

**Effective 2/27/2023**

**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