

FORFEITED WATER RIGHT ALLOCATION

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Darin G. Peterson

This act modifies the Water and Irrigation Code to allow a water company to allocate water rights lost by forfeiture.

This act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

73-1-4.5, Utah Code Annotated 1953

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

Section 1. Section **73-1-4.5** is enacted to read:

73-1-4.5. Authorization for water companies to allocate water rights lost by forfeiture or nonuse -- Redemption and retirement of water shares.

(1) (a) If a water right, to which a mutual water company holds title, ceases or is lost due to forfeiture or abandonment for lack of beneficial use, in whole or in part, the water company shall, through procedures consistent with this section, and as defined in the company's articles of incorporation or bylaws, apportion the loss to each stockholder whose failure to make beneficial use caused the loss of the water right.

(b) The water company shall make an apportionment if the Utah Division of Water Rights or a court of proper jurisdiction makes a final decision that a loss has occurred.

(c) The water company shall also reduce the amount of water provided to the shareholder in proportion to the amount of the lost water right during an appeal of a decision that reduced the company water rights, unless otherwise ordered by a court of proper jurisdiction.

(d) The water company may take any action under this Subsection (1), whether the loss occurred:

(i) under Utah Code Annotated Section 73-1-4, including losses that occur as part of a general determination under Title 73, Chapter 4, Determination of Water Rights; or

(ii) through any other decision by a court of proper jurisdiction.

(2) (a) If the water company apportions a water right under Subsection (1), a sufficient

number of shares to account for the water right lost, including necessary transport or "carrier water" losses, shall be treated by the water company as shares redeemed by the company from the stockholder responsible for the loss.

(b) The number of shares owned by that shareholder shall be reduced accordingly on the records of the company.

(c) Upon the redemption, the authorized shares of the company shall be reduced by the amount of shares that were redeemed under this Subsection (2).

(3) The redemption and retirement under this section of shares belonging to a stockholder does not relieve the stockholder of liability for unpaid assessments on the stock or debts the shareholder may owe to the water company.