied in the local improvement district to pay the total cost and expenses of the project concerned.

In lieu of bonds, registered warrants may be issued under the same circumstances and in the same manner as bonds, such warrants to be issued in payment of any or all costs or expenses of the improvements to the amount said costs or expenses were set out in the engineer's report. The warrants shall be redeemable in numerical order and further shall be subject to all provisions of this code relating to local improvement bonds so far as the same may be applicable.

If the board shall determine to issue and sell bonds, it may for the purpose of meeting any costs and expenses of making the improvements, as the same are installed prior to the sale of the bonds, issue interim warrants of the local improvement district, payable to the contractor or other proper person upon estimates of the engineer, bearing interest at a rate provided by the board, which interim warrants together with the interest due thereon at the date of the issue of the bonds, shall be redeemed and retired from the proceeds of the sale of the bonds or prepayment of assessments.

Bonds issued hereunder shall have all the requisites of negotiable paper under the uniform commercial code, and shall not be invalid for irregularity or defect in the proceedings for their issuance, sale or delivery, and shall be incontestable in the hands of bona fide purchasers or holders for value thereof. Nothing herein contained shall prohibit any district from issuing bonds or warrants in the denomination of one hundred dollars (\$100), or an even multiple thereof, except that bond number one (1) of any issue may be of a denomination other than one hundred dollars (\$100).

No election shall be required for the approval of issuance of bonds, registered warrants or interim warrants of any local improvement district formed under the provisions of this chapter, and specifically, but not by way of limitation, districts issuing bonds or warrants under the provisions of this chapter shall not be required to comply with the election requirements contained in section [43-401](#), Idaho Code.

[43-2521, added 1993, ch. 407, sec. 1, p. 1487.]

43-2522. LIABILITY OF DISTRICT. The holder of any bond, issued under the authority of this code, shall have no claim therefor against the district by which the same is issued, except to the extent of the funds created and received by assessments for the applicable bond issue against the property within any local improvement district as herein provided and to the extent of the local improvement guarantee fund for the applicable bond issue which may be established by any such district under the provisions of this code,

but the district shall be held responsible for the lawful levy of all special taxes or assessments herein provided and for the faithful accounting of settlements and payments of the special taxes and assessments levied for the payment of the bonds as herein provided. The owners and holders of such bonds shall be entitled to complete enforcement of all assessments made for the payment of such bonds. A copy of this section shall be plainly written, printed or engraved on the face of each bond so issued.

[43-2522, added 1993, ch. 407, sec. 1, p. 1488.]

43-2523. BOND AND INTEREST FUNDS. Once bonds are issued as provided herein, any funds paid as installment payments of assessments pledged to the payment of such bonds shall be kept in a fund known as the bond fund of the local improvement district and any funds paid as interest on said installment payments of assessments shall be kept in a fund known as the interest fund of the local improvement district. The funds shall be deposited in such bank or banks as are designated as depositories of public moneys of such irrigation districts under the laws of this state, or invested in bonds or warrants of the district. Interest received on such funds so deposited or invested shall be placed to the credit of the fund from which it is earned. Maturing bonds shall be paid from the bond fund and the interest on the bonds, when due, shall be paid from the interest fund. If there is sufficient money in the bond fund to pay the principal of one (1) or more bonds, the treasurer may call in and pay such bonds as of the next interest payment date in such manner as may be provided by the board at the time of the issuance of the bonds. The bonds to be called shall be selected by lot and shall, in the event less than all of the outstanding bonds are to be redeemed, insofar as can be done taking into consideration the denominations of the outstanding bonds, represent an equal amount of bonds from each maturity outstanding at the time of the redemption.

[43-2523, added 1993, ch. 407, sec. 1, p. 1488.]

43-2524. REISSUE OF BONDS. Where any bonds issued under this code are declared invalid or void by order or decree of court, which may be legally reissued, the board of such district shall, by resolution, provide for the reissuance thereof at the same rate of interest and in such amount as will cover the principal and interest due on said bonds, and the resolution providing for such reissue shall provide for the surrender and cancellation of such bonds upon which there has been a default or which have been declared invalid or void and the lien created by the levy of such assessment or assessments as herein provided shall not be deemed to have been lost or waived by such reissue but shall remain in full force and effect.

