

WATER RIGHTS ADDENDUMS TO DEEDS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ben C. Ferry

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies and enacts provisions relating to water rights addenda to deeds.

Highlighted Provisions:

This bill:

- ▶ allows a person submitting for recording a deed conveying title to land or title to water rights to submit also a water rights addendum identifying and describing the water rights being conveyed;
- ▶ requires grantors and grantees to complete and sign any water rights addendum that is submitted;
- ▶ requires the state engineer to use the approved water rights addendum form and to provide the form to county recorders;
- ▶ clarifies that certain recording requirements apply to a water rights addendum; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-21-20, as last amended by Laws of Utah 2009, Chapter 350



28 ENACTS:

29 **57-3-109**, Utah Code Annotated 1953



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

32 Section 1. Section **17-21-20** is amended to read:

33 **17-21-20. Recording required -- Recorder may impose requirements on**
34 **documents to be recorded -- Prerequisites -- Additional fee for noncomplying documents**
35 **-- Recorder may require tax serial number -- Exceptions -- Requirements for recording**
36 **final local entity plat.**

37 (1) Subject to Subsections (2), (3), and (4), each paper, notice, and instrument required
38 by law to be filed in the office of the county recorder shall be recorded unless otherwise
39 provided.

40 (2) ~~[Each]~~ Except as provided in Subsection (5), each document executed on or after
41 July 1, 2007 that is submitted for recording to a county recorder's office shall:

42 (a) unless otherwise provided by law, be an original or certified copy of the document;

43 (b) be in English or be accompanied by an accurate English translation of the
44 document;

45 (c) contain a brief title, heading, or caption on the first page stating the nature of the
46 document;

47 (d) contain the legal description of the property that is the subject of the document;

48 (e) comply with the requirements of Section 17-21-25 and Subsections 57-3-105(1)
49 and (2);

50 (f) be notarized with the notary stamp with the seal legible; and

51 (g) have original signatures.

52 (3) (a) Beginning September 1, 2007, and except as provided in Subsection (5), a
53 county recorder may require that each paper, notice, and instrument submitted for recording in
54 the county recorder's office:

55 (i) be on white paper that is 8-1/2 inches by 11 inches in size;

56 (ii) have a margin of one inch on the left and right sides and at the bottom of each
57 page;

58 (iii) have a space of 2-1/2 inches down and 4-1/2 inches across the upper right corner

59 of the first page and a margin of one inch at the top of each succeeding page;

60 (iv) not be on sheets of paper that are continuously bound together at the side, top, or
61 bottom;

62 (v) not contain printed material on more than one side of each page;

63 (vi) be printed in black ink and not have text smaller than seven lines of text per
64 vertical inch; and

65 (vii) be sufficiently legible to make certified copies.

66 (b) A county recorder who intends to establish requirements under Subsection (3)(a)
67 shall first:

68 (i) provide formal notice of the requirements; and

69 (ii) establish and publish an effective date for the requirements that is at least three
70 months after the formal notice under Subsection (3)(b)(i).

71 (c) If a county recorder establishes requirements under this Subsection (3), the county
72 recorder may charge and collect from persons who submit a document for recording that does
73 not comply with the requirements, in addition to any other fee that the county recorder is
74 authorized to charge and collect, a fee that:

75 (i) is calculated to recover the additional cost of handling and recording noncomplying
76 documents; and

77 (ii) may not exceed \$2 per page.

78 (4) (a) To facilitate the abstracting of an instrument, a county recorder may, except as
79 provided in Subsection (5), require that the applicable tax serial number of each parcel affected
80 by the instrument appear on each instrument before it may be accepted for recording.

81 (b) If a county recorder requires the applicable tax serial number to be on an instrument
82 before it may be recorded:

83 (i) the county recorder shall post a notice of that requirement in a conspicuous place at
84 the recorder's office;

85 (ii) the tax serial number may not be considered to be part of the legal description and
86 may be indicated on the margin of the instrument; and

87 (iii) an error in the tax serial number does not affect the validity of the instrument or
88 effectiveness of the recording.

89 (5) (a) Subsections (2), (3), and (4) do not apply to:

- 90 ~~[(a)]~~ (i) a map;
- 91 ~~[(b)]~~ (ii) a certificate or affidavit of death;
- 92 ~~[(c)]~~ (iii) a military discharge;
- 93 ~~[(d)]~~ (iv) a document regarding taxes that is issued by the Internal Revenue Service of
- 94 the United States Department of the Treasury;
- 95 ~~[(e)]~~ (v) a document submitted for recording that has been filed with a court and
- 96 conforms to the formatting requirements established by the court; or
- 97 ~~[(f)]~~ (vi) a document submitted for recording that is in a form required by law.

98 (b) The following do not apply to a water rights addendum, as defined in Section
99 57-3-109:

- 100 (i) Subsections (2)(c), (d), and (f);
- 101 (ii) Subsections (3)(a)(ii) through (vi); and
- 102 (iii) Subsection (4).

103 (6) (a) As used in this Subsection (6):

- 104 (i) "Boundary action" has the same meaning as defined in Section 17-23-20.
- 105 (ii) "Local entity" has the same meaning as defined in Section 67-1a-6.5.
- 106 (b) A person may not submit to a county recorder for recording a plat depicting the
- 107 boundary of a local entity as the boundary exists as a result of a boundary action, unless:
- 108 (i) the plat has been approved under Section 17-23-20 by the county surveyor as a final
- 109 local entity plat, as defined in Section 17-23-20; and
- 110 (ii) the person also submits for recording:
- 111 (A) the original notice of an impending boundary action, as defined in Section
- 112 67-1a-6.5, for the boundary action for which the plat is submitted for recording; and
- 113 (B) the original applicable certificate, as defined in Section 67-1a-6.5, issued by the
- 114 lieutenant governor under Section 67-1a-6.5 for the boundary action for which the plat is
- 115 submitted for recording; and
- 116 (C) each other document required by statute to be submitted for recording with the
- 117 notice of an impending boundary action and applicable certificate.
- 118 (c) Promptly after recording the documents described in Subsection (6)(b) relating to a
- 119 boundary action, but no later than 10 days after recording, the county recorder shall send a copy
- 120 of all those documents to the State Tax Commission.

121 Section 2. Section **57-3-109** is enacted to read:

122 **57-3-109. Water rights addenda.**

123 (1) As used in this section:

124 (a) "Applicable deed" means a deed executed on or after July 1, 2010:

125 (i) conveying title to land; or

126 (ii) conveying title to water rights without conveying title to land.

127 (b) "Water rights addendum" means a written document that:

128 (i) is in a form approved by the Legislature in a joint resolution; and

129 (ii) identifies and describes the water rights transferred under an applicable deed.

130 (2) A person may submit a water rights addendum with an applicable deed to a county
131 recorder's office for recording.

132 (3) Any water rights addendum submitted under Subsection (2) shall be completed and
133 signed by the grantor and grantee under the applicable deed to which the water rights
134 addendum relates.

135 (4) The state engineer shall:

136 (a) use the water rights addendum form approved by the Legislature; and

137 (b) provide the form to county recorders.

138 (5) The requirements of Section 17-21-20 apply to a water rights addendum.

Legislative Review Note
as of 2-9-10 5:11 PM

Office of Legislative Research and General Counsel

H.B. 314 - Water Rights Addendums to Deeds

Fiscal Note

2010 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
