

Chapter 13a Easement for Water Conveyance

57-13a-101 Definitions.

As used in this chapter:

- (1) "Water conveyance" means a canal, ditch, pipeline, or other means of conveying water.
- (2) "Water user" means a water user or the water user's predecessor whose water being conveyed is represented by a water right recognized under state law or by shares in a mutual irrigation company.

Enacted by Chapter 175, 1997 General Session

57-13a-102 Prescriptive easement for water conveyance.

- (1) A prescriptive easement may be established if a water user has maintained a water conveyance for a period of 20 years during which the use has been:
 - (a) continuous;
 - (b) open and notorious; and
 - (c) adverse.
- (2) If Subsections (1)(a) and (b) are established, there is a rebuttable presumption that the use has been adverse.

Enacted by Chapter 175, 1997 General Session

57-13a-103 Notice of easement.

The holder of an easement established as provided by Section 57-13a-102 may file a notice describing the easement in the office of the county recorder of each county in which the easement or a portion of the easement is located.

Enacted by Chapter 318, 2007 General Session

57-13a-104 Abandonment of prescriptive easement for water conveyance.

- (1) A holder of a prescriptive easement for a water conveyance established under Section 57-13a-102 may, in accordance with this section, abandon all or part of the easement.
- (2)
 - (a) A holder of a prescriptive easement for a water conveyance established under Section 57-13a-102 who seeks to abandon the easement or part of the easement shall, in each county where the easement or part of the easement is located, file in the office of the county recorder a notice of intent to abandon the prescriptive easement that describes the easement or part of the easement to be abandoned.
 - (b) A county recorder who receives a notice of intent to abandon a prescriptive easement shall:
 - (i) publish copies of the notice for the area generally served by the water conveyance that utilizes the easement, as a class A notice under Section 63G-30-102, for at least 45 days; and
 - (ii) mail a copy of the notice of intent to abandon the prescriptive easement to each municipal and county government where the easement or part of the easement is located .
- (3) After meeting the requirements of Subsection (2)(a) and at least 45 days after the last day on which the county recorder posts the notice of intent to abandon the prescriptive easement in

accordance with Subsection (2)(b), the holder of the prescriptive easement shall file in the office of the county recorder for each county where the easement or part of the easement is located a notice of abandonment that contains the same description required by Subsection (2)(a).

- (4)
- (a) Upon completion of the requirements described in Subsection (2):
 - (i) all interest to the easement or part of the easement abandoned by the holder of the easement is extinguished; and
 - (ii) subject to each legal right that exists as described in Subsection (4)(b), the owner of a servient estate whose land was encumbered by the easement or part of the easement abandoned may reclaim the land area occupied by the former easement or part of the easement and resume full utilization of the land without liability to the former holder of the easement.
 - (b) Abandonment of a prescriptive easement under this section does not affect a legal right to have water delivered or discharged through the water conveyance and easement established by a person other than the holder of the easement who abandons an easement as provided in this section.
- (5) A county recorder may bill the holder of the prescriptive easement for the cost of preparing, printing, and publishing the notice required under Subsection (2)(b).

Amended by Chapter 435, 2023 General Session