

Unauthorized Use of Real Property Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Heidi Balderree

House Sponsor: Karianne Lisonbee

LONG TITLE

General Description:

This bill addresses the consequences of unauthorized use of real property by providing a limited alternative remedy to remove a trespasser from real property and providing a criminal penalty for the fraudulent sale or rental of real property.

Highlighted Provisions:

This bill:

- authorizes property owners or their agents to request assistance from law enforcement for the immediate removal of a trespasser from real property under certain conditions;
- requires an owner seeking removal of a trespasser, or the owner's authorized agent, to submit a complaint;
- specifies requirements for the complaint;
- provides requirements for law enforcement;
- authorizes law enforcement to arrest a trespasser for legal cause;
- authorizes the owner or agent to request that law enforcement stand by while the owner or agent takes possession of the property;
- provides that law enforcement is not liable to any party for loss, destruction, or damage;
- provides that the property owner or agent is not liable to any party for the loss or destruction of, or damage to, personal property unless it was wrongfully removed;
- provides civil remedies;
- imposes criminal penalties for unlawfully possessing of, occupying on, or trespassing on real property intentionally and causing a specified amount of damage;
- imposes criminal penalties for any person who knowingly and willfully presents a false document purporting to be a valid lease agreement, deed, or other instrument conveying real property rights;

- imposes criminal penalties for fraudulently listing or advertising for sale, or renting or leasing, residential real property under certain circumstances; and
- provides criminal penalties for committing perjury.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-6-206, as last amended by Laws of Utah 2024, Chapter 2

ENACTS:

76-6-106.2, Utah Code Annotated 1953

76-6-525, Utah Code Annotated 1953

78B-6-817, Utah Code Annotated 1953

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

Section 1. Section **76-6-106.2** is enacted to read:

76-6-106.2 . Property damage or destruction by a trespasser on real property.

- (1) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.
- (2) An actor commits property damage or destruction by a trespasser on real property if, under circumstances not amounting to burglary as defined in Section 76-6-202 or 76-6-203, the actor:
 - (a) enters or remains unlawfully on real property; and
 - (b) causes damage or pecuniary loss equal to or in excess of \$1,500.
- (3) A violation of Subsection (2) is a second degree felony.

Section 2. Section **76-6-206** is amended to read:

76-6-206 . Criminal trespass.

- (1)(a) As used in this section:

- (i) "Enter" means intrusion of the entire body or the entire unmanned aircraft.
- (ii) "Graffiti" means the same as that term is defined in Section 76-6-101.
- (iii) "Remain unlawfully," as that term relates to an unmanned aircraft, means remaining on or over private property when:
 - (A) the private property or any portion of the private property is not open to the public; and

- 62 (B) the person operating the unmanned aircraft is not otherwise authorized to fly
63 the unmanned aircraft over the private property or any portion of the private
64 property.
- 65 (b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.
- 66 (2) An actor commits criminal trespass if, under circumstances not amounting to burglary
67 as defined in Section 76-6-202, 76-6-203, or 76-6-204, a violation of Section 76-6-106.2,
68 or a violation of Section 76-10-2402 regarding commercial obstruction:
- 69 (a) the actor enters or remains unlawfully on or causes an unmanned aircraft to enter and
70 remain unlawfully over property and:
- 71 (i) intends to cause annoyance or injury to any person or damage to any property,
72 including the use of graffiti;
- 73 (ii) intends to commit any crime, other than theft or a felony; or
- 74 (iii) is reckless as to whether the actor's or unmanned aircraft's presence will cause
75 fear for the safety of another;
- 76 (b) knowing the actor's or unmanned aircraft's entry or presence is unlawful, the actor
77 enters or remains on or causes an unmanned aircraft to enter or remain unlawfully
78 over property to which notice against entering is given by:
- 79 (i) personal communication to the actor by the owner or someone with apparent
80 authority to act for the owner;
- 81 (ii) fencing or other enclosure obviously designed to exclude intruders; or
- 82 (iii) posting of signs reasonably likely to come to the attention of intruders;
- 83 (c) the actor enters a condominium unit in violation of Section 57-8-7(8); or
- 84 (d) the actor enters a sex-designated changing room in violation of Subsection
85 63G-31-302(3).
- 86 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2)(a) , (b), or
87 (d) is a class B misdemeanor.
- 88 (b) The following is a class A misdemeanor:
- 89 (i) if a violation of Subsection (2)(a) or (b) is committed in a dwelling;
- 90 (ii) if a violation of Subsection (2)(d) is committed while also committing the offense
91 of:
- 92 (A) lewdness under Section 76-9-702;
- 93 (B) lewdness involving a child under Section 76-9-702.5;
- 94 (C) voyeurism under Section 76-9-702.7; or
- 95 (D) loitering in a privacy space under Section 76-9-702.8; or

