

UTILITY EASEMENT AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen G. Handy

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends a provision related to public utility easements.

Highlighted Provisions:

This bill:

▶ provides that two private persons may create a public utility easement by contract under certain circumstances;

▶ provides that a public utility easement created by contract has a term equal to the term of the contract that creates the easement; and

▶ provides that a public utility may rely on the existence of a public utility easement if the public utility has a copy of the contract that creates the easement.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

54-3-27, as last amended by Laws of Utah 2009, Chapter 245

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

Section 1. Section **54-3-27** is amended to read:



28 **54-3-27. Public utility easement.**

29 (1) As used in this section:

30 (a) "Protected utility easement" means a recorded easement or right-of-way:

31 (i) for the use and installation of a utility facility; and

32 (ii) the ownership of which a gas corporation, electric corporation, or telephone
33 corporation acquires and holds by any lawful means.

34 (b) "Public utility easement" means the area on a recorded plat map or other recorded
35 document that is dedicated to the use and installation of public utility facilities.

36 (2) (a) A public utility easement provides a public utility with:

37 (i) the right to install, maintain, operate, repair, remove, replace, or relocate public
38 utility facilities; and

39 (ii) the rights of ingress and egress within the public utility easement for public utility
40 employees, contractors, and agents.

41 (b) Notwithstanding Subsection (3), a public utility shall restore or repair, at the
42 expense of the public utility, any fence, grass, soil, shrubbery, bushes, flowers, other low level
43 vegetation, sprinkler system, irrigation system, gravel, flat concrete, or asphalt damaged or
44 displaced from the exercise of the easement rights described in Subsection (2)(a).

45 (3) Except as provided in Subsection (2)(b), if a property owner places improvements
46 to land that interfere with the easement rights described in Subsection (2)(a), the property
47 owner shall bear the risk of loss or damage to those improvements resulting from the exercise
48 of the easement rights described in Subsection (2)(a).

49 (4) (a) Except as provided in Subsection (4)(b), a public utility easement is
50 nonexclusive and may be used by more than one public utility.

51 (b) Notwithstanding Subsection (4)(a), a public utility may not:

52 (i) interfere with any facility of another public utility within the public utility easement;
53 or

54 (ii) infringe on the legally required distances of separation between public utility
55 facilities required by federal, state, or local law.

56 (5) A subdivision plat that includes a public utility easement may not be approved by a
57 county or municipality unless the subdivider has provided the county or municipality proof that
58 the subdivider has, as a courtesy, previously notified each public utility that is anticipated to

59 provide service to the subdivision.

60 (6) A person may not acquire, whether by adverse possession, prescription,
61 acquiescence, or otherwise, any right, title, or interest in a public utility easement or protected
62 utility easement that is adverse to or interferes with a public utility's full use of the easement for
63 the purposes for which the easement was created.

64 (7) A gas corporation's, electric corporation's, or telephone corporation's failure to
65 possess, occupy, or use a protected utility easement does not diminish or extinguish any right
66 that the gas corporation, electric corporation, or telephone corporation has under the easement.

67 (8) Nothing in this section may be construed to affect the right of a condemnor to
68 condemn a public utility easement as provided by law.

69 (9) (a) A private person may create a public utility easement by contract with another
70 private person if the contract states that:

71 (i) the parties to the contract intend to create a public utility easement; and

72 (ii) the public utility easement is created for the benefit of a third party.

73 (b) A public utility easement created by a contract under Subsection (9)(a) has a term
74 equal to the term of the contract.

75 (c) A public utility may rely on the existence of a public utility easement created by a
76 contract under Subsection (9)(a) if the public utility has a copy of the contract.

Legislative Review Note
Office of Legislative Research and General Counsel