

Part 9 Collection of Service Fees and Charges

17B-1-901 Providing and billing for multiple commodities, services, or facilities -- Suspending service to a delinquent customer.

- (1) If a special district provides more than one commodity, service, or facility, the district may bill for the fees and charges for all commodities, services, and facilities in a single bill.
- (2) Regardless of the number of commodities, services, or facilities furnished by a special district, the special district may suspend furnishing any commodity, service, or facility to a customer if the customer fails to pay all fees and charges when due.
- (3)
 - (a) Notwithstanding Subsection (2) and except as provided in Subsection (3)(b), a special district may not suspend furnishing any commodity, service, or facility to a customer if discontinuance of the service is requested by a private third party, including an individual, a private business, or a nonprofit organization, that is not the customer.
 - (b)
 - (i) An owner of land or the owner's agent may request that service be temporarily discontinued for maintenance-related activities.
 - (ii) An owner of land or the owner's agent may not request temporary discontinuance of service under Subsection (3)(b)(i) if the request is for the purpose of debt collection, eviction, or any other unlawful purpose.

Amended by Chapter 15, 2023 General Session

17B-1-902 Lien for past due service fees -- Notice -- Partial payment allocation.

- (1)
 - (a) A special district may hold a lien on a customer's property for past due fees for commodities, services, or facilities that the district has provided to the customer's property by certifying, subject to Subsection (3), to the treasurer of the county in which the customer's property is located the amount of past due fees, including, subject to Section 17B-1-902.1, applicable interest and administrative costs.
 - (b)
 - (i) Upon certification under Subsection (1)(a), the past due fees, and if applicable, interest and administrative costs, become a political subdivision lien that is a nonrecurring tax notice charge, as those terms are defined in Section 11-60-102, on the customer's property to which the commodities, services, or facilities were provided in accordance with Title 11, Chapter 60, Political Subdivision Lien Authority.
 - (ii) A lien described in this Subsection (1) has the same priority as, but is separate and distinct from, a property tax lien.
- (2)
 - (a) If a special district certifies past due fees under Subsection (1)(a), the treasurer of the county shall provide a notice, in accordance with this Subsection (2), to the owner of the property for which the special district has incurred the past due fees.
 - (b) In providing the notice required in Subsection (2)(a), the treasurer of the county shall:
 - (i) include the amount of past due fees that a special district has certified on or before July 15 of the current year;

- (ii) provide contact information, including a phone number, for the property owner to contact the special district to obtain more information regarding the amount described in Subsection (2)(b)(i); and
 - (iii) notify the property owner that:
 - (A) if the amount described in Subsection (2)(b)(i) is not paid in full by September 15 of the current year, any unpaid amount will be included on the property tax notice required by Section 59-2-1317; and
 - (B) the failure to pay the amount described in Subsection (2)(b)(i) has resulted in a lien on the property in accordance with Subsection (1)(b).
 - (c) The treasurer of the county shall provide the notice required by this Subsection (2) to a property owner on or before August 1.
- (3)
- (a) If a special district certifies an unpaid amount in accordance with Subsection (1)(a), the county treasurer shall include the unpaid amount on a property tax notice issued in accordance with Section 59-2-1317.
 - (b) If an unpaid fee, administrative cost, or interest is included on a property tax notice in accordance with Subsection (3)(a), the county treasurer shall on the property tax notice:
 - (i) clearly state that the unpaid fee, administrative cost, or interest is for a service provided by the special district; and
 - (ii) itemize the unpaid fee, administrative cost, or interest separate from any other tax, fee, interest, or penalty that is included on the property tax notice in accordance with Section 59-2-1317.
- (4) A lien under Subsection (1) is not valid if the special district makes certification under Subsection (1)(a) after the filing for record of a document conveying title of the customer's property to a new owner.
- (5) Nothing in this section may be construed to:
- (a) waive or release the customer's obligation to pay fees that the district has imposed;
 - (b) preclude the certification of a lien under Subsection (1) with respect to past due fees for commodities, services, or facilities provided after the date that title to the property is transferred to a new owner; or
 - (c) nullify or terminate a valid lien.
- (6) After all amounts owing under a lien established as provided in this section have been paid, the special district shall file for record in the county recorder's office a release of the lien.

