

PROTECTION OF PROPERTY AMENDMENT

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carl Wimmer

Senate Sponsor: Mark B. Madsen

LONG TITLE

General Description:

This bill modifies the Criminal Code regarding the offense of use of force in defense of property.

Highlighted Provisions:

This bill:

► amends the provision regarding justified use of force in defense of property to provide that the court may consider, in determining reasonableness:

- extent of damage;
- previous damage;
- prior threats of injury or damage; and
- prior pattern of abuse or violence.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-2-406, as enacted by Laws of Utah 1973, Chapter 196

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

Section 1. Section **76-2-406** is amended to read:

76-2-406. Force in defense of property -- Affirmative defense.

30 (1) A person is justified in using force, other than deadly force, against another when
31 and to the extent that ~~[he]~~ the person reasonably believes that force is necessary to prevent or
32 terminate another person's criminal interference with real property or personal property:

33 ~~[(1) Lawfully]~~ (a) lawfully in ~~[his]~~ the person's possession; ~~[or]~~

34 ~~[(2) Lawfully]~~ (b) lawfully in the possession of a member of ~~[his]~~ the person's
35 immediate family; or

36 ~~[(3) Belonging]~~ (c) belonging to a person whose property ~~[he]~~ the person has a legal
37 duty to protect.

38 (2) In determining reasonableness under Subsection (1), the trier of fact shall, in
39 addition to any other factors, consider the following factors:

40 (a) the apparent or perceived extent of the damage to the property;

41 (b) property damage previously caused by the other person;

42 (c) threats of personal injury or damage to property that have been made previously by
43 the other person; and

44 (d) any patterns of abuse or violence between the person and the other person.