

**UTILITY COSTS TO HOMEOWNER**

2003 GENERAL SESSION

STATE OF UTAH

**Sponsor: Steven R. Mascaro**

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5 **This act modifies the Utah Municipal Code <sup>h</sup> AND PROVISIONS RELATING TO SPECIAL**  
6a **DISTRICTS AND LOCAL DISTRICTS <sup>h</sup> to prohibit a municipality <sup>h</sup>, A SPECIAL DISTRICT, AND A**  
6b **LOCAL DISTRICT <sup>h</sup> from refusing to**  
6 **furnish water to property based on an arrearage from a previous owner or from**  
7 **collecting a previous owner's arrearage from the current owner. <sup>h</sup> THE ACT AUTHORIZES SPECIAL**  
7a **DISTRICTS AND LOCAL DISTRICTS THAT OWN OR CONTROL A WATER SYSTEM TO DISCONTINUE PROVIDING**  
7b **WATER IF THE PROPERTY OWNER FAILS TO PAY FOR WATER PREVIOUSLY FURNISHED. <sup>h</sup> The act also**  
7c **makes**  
8 **technical changes.**

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

10 AMENDS:

11 **10-8-38**, as last amended by Chapter 365, Laws of Utah 1999

12 ENACTS:

13 **10-7-10.5**, Utah Code Annotated 1953

13a **<sup>h</sup> 17A-1-103**, Utah Code Annotated 1953

13b **17B-2-103**, Utah Code Annotated 1953 <sup>h</sup>

14 REPEALS:

15 **10-7-10**, Utah Code Annotated 1953

16 **10-7-11**, Utah Code Annotated 1953

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

18 Section 1. Section **10-7-10.5** is enacted to read:

19 **10-7-10.5. Authority to require written application for water service and to**  
20 **terminate service for failure to pay -- Limitations.**

21 (1) A municipality that owns or controls a system for furnishing water may:

22 (a) before furnishing water to a property, require the property owner or an authorized  
23 agent to submit a written application, signed by the owner or an authorized agent, agreeing to  
24 pay for all water furnished to the property, whether occupied by the owner or by a tenant or  
25 other occupant, according to the ordinances, rules, and regulations adopted by the municipality;  
26 and

27 (b) if an owner fails to pay for water furnished to the owner's property, discontinue



28 furnishing water to the property until all amounts for water furnished are paid, subject to  
 29 Subsection (2).

30 (2) (a) A municipality may not use an owner's failure to pay for water furnished to the  
 31 owner's property as a basis for not furnishing water to the property after ownership of the  
 32 property is transferred to a subsequent owner.

33 (b) A municipality may not require an owner to pay for water that was furnished to the  
 34 property before the owner's ownership.

35 Section 2. Section **10-8-38** is amended to read:

36 **10-8-38. Drainage and sewage systems -- Construction regulation and control --**  
 37 **Retainage -- Mandatory hookup -- Charges for use -- Collection of charges -- Service to**  
 38 **tenants -- Failure to pay for service -- Service outside municipality.**

39 (1) (a) Boards of commissioners, city councils, and boards of trustees of cities and  
 40 towns may construct, reconstruct, maintain, and operate, sewer systems, sewage treatment  
 41 plants, culverts, drains, sewers, catch basins, manholes, cesspools, and all systems, equipment,  
 42 and facilities necessary to the proper drainage, sewage, and sanitary sewage disposal  
 43 requirements of the city or town and regulate the construction and use thereof.

44 (b) If any payment on a contract with a private person, firm, or corporation to construct  
 45 or reconstruct sewer systems, sewage treatment plants, culverts, drains, sewers, catch basins,  
 46 manholes, cesspools, and other drainage and sewage systems is retained or withheld, it shall be  
 47 retained or withheld and released as provided in Section 13-8-5.