Amended by Chapter 15, 2023 General Session

17B-1-902.1 Interest -- Collection of administrative costs.

- (1)
- (a) A special district may charge interest on a past due fee or past due charge.
 - (b) If a special district charges interest as described in Subsection (1)(b), the special district shall calculate the interest rate for a calendar year:
 - (i) based on the federal short-term rate determined by the secretary of the treasury under Section 6621, Internal Revenue Code, in effect for the preceding fourth calendar quarter; and
 - (ii) as simple interest at the rate of eighteen percentage points above the federal short-term rate.

- (c) If a special district charges interest on a past due fee collected by the special district, regardless of whether the fee is certified, the special district may charge the interest monthly but may not compound the interest more frequently than annually.
- (2)
 - (a) A special district may charge and collect only one of the following:
 - (i) a one-time penalty charge not to exceed 8% for a past-due fee; or
 - (ii) an administrative cost for some or all of the following:
 - (A) the collection cost of a past due fee or charge;
 - (B) reasonable attorney fees actually incurred for collection and foreclosure costs, if applicable; and
 - (C) any other cost.
 - (b) A special district may not charge interest on an administrative cost.

Amended by Chapter 15, 2023 General Session

17B-1-903 Authority to require written application for water or sewer service and to terminate for failure to pay -- Limitations.

- (1) A special district that owns or controls a system for furnishing water or providing sewer service or both may:
 - (a) before furnishing water or providing sewer service to a property, require the property owner or an authorized agent to submit a written application, signed by the owner or an authorized agent, agreeing to pay for all water furnished or sewer service provided to the property, whether occupied by the owner or by a tenant or other occupant, according to the rules and regulations adopted by the special district; and
 - (b) if a customer fails to pay for water furnished or sewer service provided to the customer's property, discontinue furnishing water or providing sewer service to the property until all amounts for water furnished or sewer service provided are paid, subject to Subsection (2).
- (2) Unless a valid lien has been established as provided in Section 17B-1-902, has not been satisfied, and has not been terminated by a sale as provided in Section 17B-1-902, a special district may not:
 - (a) use a customer's failure to pay for water furnished or sewer service provided to the customer's property as a basis for not furnishing water or providing sewer service to the property after ownership of the property is transferred to a subsequent owner; or
 - (b) require an owner to pay for water that was furnished or sewer service that was provided to the property before the owner's ownership.

Amended by Chapter 15, 2023 General Session

17B-1-904 Collection of service fees.

- (1) As used in this section:
 - (a) "Collection costs" means an amount, not to exceed \$20, to reimburse a special district for expenses associated with its efforts to collect past due service fees from a customer.
 - (b) "Customer" means the owner of real property to which a special district has provided a service for which the special district charges a service fee.
 - (c) "Damages" means an amount equal to the greater of:
 - (i) \$100; and
 - (ii) triple the past due service fees.
 - (d) "Default date" means the date on which payment for service fees becomes past due.

- (e) "Past due service fees" means service fees that on or after the default date have not been paid.
 - (f) "Prelitigation damages" means an amount that is equal to the greater of:
 - (i) \$50; and
 - (ii) triple the past due service fees.
 - (g) "Service fee" means an amount charged by a special district to a customer for a service, including furnishing water, providing sewer service, and providing garbage collection service, that the district provides to the customer's property.
- (2) A customer is liable to a special district for past due service fees and collection costs if:
- (a) the customer has not paid service fees before the default date;
 - (b) the special district mails the customer notice as provided in Subsection (4); and
 - (c) the past due service fees remain unpaid 15 days after the special district has mailed notice.
- (3) If a customer has not paid the special district the past due service fees and collection costs within 30 days after the special district mails notice, the special district may make an offer to the customer that the special district will forego filing a civil action under Subsection (5) if the customer pays the special district an amount that:
- (a) consists of the past due service fees, collection costs, prelitigation damages, and, if the special district retains an attorney to recover the past due service fees, a reasonable attorney fee not to exceed \$50; and
 - (b) if the customer's property is residential, may not exceed \$100.
- (4)
- (a) Each notice under Subsection (2)(b) shall:
 - (i) be in writing;
 - (ii) be mailed to the customer by the United States mail, postage prepaid;
 - (iii) notify the customer that:
 - (A) if the past due service fees are not paid within 15 days after the day on which the special district mailed notice, the customer is liable for the past due service fees and collection costs; and
 - (B) the special district may file civil action if the customer does not pay to the special district the past due service fees and collection costs within 30 calendar days from the day on which the special district mailed notice; and
 - (iv) be in substantially the following form:
 - Date: _____
 - To: _____
 - Service address: _____
 - Account or invoice number(s): _____
 - Date(s) of service: _____
 - Amount past due: _____

