

**CHAPTER 40-25**  
**COLLECTION OF SPECIAL ASSESSMENTS - OBLIGATIONS OF MUNICIPALITY**

**40-25-01. Sale of real property to enforce collections of delinquent special assessments.**

Real property shall be sold to enforce the collection of special assessments or installments of special assessments which have become delinquent at the same time and in the same manner as is provided in title 57 for the sale of real property for delinquent general taxes. The sale shall be made by the same officer and upon like notice and subject to the same provision in relation to redemption, and the same record thereof shall be kept by the officer making the sale as in the case of the sale of real property for delinquent general taxes.

**40-25-02. Sale of property if both general and special assessment taxes are delinquent - Absence of private bid.**

If any real property is subject to sale at the same time for delinquent general taxes and also for delinquent special assessments or installments thereof, the delinquent general taxes and the delinquent special assessments or installments thereof shall be advertised and sold together in one sum and one certificate shall be issued therefor. If the real estate is sold for both delinquent general taxes and delinquent special assessments or installment of special assessments and there shall be no bidder therefor, the county auditor shall strike off the parcel of land to the county and one certificate of sale shall cover both general taxes and special assessments which are delinquent.

**40-25-03. Foreclosure of property if only special assessment is delinquent.**

If there is no delinquent general tax against any parcel of real estate and it is foreclosed for special assessments alone, the notice of foreclosure of tax lien must contain a statement to the effect that the foreclosure is for special assessments. If the foreclosure is made only for special assessments assessed by a municipality or by a taxing district other than the county, the county auditor shall issue a tax deed to the municipality or taxing district which assessed such special assessments in the usual course of procedure.

**40-25-04. Owners of tax sale certificates issued prior to March 17, 1937, not affected.**

Repealed by S.L. 1999, ch. 503, § 47.

**40-25-05. Failure to have general taxes and special assessments sold separately not negligence of municipality.**

Repealed by S.L. 1999, ch. 503, § 47.

**40-25-06. Negligence must be proved as fact.**

In order to obligate such municipality or other taxing district on any issue of special assessment warrants, on the ground of negligence, the negligence of such municipality or other taxing district must be established and proved as a matter of fact, and in determining such question, the county auditor making the sale shall not be held to be the agent of the municipality or other taxing district which spread the special assessment so as to charge such municipality or taxing district with responsibility for any failure of such county auditor to perform the county auditor's statutory duties in connection with such sale.

**40-25-07. Measure of damages when negligence of taxing district shown.**

If it is shown that any municipality or other taxing district has been guilty of negligence which will amount to a breach of its duty to holders of special assessment warrants, such municipality or taxing district shall be liable in damages to the holders of the special assessment warrants. Such damages, however, shall be limited to the actual damages sustained by the warrant holder or holders as the direct and proximate result of such negligence. If the damage for negligence is predicated upon any act of the municipality or other taxing district which resulted in the loss of any special assessment lien upon real property, the measure of damages

shall be limited to the value at the time of trial of the property upon which the lien was lost over and above the amount of the general taxes delinquent against such property at the time that the county acquired title thereto. The face amount of the warrants involved in any action shall be considered only as a limitation of the amount which may be recovered in such action on said special assessment warrants.

**40-25-08. Retroactive effect of sections 40-25-05, 40-25-06, and 40-25-07.**

Repealed by S.L. 1999, ch. 503, § 47.

**40-25-09. Purchase of tax sale certificate by municipality from county - Assignment and redemption.**

Repealed by S.L. 1999, ch. 503, § 47.

**40-25-10. Tax deed to municipality holding tax sale certificate for general taxes.**

Repealed by S.L. 1999, ch. 503, § 47.