[43-2524, added 1993, ch. 407, sec. 1, p. 1489.]

43-2525. RIGHTS AGAINST ASSESSMENTS. The said bonds of any local improvement district as herein provided, when sold as hereinbefore provided, shall transfer to the owner or holder of such bonds all the rights and interest of such district in and with respect to every such assessment and the lien thereby created against the property of each owner assessed as shall not have availed himself of the provisions of this chapter, in regard to the redemption of his property as aforesaid, and shall authorize owners and holders of such bonds to receive and have collected the assessment or assessments em-

braced in any such bonds through any of the methods provided by law for the collection of assessments for local improvements.

Whenever any installment of an assessment or the interest thereon made for the payment of principal, or interest on such bonds so issued, is not paid when due and shall become delinquent, the district may by a resolution duly adopted declare all unpaid installments against any property to pay the cost and expenses of such improvement to be immediately due, payable and delinquent, and may thereupon cause a delinquency certificate to be issued against said property for the whole of the unpaid assessment against it in the manner hereinafter provided for issuance of delinquency certificates upon any installment of such assessment(s) becoming delinquent, and any such board must pass such resolution upon the written request of the holders of one-half (1/2) of any such bond issue, filed with the secretary.

[43-2525, added 1993, ch. 407, sec. 1, p. 1489.]

43-2526. PUBLICATION AND CONCLUSIVENESS OF PROCEEDINGS. The board may provide for the publication of any resolution or other proceeding adopted by it pursuant to this code in the official newspaper of the district. For a period of thirty (30) days after such publication any person in interest shall have the right to contest the legality of such resolution or proceeding or any bonds which may be authorized thereby. No contest or proceeding to question the validity or legality of any resolution or proceeding, or any bonds which may be authorized thereby, passed or adopted under the provisions of this code shall be brought in any court by any person for any cause whatsoever, after the expiration of thirty (30) days from the date when the resolution or proceeding was published, and after such time the validity, legality and regularity of such resolution or proceeding or any bonds authorized thereby shall be conclusively presumed. If the question of validity of any bonds issued pursuant to this code is not raised within thirty (30) days from the date of publication of the resolution or proceeding issuing said bonds and fixing their terms, the authority to issue the bonds, the legality thereof and of the assessments necessary to pay the same shall be conclusively presumed and no court shall thereafter have authority to inquire into such matters.

[43-2526, added 1993, ch. 407, sec. 1, p. 1490.]

43-2527. CONSOLIDATED LOCAL IMPROVEMENT DISTRICTS AUTHORIZED. Solely for the purpose of issuing bonds, registered warrants or interim warrants, the board of any district may authorize the establishment of consolidated local improvement districts. The original local improvement districts so consolidated need not be contiguous. If the board orders the creation of such consolidated local improvement districts, the moneys received from the installment payment of the principal of and interest on assessments levied within the original local improvement districts shall be deposited in a consolidated local improvement district bond fund and interest fund to be used to pay the principal of and interest on the outstanding consolidated local improvement district bonds or warrants.

[43-2527, added 1993, ch. 407, sec. 1, p. 1490.]

43-2528. DELINQUENT INSTALLMENTS. If any installment or payment is not made as provided hereinbefore and is in default, it shall then become delinquent.

[43-2528, added 1993, ch. 407, sec. 1, p. 1490.]

