

**HOMEOWNER ASSOCIATION UTILITIES AMENDMENTS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Dixon M. Pitcher**

Senate Sponsor: Brian E. Shiozawa

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**LONG TITLE**

**General Description:**

This bill modifies provisions relating to utility service to homeowner associations.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ addresses the circumstances under which an electrical corporation or a gas corporation may discontinue service to a unit or a lot;
- ▶ provides a procedure by which an association may:
  - pay a unit owner's or a lot owner's delinquent utility bill to maintain service; or
  - enter a unit or a lot to winterize the unit or lot;
- ▶ addresses the method by which an association may recover ~~H~~→ **actual and**

**reasonable** ←~~H~~ money used to pay a unit owner's or a lot owner's utility bill or to winterize a unit or a lot; and

- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

57-8-3, as last amended by Laws of Utah 2013, Chapters 95 and 152



183           ~~[(33)]~~ (35) "Unit owner" means the person or persons owning a unit in fee simple and  
 184 an undivided interest in the fee simple estate of the common areas and facilities in the  
 185 percentage specified and established in the declaration or, in the case of a leasehold  
 186 condominium project, the person or persons whose leasehold interest or interests in the  
 187 condominium unit extend for the entire balance of the unexpired term or terms.

188           Section 2. Section **57-8-56** is enacted to read:

189           **57-8-56. Association of unit owners' right to pay delinquent utilities.**

190           (1) Upon request in accordance with Subsection (2), at least 10 days before the day on  
 191 which an electrical corporation or a gas corporation discontinues service to a unit, the electrical  
 192 corporation or gas corporation shall give the association of unit owners:

193           (a) written notice that the electrical corporation or gas corporation will discontinue  
 194 service to the unit; and

195           (b) an opportunity to pay any delinquent charges and maintain service to the unit.

196           (2) An association of unit owners may request the notice and opportunity to pay  
 197 described in Subsection (1) by sending a written request to the electrical corporation or gas  
 198 corporation that includes:

199           (a) the address of each unit in the association of unit owners;

200           (b) the association of unit owners' name, mailing address, phone number, and email  
 201 address; and

202           (c) the address where the electrical corporation or gas corporation may send notices.

203           (3) If, after an electrical corporation or a gas corporation sends a written notice  
 204 described in Subsection (1) to an association of unit owners and the association of unit owners  
 205 does not pay the delinquent charges within 10 days after the day on which the electrical  
 206 corporation or gas corporation sends the notice, the electrical corporation or gas corporation  
 207 may discontinue service to the unit.

208           (4) An association of unit owners may collect any payment to an electrical corporation  
 209 or a gas corporation under this section as an assessment in accordance with Section 57-8-44.

210           (5) (a) If, after an association of unit owners receives a written notice described in  
 211 Subsection (1), the association of unit owners decides not to pay the delinquent charges, the  
 212 association of unit owners may, ~~H~~→ if permitted by the association of unit owners' governing  
 212a documents, and ←~~H~~ after reasonable notice to the unit owner:

213           (i) enter the unit; and

214 (ii) winterize the unit.

215 (b) A person who enters a unit in accordance with Subsection (5)(a) is not liable for  
216 trespass.

217 (c) An association of unit owners may charge a unit owner an assessment for the ~~H~~→ actual  
217a and reasonable ←H costs  
218 of winterizing a unit in accordance with this Subsection (5).

219 Section 3. Section **57-8a-102** is amended to read:

220 **57-8a-102. Definitions.**

221 As used in this chapter:

222 (1) (a) "Assessment" means a charge imposed or levied:

223 (i) by the association;

224 (ii) on or against a lot or a lot owner; and

225 (iii) pursuant to a governing document recorded with the county recorder.

226 (b) "Assessment" includes:

227 (i) a common expense; and

228 (ii) an amount assessed against a lot owner under Subsection 57-8a-405(7).

229 (2) (a) Except as provided in Subsection (2)(b), "association" means a corporation or  
230 other legal entity, any member of which:

231 (i) is an owner of a residential lot located within the jurisdiction of the association, as  
232 described in the governing documents; and

233 (ii) by virtue of membership or ownership of a residential lot is obligated to pay:

234 (A) real property taxes;

235 (B) insurance premiums;

236 (C) maintenance costs; or

237 (D) for improvement of real property not owned by the member.

238 (b) "Association" or "homeowner association" does not include an association created  
239 under Title 57, Chapter 8, Condominium Ownership Act.

240 (3) "Board of directors" or "board" means the entity, regardless of name, with primary  
241 authority to manage the affairs of the association.

242 (4) "Common areas" means property that the association:

243 (a) owns;

244 (b) maintains;

307 service to the lot; and

308 (b) an opportunity to pay any delinquent charges and maintain service to the lot.

309 (2) An association may request the notice and opportunity to pay described in

310 Subsection (1) by sending a written request to the electrical corporation or gas corporation that

311 includes:

312 (a) the address of each lot in the association;

313 (b) the association's name, mailing address, phone number, and email address; and

314 (c) the address where the electrical corporation or gas corporation may send notices.

315 (3) If, after an electrical corporation or a gas corporation sends a written notice

316 described in Subsection (1) to an association and the association does not pay the delinquent

317 charges within 10 days after the day on which the electrical corporation or gas corporation

318 sends the notice, the electrical corporation or gas corporation may discontinue service to the

319 lot.

320 (4) An association may collect any payment to an electrical corporation or a gas

321 corporation under this section as an assessment in accordance with Section 57-8a-301.

322 (5) (a) If, after an association receives a written notice described in Subsection (1), the

323 association decides not to pay the delinquent charges, the association may, ~~H~~→ **if permitted by the**

323a **association's governing documents, and** ~~H~~ after reasonable

324 notice to the lot owner:

325 (i) enter the lot; and

326 (ii) winterize the lot.

327 (b) A person who enters a lot in accordance with Subsection (5)(a) is not liable for

328 trespass.

329 (c) An association may charge a lot owner an assessment for the ~~H~~→ **actual and**

329a **reasonable** ~~H~~ costs of winterizing a

330 lot in accordance with this Subsection (5).

### Legislative Review Note

as of 2-9-15 2:30 PM

Office of Legislative Research and General Counsel