48 (2) (a) ~~[Any city or town may, for the purpose of defraying]~~ In order to defray the cost  
 49 of ~~[construction, reconstruction, maintenance or operation of any]~~ constructing, reconstructing,  
 50 maintaining, or operating a sewer system or sewage treatment plant, [provide for mandatory  
 51 hookup where] a municipality may:

52 (i) require connection to the sewer system if the sewer is available and within 300 feet  
 53 of ~~[any]~~ the property line of a property with ~~[any]~~ a building used for human occupancy; and

54 (ii) make a reasonable charge for the use [thereof. In order to enforce the mandatory  
 55 hookup to the sewer where available and the collection of any such charge, any city or town] of  
 56 the sewer system.

57 (b) A municipality operating a waterworks system and a sewer system or sewage  
 58 treatment plant may:

59 (i) make one charge for the combined use of water and the services of the sewer  
60 system ~~[, including the services of any] or sewage treatment plant [operated by the city or town~~  
61 ~~and may provide by]; and~~

62 (ii) ~~adopt an ordinance [that application for service from such combined system shall~~  
63 ~~be made in writing, signed by the] requiring a property owner desiring [such] water and sewer~~  
64 ~~service [or his authorized agent, in which] to submit a written application [such owner shall~~  
65 ~~agree that he will], signed by the owner or the owner's authorized agent, agreeing to pay,~~  
66 ~~according to the ordinance enacted by the municipality, for [all] the water and sewer service~~  
67 ~~furnished [such] the owner [according to the rules and regulations enacted in the ordinance of~~  
68 ~~such city or town].~~

69 ~~[(b) In case an application for furnishing service from such combined systems shall be~~  
70 ~~made by a tenant of the owner, such city or town may require as a condition of granting the~~  
71 ~~same that such application contain an agreement signed by the owner or his duly authorized~~  
72 ~~agent to the effect that in consideration of granting such application the owner will pay for all~~  
73 ~~service furnished such tenant or any other occupant of the premises named in the application in~~  
74 ~~case such tenant or occupant shall fail to pay for the same according to the ordinance of such~~  
75 ~~city or town.]~~

76 ~~[(c) In case any person shall fail to hookup]~~

77 ~~(c) (i) If a person fails to connect to the sewer [where available and in case any~~  
78 ~~applicant shall fail] when connection is required under Subsection (2)(a)(i) or fails to pay for~~  
79 ~~the sewer service [furnished according to the rules and regulations prescribed by the] as~~  
80 ~~required under applicable municipal ordinances [of such city or town], then the [city or town]~~  
81 ~~municipality may cause the water to be shut off from [such] the premises [and shall not be~~  
82 ~~required to turn the same on again] until [such] the person has:~~

83 ~~(A) hooked up to the sewer at [his] the person's own expense; or [all arrears for service~~  
84 ~~furnished shall be]~~

85 ~~(B) paid in full for all sewer service.~~

86 ~~[(d) Cities and towns]~~

87 ~~(ii) A municipality may not use an owner's failure to pay for sewer service furnished to~~  
88 ~~the owner's property as a basis for not furnishing water to the property after ownership of the~~  
89 ~~property is transferred to a subsequent owner.~~

90 (iii) A municipality may not require an owner to pay for sewer service that was  
 91 furnished to the property before the owner's ownership.

92 (d) A municipality may sell and deliver [from the surplus capacity thereof,] water or  
 93 sewer services [of any such system or facility not required by the municipality or its  
 94 inhabitants] to others beyond the limits of the municipality from the surplus capacity of the  
 95 municipality's waterworks or sewer system.

95a **h** Section 3. Section 17A-1-103 is enacted to read:

95b **17A-1-103. Authority to require written application for water service and to terminate service**  
 95c **for failure to pay -- Limitations.**

95d **(1) A SPECIAL DISTRICT THAT OWNS OR CONTROLS A SYSTEM FOR FURNISHING WATER**  
 95e **MAY:**

95f **(a) BEFORE FURNISHING WATER TO A PROPERTY, REQUIRE THE PROPERTY OWNER OR**  
 95g **AN AUTHORIZED AGENT TO SUBMIT A WRITTEN APPLICATION, SIGNED BY THE OWNER OR AN**  
 95h **AUTHORIZED AGENT, AGREEING TO PAY FOR ALL WATER FURNISHED TO THE PROPERTY,**  
 95i **WHETHER OCCUPIED BY THE OWNER OR BY A TENANT OR OTHER OCCUPANT, ACCORDING TO**  
 95j **RULES, REGULATIONS, OR RESOLUTIONS ADOPTED BY THE SPECIAL DISTRICT; AND**