43-2529. DELINQUENT CERTIFICATES. As soon as any assessment or installment thereof, of any local improvement district shall become delinquent, the treasurer shall, if such assessment be collected in one (1) payment, mark the same delinquent on the assessment roll, or if for an installment of an assessment, on the local improvement installment docket, and shall add to the amount shown on said assessment roll, or installment docket, a penalty of two percent (2%) thereon. Within ten (10) days thereafter the treasurer shall prepare and issue to the district in which such local improvement district is located, a delinquency certificate to the property included in each such delinquent assessment or installment, which certificate shall have the force and effect of a sale of said property to the district for the amount of the delinquent assessment or installment plus penalty, said certificate shall bear date as of the time such assessment or installment became delinquent and shall be for the amount thereof plus the penalty charged thereon. Such certificate shall contain: the description of the property to be sold; the name of the person assessed, if known, or if unknown, that fact; the amount of the assessment or installment, plus penalty thereon; the number of the assessment and the name of the local improvement district in which assessed; and the date when such certificate will go to deed and shall bear interest from date thereof at the rate of ten percent (10%) per annum. Such certificates shall be made in duplicate, bound together in books in numerical order and filed in the office of the treasurer; provided, that after one (1) such certificate has been issued no further delinquency certificate shall be issued for subsequent installments of the same assessment, except as hereinafter provided, and whenever any subsequent installment shall thereafter become delinquent the treasurer shall so mark the same in the installment docket and add the penalty thereto, as hereinbefore provided, and the same shall draw interest at the rate of ten percent (10%) per annum from date of delinquency until the end of the month in which it is paid.

[43-2529, added 1993, ch. 407, sec. 1, p. 1490.]

43-2530. DELINQUENT CERTIFICATE REGISTER. Within twenty (20) days after preparing and issuing any delinquency certificate the treasurer shall enter the same in a book to be kept by said treasurer known as "Local Improvement District Delinquency Certificate Register," which register shall contain, in proper columns: the number of the assessment; the name of the local improvement district in which assessed; name of the person to whom assessed, if known; description of the property sold, corresponding with the description in the certificate and the assessment roll; and the amount of assessment and penalty, and the treasurer must regularly number each entry in said register on the margin of said book and put a corresponding number on each original and duplicate delinquency certificate. Such register must contain blank spaces following each entry of a delinquency certificate therein, in which may be entered the name of an assignee thereof, the date of such assignment and the amount paid the assignee, the name of a redemptioner thereof, the date of such redemption and the amount paid by such redemptioner. Such

book or register shall be retained by the treasurer and become a part of the records of his office. From and after entry in such register and until two (2) years from its date, any such certificate, unless redeemed, may be purchased from the treasurer in the manner hereinafter provided.

[43-2530, added 1993, ch. 407, sec. 1, p. 1491.]

43-2531. ASSIGNMENT OF DELINQUENT CERTIFICATES. Whenever any person shall tender to the treasurer in cash the amount of any such certificate and interest thereon at the rate of ten percent (10%) per annum from date of such certificate to the end of the month in which such purchase is made, together with any subsequent installments then due with penalties and interest thereon, the treasurer shall assign such delinquency certificate to the purchaser by making and executing for and on behalf of the district the blank assignment on both the original and duplicate thereof, and shall deliver the original certificate so assigned to the purchaser. Whenever the purchaser shall be required to pay subsequent assessments in addition to the amount of such delinquency certificate, the fact of such payment and the amount thereof including penalty and interest, shall be endorsed on the original and duplicate certificate so assigned. Thereafter the treasurer shall immediately make the proper entries showing such assignment in the local improvement district delinquency register, and in the installment docket; provided, that past due interest coupons and past due bonds of the local improvement district for which such certificate was issued shall be received by the treasurer, at par and accrued interest in payment of such certificates. Such bonds and coupons shall be forthwith cancelled by the treasurer.

[43-2531, added 1993, ch. 407, sec. 1, p. 1491.]

43-2532. FORM OF ASSIGNMENT -- ASSIGNMENT BY PURCHASER. The assignment prescribed by the preceding section must be substantially in the following form, and endorsed on the certificate:

ASSIGNMENT BY TREASURER

State of Idaho

ss.

.....

Irrigation District

For and in consideration of the sum of \$.... paid to said district, the receipt whereof is hereby acknowledged, I do hereby assign to whose post-office address is all the right, title and interest of the said district in and to the within and foregoing delinquency certificate.

In witness whereof, I have hereunto set my hand at, Idaho, this day of,

..... Treasurer of the Irrigation District

Such delinquency certificate may be assigned by the purchaser; provided, that such assignment must be attached to the original delinquency certificate and a duplicate of such assignment must be delivered to the treasurer who must attach the same to the duplicate delinquency certificate in his office.

