

1                   **APPLICATIONS FOR A SMALL AMOUNT OF**  
2                                           **WATER**

3                                           2009 GENERAL SESSION

4                                           STATE OF UTAH

5                                           **Chief Sponsor: Patrick Painter**

6                                           Senate Sponsor: Dennis E. Stowell

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8                   **LONG TITLE**

9                   **General Description:**

10                   This bill amends a provision relating to an application for a small amount of water.

11                   **Highlighted Provisions:**

12                   This bill:

- 13                   ▶ defines terms;
- 14                   ▶ requires an applicant to meet certain local ordinances;
- 15                   ▶ requires the state engineer to notify an applicant when proof is due;
- 16                   ▶ authorizes a person appropriating or changing a small amount of water to file an
- 17 affidavit as proof;
- 18                   ▶ provides the time in which an application lapses;
- 19                   ▶ authorizes a person to file a request to reinstate a lapsed application; and
- 20                   ▶ requires the state engineer to issue a certificate for a reinstated application if the
- 21 applicant meets certain requirements.

22                   **Monies Appropriated in this Bill:**

23                   None

24                   **Other Special Clauses:**

25                   None

26                   **Utah Code Sections Affected:**

27                   AMENDS:

28                   **73-3-5.6**, as enacted by Laws of Utah 1995, Chapter 121

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

31 Section 1. Section **73-3-5.6** is amended to read:

32 **73-3-5.6. Applications to appropriate or permanently change a small amount of**  
33 **water -- Proof of appropriation or change.**

34 (1) As used in this section:

35 (a) "Application" means an application to:

36 (i) appropriate a small amount of water; or

37 (ii) permanently change a small amount of water.

38 (b) "Livestock water right" means a right for:

39 (i) livestock to consume water:

40 (A) directly from the water source; or

41 (B) from an impoundment into which the water is diverted; and

42 (ii) associated uses of water related to the raising and care of livestock.

43 (c) "Proof" means proof of:

44 (i) appropriation; or

45 (ii) permanent change.

46 (d) "Small amount of water" means the amount of water necessary to meet the  
47 requirements of:

48 (i) one residence;

49 (ii) 1/4 acre of irrigable land; and

50 (iii) a livestock watering right for:

51 (A) ten cattle; or

52 (B) the equivalent amount of water of Subsection (1)(d)(iii)(A) for livestock other than  
53 cattle.

54 ~~[(+)]~~ (2) The state engineer may approve an application ~~[to appropriate or permanently~~  
55 ~~change a small amount of water necessary to meet the requirements of one residence, 1/4 acre~~  
56 ~~of irrigable land, and ten cattle or the equivalent amount of water for livestock purposes,]~~ if:

57 (a) the state engineer undertakes a thorough investigation of the ~~[proposed~~

58 ~~appropriation or permanent change~~ application;

59 (b) notice is provided in accordance with Subsection ~~[(2)]~~ (3); ~~[and]~~

60 (c) the application complies with the state engineer's regional policies and restrictions  
61 and Section 73-3-3 or 73-3-8, as applicable~~[-]; and~~

62 (d) the application does not conflict with a political subdivision's ordinance:

63 (i) for planning, zoning, or subdivision regulation; or

64 (ii) under Section 10-8-15.

65 ~~[(2)]~~ (3) (a) Advertising of an application ~~[to appropriate or permanently change a~~  
66 ~~small amount of water as]~~ specified in Subsection ~~[(1) shall be]~~ (2) is at the discretion of the  
67 state engineer.

68 (b) If the state engineer finds that the uses proposed by the application may impair  
69 other rights, before approving the application, the state engineer shall give notice of the  
70 application according to Section 73-3-6.

71 ~~[(3)]~~ (4) An applicant receiving approval under this section ~~[shall be]~~ is responsible  
72 for the time limit ~~[of]~~ for construction and submitting proof ~~[of appropriation or permanent~~  
73 ~~change]~~ as required ~~[under this chapter]~~ by Subsection (6).

74 (5) Sixty days before the end of the time limit for construction, the state engineer shall  
75 notify the applicant by mail when proof is due.

76 (6) (a) Notwithstanding Section 73-3-16, the state engineer shall issue a certificate  
77 under Section 73-3-17 if an applicant files an affidavit, on a form provided by the state  
78 engineer, as proof.

79 (b) The affidavit shall:

80 (i) specify the amount of:

81 (A) irrigated land; and

82 (B) livestock watered; and

83 (ii) declare the residence is constructed and occupied.

84 (c) The form provided by the state engineer under Subsection (6)(a) may require the  
85 information the state engineer determines is necessary to maintain accurate records regarding

86 the point of diversion and place of use.

87 (7) If an applicant does not file the proof required by Subsection (6) by the day on  
88 which the time limit for construction ends, the application lapses under Section 73-3-18.

89 (8) (a) An applicant whose application lapses may file a request with the state engineer  
90 to reinstate the application, if the applicant demonstrates that the applicant or the applicant's  
91 predecessor in interest:

92 (i) constructed and occupied a residence within the time limit for construction; and

93 (ii) beneficially uses the water.

94 (b) If an applicant meets the requirements of Subsection (8)(a) and submits an  
95 affidavit as provided by Subsection (6), the state engineer shall issue a certificate:

96 (i) for the amount of water actually in use as described in the affidavit; and

97 (ii) with a priority date of the day on which the applicant files the request for  
98 reinstatement of the application.