

MUTUAL BENEFIT CORPORATION -

JUDICIAL LIENS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Patrick Painter

Senate Sponsor: David P. Hinkins

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LONG TITLE

General Description:

This bill modifies the Utah Revised Nonprofit Corporations Act and lien provisions to address the execution of a judicial lien against the water rights and related assets of a mutual benefit corporation.

Highlighted Provisions:

This bill:

- defines terms; and
- imposes limitations on executing a judicial lien.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

**16-6a-119**, Utah Code Annotated 1953

**38-5-2**, Utah Code Annotated 1953

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

Section 1. Section **16-6a-119** is enacted to read:

**16-6a-119. Execution against a mutual benefit corporation.**

(1) As used in this section:

- 30 (a) "Judicial lien" means one or more of the following:  
31 (i) a judgment lien; or  
32 (ii) other lien obtained by a judicial or equitable process or proceeding.  
33 (b) "Water right" means:  
34 (i) a right to use water evidenced by a means identified in Section 73-1-10; or  
35 (ii) a right to use water under an approved application:  
36 (A) to appropriate;  
37 (B) for a change of use; or  
38 (C) for the exchange of water.  
39 (c) "Water rights and related assets" means a water right or title to:  
40 (i) a water conveyance facility; or  
41 (ii) other asset of a mutual benefit corporation necessary to divert or distribute water to  
42 its members.  
43 (2) Except as provided in Subsection (3), a court may not do the following with regard  
44 to a judicial lien recorded on or after May 12, 2009 against the water rights and related assets  
45 of a mutual benefit corporation earlier than 180 days after the day on which the judicial lien is  
46 recorded or takes effect:  
47 (a) execute the judicial lien;  
48 (b) impose a levy as a result of the judicial lien; or  
49 (c) force the sale, transfer, or change in ownership of the water rights and related  
50 assets pursuant to the judicial lien.  
51 (3) This section does not apply to a judicial lien related to a cause of action brought  
52 against a mutual benefit corporation by a shareholder under Section 73-3-3.5.  
53 Section 2. Section **38-5-2** is enacted to read:  
54 **38-5-2. Judicial lien against water rights and related assets of a mutual benefit**  
55 **corporation.**  
56 (1) As used in this section:  
57 (a) "Judicial lien" is defined in Section 16-6a-119.

- 58            (b) "Mutual benefit corporation" is defined in Section 16-6a-102.
- 59            (c) "Water rights and related assets" is defined in Section 16-6a-119.
- 60            (2) A judicial lien recorded on or after May 12, 2009 against the water rights and
- 61 related assets of a mutual benefit corporation is subject to Section 16-6a-119.