The assignment of any delinquency certificate by the purchaser thereof or any assignee of such purchaser must be executed in duplicate and acknowledged as provided by law in the conveyance of real property and such assignment must be substantially in the following form, to wit:

"For value received, I hereby assign to whose post-office address is, all my right, title and interest in and to delinquency certificate No., issued by the treasurer of Irrigation District, Idaho, on account of delinquent local improvement district assessments for the year, on the property described in said certificate.

In witness whereof, I have hereunto set my hand this day of ,

....."

(acknowledgment)

[43-2532, added 1993, ch. 407, sec. 1, p. 1492; am. 2002, ch. 32, sec. 16, p. 54.]

43-2533. REDEMPTION. At any time within two (2) years from the date of any delinquency certificate, the owner of the property described therein, or anyone on his behalf, may redeem such property by paying to the treasurer the amount stated in such certificate together with interest thereon at the rate of ten percent (10%) per annum, from date thereof to the last day of the month in which such redemption is made. Thereupon the treasurer shall issue to the redemptioner a certificate of redemption which shall state the name of the redemptioner, the date of redemption, the number of the certificate so redeemed, the description of the property contained therein, and the name of the local improvement district for which said certificate was issued. In case said certificate has not been assigned, the treasurer shall note such upon the original and duplicate delinquency certificate; if assigned upon the duplicate certificate the fact that the same has been redeemed, the date of redemption and shall note the same upon the local improvement delinquency certificate register and the local improvement installment docket; provided, that no redemption of any such certificate shall be allowed unless all assessments which have become due subsequent to the one for which said delinquency certificate shall have been issued with penalties, and interest at the rate of ten percent (10%) per annum from date of said delinquency to the end of the month in which the same is redeemed, shall be paid, which fact together with the amount paid shall be stated upon the redemption certificate. The money received from the redemption of any property described in a certificate which has been assigned shall be deposited by the treasurer to the credit of the person named in the last assignment of such certificate. The treasurer shall thereupon give notice to such person at the address shown by the record of such deposit, and such person shall thereafter be paid the same by the treasurer, without additional interest, upon surrender of such certificate to the treasurer who shall mark the same "paid" and hold it as a voucher.

[43-2533, added 1993, ch. 407, sec. 1, p. 1493.]

43-2534. DEED. If the property described in any delinquency certificate is not redeemed within two (2) years from the date thereof, the treasurer, after having given notice as hereinafter required, shall issue a deed thereto to the district, or if the same has been assigned as hereinbefore provided, then to the person holding the original delinquency certificate

under assignment, upon request therefor, and upon the delivery to the treasurer of such original certificate and filing proof of having given notice as required by the treasurer before making a deed to the district. Such deed shall recite substantially the matter contained in the certificate and that no person redeemed the property within the time allowed, by law, for its redemption. It shall be signed and acknowledged by the treasurer in the manner required, by law, to entitle the same to be recorded under the laws of this state; provided, that such deed shall not be issued to an assignee until he has paid all subsequent installments and assessments of the local improvement district then delinquent or due upon the property described in the delinquency certificate, together with the penalties and interest thereon. Such deed to an assignee shall be made subject to all unpaid installments not then due and subject to all regular or special assessments of the district, not related to the local improvement district.

[43-2534, added 1993, ch. 407, sec. 1, p. 1493.]