You are hereby notified that water or sewer service fees (or both) owed by you are in default. In accordance with Section 17B-1-902, Utah Code Annotated, if you do not pay the past due amount within 15 days from the day on which this notice was mailed to you, you are liable for the past due amount together with collection costs of \$20.

You are further notified that if you do not pay the past due amount and the \$20 collection costs within 30 calendar days from the day on which this notice was mailed to you, an appropriate civil legal action may be filed against you for the past due amount, interest, court costs, attorney fees, and damages in an amount equal to the greater of \$100 or triple the past due amounts, but the combined total of all these amounts may not exceed \$200 if your property is residential.

(Signed) _____

Name of special district _____

Address of special district _____

Telephone number of special district _____

- (b) Written notice under this section is conclusively presumed to have been given if the notice is:
 - (i) properly deposited in the United States mail, postage prepaid, by certified or registered mail, return receipt requested; and
 - (ii) addressed to the customer at the customer's:
 - (A) address as it appears in the records of the special district; or
 - (B) last-known address.
- (5)
 - (a) A special district may file a civil action against the customer if the customer fails to pay the past due service fees and collection costs within 30 calendar days from the date on which the special district mailed notice under Subsection (2)(b).
 - (b)
 - (i) In a civil action under this Subsection (5), a customer is liable to the special district for an amount that:
 - (A) consists of past due service fees, collection costs, interest, court costs, a reasonable attorney fee, and damages; and
 - (B) if the customer's property is residential, may not exceed \$200.
 - (ii) Notwithstanding Subsection (5)(b)(i), a court may, upon a finding of good cause, waive interest, court costs, the attorney fee, and damages, or any combination of them.
 - (c) If a special district files a civil action under this Subsection (5) before 31 calendar days after the day on which the special district mailed notice under Subsection (2)(b), a customer may not be held liable for an amount in excess of past due service fees.
 - (d) A special district may not file a civil action under this Subsection (5) unless the customer has failed to pay the past due service fees and collection costs within 30 days from the day on which the special district mailed notice under Subsection (2)(b).
- (6)
 - (a) All amounts charged or collected as prelitigation damages or as damages shall be paid to and be the property of the special district that furnished water or provided sewer service and may not be retained by a person who is not that special district.
 - (b) A special district may not contract for a person to retain any amounts charged or collected as prelitigation damages or as damages.
- (7) This section may not be construed to limit a special district from obtaining relief to which it may be entitled under other applicable statute or cause of action.

Amended by Chapter 15, 2023 General Session

17B-1-905 Right of entry on premises of water user.

A person authorized by a special district that provides a service from a water system or sewer system may enter upon a premise furnished with or provided that water service or sewer service to:

- (1) examine an apparatus related to or used by the water system or sewer system;
- (2) examine the amount of water used or wastewater discharged by the water system or sewer system and the manner of use or discharge; or
- (3) make a necessary shutoff for vacancy, delinquency, or a violation of a special district rule or regulation relating to the water service or sewer service.

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17B-1-906 Extraterritorial supply of surplus.

If a special district runs a surplus product or surplus capacity of a service that the special district is authorized to provide under Section 17B-1-202, the special district may sell or deliver the product or service to others beyond the special district boundaries.

Amended by Chapter 15, 2023 General Session