

1 **WATER RIGHTS TRANSFER AMENDMENTS**

2 2017 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Logan Wilde**

5 Senate Sponsor: D. Gregg Buxton

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions in regard to assigning water rights by a written instrument.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ states that a right claimed under an application for the appropriation of water may
13 be assigned including by a form provided by the state engineer's office;

14 ▶ provides that, beginning July 1, 2017, the state engineer shall consider an
15 assignment that is recorded and forwarded to the state engineer as a submitted
16 report of water right conveyance; and

17 ▶ makes technical changes.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **73-3-18**, as last amended by Laws of Utah 2014, Chapter 369

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

27 Section 1. Section **73-3-18** is amended to read:

28 **73-3-18. Lapse of application -- Notice -- Reinstatement -- Priorities --**

29 **Assignment of application -- Filing and recording -- Constructive notice -- Effect of**
30 **failure to record.**

31 (1) If an application lapses for failure of the applicant to comply with a provision of
32 this title or an order of the state engineer, the state engineer shall promptly give notice of the
33 lapse to the applicant by regular mail.

34 (2) Within 60 days after notice of a lapse described in Subsection (1), the state engineer
35 may, upon a showing of reasonable cause, reinstate the application with the date of priority
36 changed to the date of reinstatement.

37 (3) The original priority date of a lapsed application may not be reinstated, except upon
38 a showing of fraud or mistake of the state engineer.

39 (4) Except as provided in Section 73-3-5.6, Section 73-3-12, Section 73-3-20, or
40 Subsection (2), the priority of an application is determined by the day on which the state
41 engineer's office receives the written application.

42 (5) Before the state engineer issues a certificate of appropriation, a right claimed under
43 an application for the appropriation of water may be [~~transferred or~~] assigned by a written
44 instrument, including by use of a form provided by the state engineer's office.

45 (6) (a) An instrument [~~transferring or~~] assigning a right described in Subsection (5)
46 shall be recorded in the office of the applicable county recorder to provide notice of the
47 instrument's contents.

48 (b) Beginning July 1, 2017, the state engineer shall consider an assignment using the
49 state engineer's form described in Subsection (5) that is recorded and forwarded to the state
50 engineer as a submitted report of water right conveyance for purposes of fulfilling Subsection
51 73-1-10(3)(a).

52 (7) An instrument described in Subsection [~~(6)~~] (5) that is not recorded as described in
53 Subsection (6) is void against any subsequent assignee in good faith and for valuable
54 consideration of the same application or any portion of the same application, if the subsequent
55 assignee's own assignment is recorded as described in Subsection (6) first.