43-2535. NOTICE OF EXPIRATION OF TIME OF REDEMPTION. The treasurer shall, at least one (1) month and not more than three (3) months before the expiration of the time of redemption of any property, serve or cause to be served, a written or printed, or partly written and partly printed, notice on the person or persons in the actual possession or occupancy of such land or lots, and shall also, within the same time, serve upon or mail to, the person in whose name the same stands upon the assessment records in the county assessor's office, a copy of said notice; which notice shall state when the delinquency certificate was made, in whose name the property was assessed, the description of the land or lots, the name of the local improvement district for which assessed, the amount of the assessment or installment, and when the time of redemption will expire. The treasurer shall, at the same time, send a similar notice, by mail, to each mortgagee or other holder of a recorded lien against such land, in each case where such mortgagee or lienholder has previously filed in the office of the treasurer a written request for such notice and paid the fee therefor, which request shall include the name and address of the mortgagee, the name of the reputed owner of the land, a description of the land and the date of the expiration of the mortgage or lien; no notice need be sent after the date of expiration, unless a further request therefor be duly filed. If the mortgagee or lienholder shall furnish a duplicate form of request for that purpose the treasurer shall certify thereon to the filing of the request and deliver the same to the party filing it. If there is no person in actual possession or occupancy of such land or lot and if the persons in whose name it stands, upon diligent inquiry cannot be found in the state, then the treasurer shall, within the same time, post or have posted, a copy of said notice in a conspicuous place upon said land or lots and in a substantial manner.

Whenever any notice is mailed, as herein required, the fact that the addressee does not receive it shall not in any manner invalidate or affect the proceedings herein provided.

[43-2535, added 1993, ch. 407, sec. 1, p. 1494.]

43-2536. PROOF OF NOTICE. The treasurer shall, before issuing any deed to the district, make and file his affidavit showing a full compliance with the requirements of the preceding section [43-2535] as to giving notice of the expiration of the period of redemption; before issuing a deed to the

holder of any delinquency certificate, the treasurer shall require that affidavits be filed showing a complete compliance with the provisions of the previous section as to giving such notice. Such proof shall be filed in the office of the treasurer and remain a permanent record in such office. Any person making a false affidavit as to any fact required herein shall be guilty of perjury.

[43-2536, added 1993, ch. 407, sec. 1, p. 1494.]

43-2537. EFFECT OF DEED AS EVIDENCE. The matters recited in the delinquency certificate must be recited in the deed and such deed duly acknowledged or proved shall be prima facie evidence:

(1) That the local improvement district was created, the assessment made and the work and improvement done in the manner provided by law;

(2) That all notices were given, all hearings were had, orders made and resolutions passed and adopted required by law, and that all the proceedings up to the execution and delivery of such deed were had and done in the manner required by law;

(3) That the assessments were not paid, the delinquency entries were properly made and delinquency certificate properly issued, as prescribed by law, and by the proper officer;

(4) That the property was not redeemed, that the notice required to be given before deed was taken was properly given as required by law, and that the person who executed the deed was the proper officer.

[43-2537, added 1993, ch. 407, sec. 1, p. 1494.]

43-2538. DELINQUENCY CERTIFICATE FOR SUBSEQUENT INSTALLMENTS. Whenever any delinquency certificate has been assigned, as hereinbefore provided, and the time for redemption has expired and there are outstanding, against the property covered by said certificate, any delinquent installments subsequent in time to the installment for which the property was sold, then the treasurer shall issue to the district a delinquency certificate for such past due installments in the same manner, as hereinbefore provided, and shall cancel the previous delinquency certificate and the same shall be of no further force and effect. Such delinquency certificate for subsequent installments may be assigned in the same manner, as hereinbefore provided, and have the same force and effect.

[43-2538, added 1993, ch. 407, sec. 1, p. 1495.]

43-2539. FEES OF TREASURER. The treasurer shall receive the following fees, which, when paid, shall be credited to the general fund of the district: for issuing any delinquency certificate ten dollars (\$10.00) to be included in the amount of the certificate; for making any deed ten dollars (\$10.00), to be paid by the person to whom made; for giving notice to a mortgagee or lienholder five dollars (\$5.00), to be paid by such person; for giving notice of expiration of period of redemption five dollars (\$5.00). In all cases where the property is deeded to the district the fees shall be charged to the amount for which the deed is taken and shall be paid upon the sale of the property, or the sale of the delinquency certificate.

[43-2539, added 1993, ch. 407, sec. 1, p. 1495.]

43-2540. SUIT TO QUIET TITLE. Whenever the necessary costs and attorney's fees have been advanced by the holders of the bonds of the district or any prospective purchaser or other person, it shall be the duty of the board of such district to cause the attorney for the district to commence suit to quiet title to the property described in said deed in the name of the district and to secure the possession of the property; provided, that the property described in any number of tax deeds so made to the district and against any number of owners of property may be included in the same suit.

