

**MUTUAL BENEFIT CORPORATION -  
JUDICIAL LIENS**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Patrick Painter**

Senate Sponsor: David P. Hinkins

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**LONG TITLE**

**General Description:**

This bill modifies the Utah Revised Nonprofit Corporations Act and lien provisions to address the execution of a judicial lien against the water rights and related assets of a mutual benefit corporation.

**Highlighted Provisions:**

This bill:

- ▶ defines terms; and
- ▶ imposes limitations on executing a judicial lien.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

**16-6a-119**, Utah Code Annotated 1953

**38-5-2**, Utah Code Annotated 1953

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

Section 1. Section **16-6a-119** is enacted to read:



28 **16-6a-119. Execution against a mutual benefit corporation.**

29 (1) As used in this section:

30 (a) "Judicial lien" means one or more of the following:

31 (i) a judgment lien; or

32 (ii) other lien obtained by a judicial or equitable process or proceeding.

33 (b) "Water right" means:

34 (i) a right to use water evidenced by a means identified in Section 73-1-10; or

35 (ii) a right to use water under an approved application:

36 (A) to appropriate;

37 (B) for a change of use; or

38 (C) for the exchange of water.

39 (c) "Water rights and related assets" means a water right or title to:

40 (i) a water conveyance facility; or

41 (ii) other asset of a mutual benefit corporation necessary to divert or distribute water to  
42 its members.

43 (2) Except as provided in Subsection (3), a court may not do the following with regard  
44 to a judicial lien recorded on or after May 12, 2009 against the water rights and related assets  
45 of a mutual benefit corporation earlier than 180 days after the day on which the judicial lien is  
46 recorded or takes effect:

47 (a) execute the judicial lien;

48 (b) impose a levy as a result of the judicial lien; or

49 (c) force the sale, transfer, or change in ownership of the water rights and related assets  
50 pursuant to the judicial lien.

51 (3) This section does not apply to a judicial lien related to a cause of action brought  
52 against a mutual benefit corporation by a shareholder under Section 73-3-3.5.

53 Section 2. Section **38-5-2** is enacted to read:

54 **38-5-2. Judicial lien against water rights and related assets of a mutual benefit**  
55 **corporation.**

56 (1) As used in this section:

57 (a) "Judicial lien" is defined in Section 16-6a-119.

58 (b) "Mutual benefit corporation" is defined in Section 16-6a-102.

59           (c) "Water rights and related assets" is defined in Section 16-6a-119.  
60           (2) A judicial lien recorded on or after May 12, 2009 against the water rights and  
61 related assets of a mutual benefit corporation is subject to Section 16-6a-119.

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**Legislative Review Note**  
**as of 12-22-08 1:10 PM**

**Office of Legislative Research and General Counsel**

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**H.B. 85 - Mutual Benefit Corporation - Judicial Liens**

**Fiscal Note**

2009 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Businesses, individuals, and or local entities may benefit from an extended grace period before enforcement of any lien against a water right.

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