95k **(b) IF AN OWNER FAILS TO PAY FOR WATER FURNISHED TO THE OWNER'S PROPERTY,**  
 95l **DISCONTINUE FURNISHING WATER TO THE PROPERTY UNTIL ALL AMOUNTS FOR WATER**  
 95m **FURNISHED ARE PAID, SUBJECT TO SUBSECTION (2).**

95n **(2)(a) A SPECIAL DISTRICT MAY NOT USE AN OWNER'S FAILURE TO PAY FOR WATER**  
 95o **FURNISHED TO THE OWNER'S PROPERTY AS A BASIS FOR NOT FURNISHING WATER TO THE**  
 95p **PROPERTY AFTER OWNERSHIP OF THE PROPERTY IS TRANSFERRED TO A SUBSEQUENT**  
 95q **OWNER.**

95r **(b) A SPECIAL DISTRICT MAY NOT REQUIRE AN OWNER TO PAY FOR WATER THAT WAS**  
 95s **FURNISHED TO THE PROPERTY BEFORE THE OWNER'S OWNERSHIP.**

95t Section 4. Section 17B-2-103 is enacted to read:

95u **17B-2-103. Authority to require written application for water service and to terminate service**  
 95v **for failure to pay -- Limitations.**

95w **(1) A LOCAL DISTRICT THAT OWNS OR CONTROLS A SYSTEM FOR FURNISHING WATER**  
 95x **MAY:**

95y **(a) BEFORE FURNISHING WATER TO A PROPERTY, REQUIRE THE PROPERTY OWNER OR**  
 95z **AN AUTHORIZED AGENT TO SUBMIT A WRITTEN APPLICATION, SIGNED BY THE OWNER OR AN**  
 95aa **AUTHORIZED AGENT, AGREEING TO PAY FOR ALL WATER FURNISHED TO THE PROPERTY,**  
 95ab **WHETHER OCCUPIED BY THE OWNER OR BY A TENANT OR OTHER OCCUPANT, ACCORDING TO**  
 95ac **RULES, REGULATIONS, OR RESOLUTIONS ADOPTED BY THE LOCAL DISTRICT; AND**

95ad **(b) IF AN OWNER FAILS TO PAY FOR WATER FURNISHED TO THE OWNER'S PROPERTY,**  
 95ae **DISCONTINUE FURNISHING WATER TO THE PROPERTY UNTIL ALL AMOUNTS FOR WATER**  
 95af **FURNISHED ARE PAID, SUBJECT TO SUBSECTION (2).**

95ag **(2)(a) A LOCAL DISTRICT MAY NOT USE AN OWNER'S FAILURE TO PAY FOR WATER**  
 95ah **FURNISHED TO THE OWNER'S PROPERTY AS A BASIS FOR NOT FURNISHING WATER TO THE**  
 95ai **PROPERTY AFTER OWNERSHIP OF THE PROPERTY IS TRANSFERRED TO A SUBSEQUENT**  
 95aj **OWNER.** **h**

95ak            h (b) A LOCAL DISTRICT MAY NOT REQUIRE AN OWNER TO PAY FOR WATER THAT WAS  
95al FURNISHED TO THE PROPERTY BEFORE THE OWNER'S OWNERSHIP. h  
96            Section h [3] 5 h . Repealer.  
97            This act repeals:  
98            Section 10-7-10, Water rates -- Owner of premises liable.  
99            Section 10-7-11, Failure to pay for service -- Termination.

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**Legislative Review Note**  
as of 2-6-03 7:32 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number HB0273**

**Utility Costs to Homeowner**

*13-Feb-03*

*12:15 PM*

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**State Impact**

No fiscal impact.

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**Individual and Business Impact**

No fiscal impact.

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**Office of the Legislative Fiscal Analyst**