[43-2540, added 1993, ch. 407, sec. 1, p. 1495.]

43-2541. SALE OF PROPERTY DEEDED TO DISTRICT. At any time after acquiring title and possession of any property, as hereinbefore provided, the district may sell such property to any purchaser upon receiving therefor a sum not less than the amount for which the property was sold to the district and by the payment of all installments of assessments subsequent to the one (1) for which such property was sold and then due together with the penalties and interest thereon. The purchaser shall take such property subject to any unpaid general taxes and assessments and to all local improvement district installments not then due, and the district shall thereafter collect such installments in the manner provided by this code. When such purchase is made and the money paid therefor, the district shall issue a deed to the purchaser signed by the president and attested by the secretary, which deed shall be executed and acknowledged in the manner required, by law, to entitle the same to be recorded under the laws of this state.

In selling such property and in conveying title thereto the provisions of sections [43-1508](#) and [43-1509](#), Idaho Code, shall not apply and compliance with the procedures set forth in section [43-318](#), Idaho Code, shall not be required, but no conveyance under this section shall be valid unless it be approved by an affirmative vote of more than one-half (1/2) of the full board.

[43-2541, added 1993, ch. 407, sec. 1, p. 1495.]

43-2542. SALE OF PROPERTY AFTER MATURITY OF BONDS. Within thirty (30) days after the maturity of the last installment of any issue of bonds of a local improvement district, if any such bonds or interest coupons shall remain unpaid, any property remaining unsold, to which the district has taken title by reason of assessment of such local improvement district, shall be appraised and immediately after said appraisal such property shall be offered for sale by giving notice of the time and place of sale thereof by publication of such notice in a newspaper published in the district for ten (10) consecutive issues if a daily paper, or in two (2) consecutive issues if a weekly paper, or if there be no newspaper published in such district then in a newspaper having general circulation therein, the date of sale to be not less than twenty (20) days from the date of the first publication of such notice. At the time and place designated in the notice the treasurer shall offer such property for sale to the highest bidder, but no sale shall be made for less than the appraised value. If no bid be received for a sum equal to or greater than the appraised value, then the sale may be postponed for not to exceed thirty (30) days, and shall be readvertised, and at the time to which such sale was postponed shall again be offered for sale and sold to the highest bidder. Upon the sale of any property and the payment therefor, a deed shall be executed to the purchaser in the same manner, as provided for the execution of deeds in section [43-2541](#), Idaho Code.

[43-2542, added 1993, ch. 407, sec. 1, p. 1496.]

43-2543. DISPOSITION OF FUNDS. All money received by the treasurer on account of the payment of assessments or installments thereof, the assignment or redemption of delinquency certificates, or for rents, issues and profits, or from the sale of any property, title to which is held by the district for the benefit of any local improvement district, less any expenses of securing possession of said property, or for the care and operation and sale of the same, shall be deposited to the credit of the interest fund and bond fund of the local improvement district, in the same proportion as the assessment or installments for which the property was taken. Any money left in a local improvement district interest or bond fund or any money derived from the rental or sale of any real property acquired by the district through the sale for delinquent assessments or installments shall, after all warrants, bonds and coupons of said local improvement district have been paid in full, be credited to the general fund of the district.

[43-2543, added 1993, ch. 407, sec. 1, p. 1496.]

43-2544. DELINQUENT CERTIFICATE NOT ASSIGNABLE DURING PENDENCY OF ACTION. No certificate of delinquency as hereinbefore provided, shall be assigned, or any property sold, to which the district has taken a deed, on account of any assessment, or installment thereof, during the pendency of any proceeding in court challenging the validity of such assessment.

[43-2544, added 1993, ch. 407, sec. 1, p. 1497.]

