

WATER RIGHTS ADDENDUMS TO DEEDS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ben C. Ferry

Senate Sponsor: _____

LONG TITLE

General Description:

This bill requires that a person recording a deed conveying title to land or water rights include information on the grantor's water rights.

Highlighted Provisions:

This bill:

- ▶ requires that a person recording a deed conveying title to land include information on the grantor's water rights;
- ▶ requires that a person recording a deed conveying title to water rights include information on the grantor's water rights; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-21-20, as last amended by Laws of Utah 2007, Chapter 147

ENACTS:

57-3-109, Utah Code Annotated 1953



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

29 Section 1. Section **17-21-20** is amended to read:

30 **17-21-20. Recording required -- Recorder may impose requirements on**
31 **documents to be recorded -- Prerequisites -- Additional fee for noncomplying documents**
32 **-- Recorder may require tax serial number -- Exceptions.**

33 (1) Subject to Subsections (2), (3), and (4), each paper, notice, and instrument required
34 by law to be filed in the office of the county recorder shall be recorded unless otherwise
35 provided.

36 (2) Each document executed on or after July 1, 2007 that is submitted for recording to
37 a county recorder's office shall:

38 (a) unless otherwise provided by law, be an original or certified copy of the document;

39 (b) be in English or be accompanied by an accurate English translation of the
40 document;

41 (c) contain a brief title, heading, or caption on the first page stating the nature of the
42 document;

43 (d) contain the legal description of the property that is the subject of the document;

44 (e) comply with the requirements of Section 17-21-25 and Subsections 57-3-105(1)
45 and (2);

46 (f) be notarized with the notary stamp with the seal legible; and

47 (g) have original signatures.

48 (3) (a) Beginning September 1, 2007, a county recorder may require that each paper,
49 notice, and instrument submitted for recording in the county recorder's office:

50 (i) be on white paper that is 8-1/2 inches by 11 inches in size;

51 (ii) have a margin of one inch on the left and right sides and at the bottom of each
52 page;

53 (iii) have a space of 2-1/2 inches down and 4-1/2 inches across the upper right corner
54 of the first page and a margin of one inch at the top of each succeeding page;

55 (iv) not be on sheets of paper that are continuously bound together at the side, top, or
56 bottom;

57 (v) not contain printed material on more than one side of each page;

58 (vi) be printed in black ink and not have text smaller than seven lines of text per

59 vertical inch; and

60 (vii) be sufficiently legible to make certified copies.

61 (b) A county recorder who intends to establish requirements under Subsection (3)(a)
62 shall first:

63 (i) provide formal notice of the requirements; and

64 (ii) establish and publish an effective date for the requirements that is at least three
65 months after the formal notice under Subsection (3)(b)(i).

66 (c) If a county recorder establishes requirements under this Subsection (3), the county
67 recorder may charge and collect from persons who submit a document for recording that does
68 not comply with the requirements, in addition to any other fee that the county recorder is
69 authorized to charge and collect, a fee that:

70 (i) is calculated to recover the additional cost of handling and recording noncomplying
71 documents; and

72 (ii) may not exceed \$2 per page.

73 (4) (a) To facilitate the abstracting of an instrument, a county recorder may require that
74 the applicable tax serial number of each parcel affected by the instrument appear on each
75 instrument before it may be accepted for recording.

76 (b) If a county recorder requires the applicable tax serial number to be on an instrument
77 before it may be recorded:

78 (i) the county recorder shall post a notice of that requirement in a conspicuous place at
79 the recorder's office;

80 (ii) the tax serial number may not be considered to be part of the legal description and
81 may be indicated on the margin of the instrument; and

82 (iii) an error in the tax serial number does not affect the validity of the instrument or
83 effectiveness of the recording.

84 (5) (a) Subsections (2), (3), and (4) do not apply to:

85 ~~(a)~~ (i) a map;

86 ~~(b)~~ (ii) a certificate or affidavit of death;

87 ~~(c)~~ (iii) a military discharge;

88 ~~(d)~~ (iv) a document regarding taxes that is issued by the Internal Revenue Service of
89 the United States Department of the Treasury;

90 ~~[(e)]~~ (v) a document submitted for recording that has been filed with a court and
91 conforms to the formatting requirements established by the court; or

92 ~~[(f)]~~ (vi) a document submitted for recording that is in a form required by law.

93 (b) The following do not apply to a water rights addendum to a land deed or a water
94 rights addendum to a water deed required under Section 57-3-109:

95 (i) Subsections (2)(c), (d), and (f);

96 (ii) Subsections (3)(a)(ii) through (vi); and

97 (iii) Subsection (4).

98 Section 2. Section **57-3-109** is enacted to read:

99 **57-3-109. Water rights -- Forms.**

100 (1) A person executing a deed on or after July 1, 2009 conveying title to land shall
101 include a water rights addendum as described in this section when recording the land deed with
102 a county recorder's office.

103 (2) A grantor and grantee shall complete and sign a water rights addendum to a land
104 deed required in Subsection (1).

105 (3) (a) A water rights addendum to a land deed shall comply with the recording
106 requirements in Section 17-21-20.

107 (b) The state engineer shall:

108 (i) use the water rights addendum to a land deed form approved by the Legislature in a
109 joint resolution; and

110 (ii) provide the form to the county recorders.

111 (4) A person executing a deed on or after July 1, 2009 conveying title to water rights
112 without conveying title to land shall include a water rights addendum as described in this
113 section when recording the water deed with a county recorder's office.

114 (5) A grantor and grantee shall complete and sign the water rights addendum to a water
115 deed required in Subsection (4).

116 (6) (a) A water rights addendum to a water deed shall comply with the recording
117 requirements in Section 17-21-20.

118 (b) The state engineer shall:

119 (i) use the water rights addendum to a water deed form approved by the Legislature in a
120 joint resolution; and

121 (ii) provide the form to the county recorders.

Legislative Review Note
as of 2-11-09 9:59 AM

Office of Legislative Research and General Counsel

H.B. 366 - Water Rights Addendums to Deeds

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