43-2545. DUTIES OF OFFICERS. When the board shall decide that it is to the best interest of the district that the duties in this code designated to be performed by the treasurer should be done and performed by the secretary of such district, they may at their option, by resolution, duly presented and approved by such board assign such duties to the secretary of such district; provided, that the duty of receiving any funds collected by the secretary and the depositing and disbursing of such funds by order of the board shall always be and remain the duty and responsibility of the treasurer. The board shall, in said resolution, devise a proper system or plan whereby the secretary may pay to the treasurer all moneys collected by him and take receipts therefor.

[43-2545, added 1993, ch. 407, sec. 1, p. 1497.]

43-2546. LOCAL IMPROVEMENT GUARANTEE FUND -- CREATION OF FUND. Any district may by resolution of appropriation or by levy of a tax of not to exceed one (1) mill in any one (1) year upon the lots or lands in the local improvement district, or by appropriation from such other sources of the local improvement district as may be determined by the board, create a fund for the purpose of guaranteeing, to the extent of such fund, the payment of bonds or warrants and interest thereon, hereafter issued against any local improvements therein; provided, that such sum so levied or appropriated in any year shall be more than sufficient to pay the outstanding warrants of said fund and to establish therein a balance, which combined levy and appropriation in any one (1) year shall not exceed five percent (5%) of the outstanding obligations thereby guaranteed; provided further, that the board shall not levy any tax as herein provided when the amount of moneys in the local improvement

guarantee fund equals ten percent (10%) of the total outstanding obligations thereby guaranteed. The tax levies herein authorized and directed shall be additional to and, if need be, in excess of any and all statutory limitations. The fund so created shall be designated local improvement guarantee fund.

[43-2546, added 1993, ch. 407, sec. 1, p. 1497.]

43-2547. BONDS, WARRANTS AND COUPONS, WHEN PAID OUT OF FUND -- NONPAYMENT FOR WANT OF FUNDS -- INTEREST. Whenever any district has established such local improvement guarantee fund, and any bond, warrant or coupon drawn against any local improvement fund is presented to the district for payment and there is not sufficient amount in said local improvement fund against which to draw to pay the same, unless otherwise requested by the holder, payment therefor shall be made by warrant drawn against the local improvement guarantee fund. Such warrants when presented to the treasurer for payment, if not paid, shall be registered and draw interest at a rate as may be fixed by the board. Neither the holder nor the owner of any bond or warrant issued under the provisions of this act shall have any claim therefor, except for payment from the special assessments made for the improvement for which said bond or warrant was issued, and except as against the local improvement guarantee fund herein provided, and the district shall not be liable to any holder or owner of such bond or warrant for any loss to the guarantee fund occurring in the lawful operation thereof by the district.

[43-2547, added 1993, ch. 407, sec. 1, p. 1497.]

43-2548. SUBROGATION OF DISTRICT TO RIGHTS OF PAYEE -- SURPLUS FUNDS -- PAYMENT INTO FUND -- PREFERENCES. Whenever there shall be paid out of the local improvement guarantee fund, any sum on account of principal or interest of a local improvement bond or warrant, the district, as trustee for the fund, shall be subrogated to all the rights of the holder of the bond or interest coupon or warrant so paid, and the policies thereof, or the assessment underlying the same, shall become part of the guarantee fund. There shall be paid into the guarantee fund any surplus remaining in any local improvement fund after the payment of all outstanding bonds or warrants, payable out of such local improvement fund. Bonds or warrants guaranteed by such fund shall have no preference except in the order of presentation for payment.

[43-2548, added 1993, ch. 407, sec. 1, p. 1498.]

43-2549. MAINTENANCE AND OPERATION AND SOURCES OF FUND. The board shall prescribe rules and regulations for the maintenance and operation of the guarantee fund not inconsistent herewith. After the creation of such fund, all money derived from the assignment of delinquency certificates, redemptions, sale of property under foreclosure for delinquent local improvement district assessments or from the rent or sale of property, title to which has been obtained by the district pursuant to this code, shall be paid into the local improvement guarantee fund, and all delinquency certificates issued and such property acquired shall be held by the district for the benefit of such guarantee fund. Money from the guarantee fund may be used to redeem property subject to local improvement assessments from general tax delinquencies, underlying bonds or warrants guaranteed by the fund, or to purchase such property at county tax sales or otherwise, from the county for

the purpose of protecting the guarantee fund. After so acquiring title to real property, the district may lease or sell and convey the same for such price and on such terms as may be determined by the board, any provision of law or resolution to the contrary notwithstanding, and all proceeds resulting therefrom shall belong to and be paid into the guarantee fund, provided however, that in the event the district purchases such property at tax sale or otherwise it shall not be sold for a lesser sum than the district paid therefor.

[43-2549, added 1993, ch. 407, sec. 1, p. 1498.]

43-2550. REPLENISHMENT OF FUND -- WARRANTS -- ISSUANCE AGAINST FUND -- TAX LEVY. Whenever there is not a sufficient amount of cash in said local improvement guarantee fund, at any time to pay any and all warrants, together with interest thereon, drawn against said fund, the board may replenish said local improvement guarantee fund by transferring or appropriating to it, moneys from the general fund of the district or other available sources, as may be determined by said board, subject however, to the limitations herein prescribed. Warrants drawing interest, as herein provided, may be issued against said local improvement guarantee fund to meet any financial liability against it; but at the time of making its next annual levy upon lots or lands in the local improvement district, the district shall provide for the levy of a sum sufficient with other resources of the guarantee fund to pay warrants so issued and outstanding, the tax for this purpose not to exceed one (1) mill, based on the market value fixed by the county assessor in any one (1) year.

[43-2550, added 1993, ch. 407, sec. 1, p. 1498.]

43-2551. BONDS AND WARRANTS -- REVENUES FROM WHICH PAYABLE. The holder or owner of any local improvement bond or warrant shall have no claim thereon against the district by which the same is issued, except to the extent of the funds created and received by assessments against the property within any local improvement district and to the extent of his pro rata share of any local improvement guarantee fund, authorized and created under the provisions of this chapter.

[43-2551, added 1993, ch. 407, sec. 1, p. 1499.]

43-2552. BONDS PAYABLE FROM FUND. Whenever a district has created a local improvement guarantee fund, under the provisions of this act, any local improvement district bonds issued thereafter shall provide that the principal sum of such bonds and the interest thereon shall be payable out of the local improvement fund created for the payment of cost and expenses of the improvement or out of any local improvement guarantee fund, duly authorized and created, and not otherwise.

[43-2552, added 1993, ch. 407, sec. 1, p. 1499.]

43-2553. EXCESS IN FUND -- DISPOSITION. When a local improvement guarantee fund duly created in any district exceeds in amount of moneys held therein by ten percent (10%) of the total outstanding obligations thereby guaranteed, then the board may, by resolution, authorize the treasurer or appropriate official of said district to return and pay such said excess

or any part thereof to the general fund of said district to return and pay from such said excess or any designated part thereof all or any part of local improvement district bonds of said district then issued and outstanding or to be issued. The passage of such resolution shall require the affirmative vote of at least two-thirds (2/3) of the full board.

[43-2553, added 1993, ch. 407, sec. 1, p. 1499.]

43-2554. RESERVE FUND AUTHORIZED. For the purpose of securing the payment of the principal of and interest on an issue of local improvement bonds, notes, warrants or other short-term obligations, the board may create a reserve fund for each obligation in addition to or in lieu of a guarantee fund. The reserve fund shall be separate and apart from any guarantee fund and in an amount not exceeding ten percent (10%) of the principal amount of the bonds, notes or warrants issued. The cost of a reserve fund may be included in the cost and expense of any local improvement for assessment against the property in the local improvement district to pay the cost, or any part thereof. The reserve fund may be funded from the proceeds of the bonds, notes, warrants, or other short-term obligations, from special assessment payments, or from any other money legally available therefor. Reserve fund balances in excess of ten per cent [percent] (10%) of the principal amount of the bonds outstanding shall be used to reduce the annual assessments of those participants in the respective local improvement district whose prior assessments have been paid. Whenever the reserve fund is insufficient to meet claims for payment of principal and interest against the reserve fund, the board may appropriate funds from such other legally available sources of the local improvement district as may be determined by the board.

[43-2554, added 1993, ch. 407, sec. 1, p. 1499.]