(iii) if a violation of Subsection (2)(d) is committed in a sex-designated privacy space, as defined in Section 76-9-702.8, that is not designated for individuals of the actor's sex.

(c) A violation of Subsection (2)(c) is an infraction.

(4) It is a defense to prosecution under this section that:

(a) the property was at the time open to the public; and

(b) the defendant complied with all lawful conditions imposed on access to or remaining on the property.

(5) In addition to an order for restitution under Section 77-38b-205, an actor who commits a violation of Subsection (2) may also be liable for:

(a) statutory damages in the amount of three times the value of damages resulting from the violation of Subsection (2) or \$500, whichever is greater; and

(b) reasonable attorney fees not to exceed \$250, and court costs.

(6) Civil damages under Subsection (5) may be collected in a separate action by the property owner or the owner's assignee.

Section 3. Section **76-6-525** is enacted to read:

76-6-525 . Fraudulent advertisement, sale, lease, or mortgaging of real property.

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits fraudulent advertisement, sale, lease, or mortgaging of real property if the actor knowingly:

(a)(i) lists or advertises residential real property for sale; or

(ii) sells, leases, or mortgages real property; and

(b) does not have legal title to the property or authority to advertise, sell, lease, or mortgage the real property.

(3) A violation of Subsection (2) is a second degree felony.

Section 4. Section **78B-6-817** is enacted to read:

78B-6-817 . Limited alternative remedy to remove a trespasser from real property.

(1) An owner of real property, or the property owner's authorized agent, may request that law enforcement of the appropriate jurisdiction in which the real property is located, immediately remove a trespasser occupying the real property if the property owner, or an authorized agent of the property owner, attests that:

(a) the trespasser has unlawfully entered and remains on the real property;

(b) the real property was not open to members of the public at the time the trespasser

130 entered;

131 (c) the property owner has directed the trespasser to leave the real property;

132 (d) the trespasser is not a current or former tenant of the real property under a written
133 rental agreement authorized by the property owner;

134 (e) the trespasser is not an immediate family member of the property owner; and

135 (f) there is no pending litigation related to the real property between the property owner
136 and the trespasser.

137 (2)(a) To request the immediate removal of a trespasser on the real property, the
138 property owner or property owner's authorized agent shall submit a complaint by
139 presenting a completed and verified Complaint to Remove Trespassers Unlawfully
140 Occupying Real Property to law enforcement of the appropriate jurisdiction in which
141 the real property is located.

142 (b) The submitted complaint shall be in substantially the following form:

143 "COMPLAINT TO REMOVE TRESPASSERS UNLAWFULLY OCCUPYING
144 REAL PROPERTY

145 I, the owner or authorized agent of the owner of the real property located at
146 [physical address of the real property], declare under the penalty of perjury that
147 (initial each box):

148 1. I am the owner of the real property or the authorized agent of the owner of
149 the real property.

150 2. I have attached evidence that I am the record owner of the real property, or
151 the authorized agent of the owner.

152 3. A trespasser has unlawfully entered and is remaining or residing unlawfully
153 on the real property.

154 4. The real property was not open to members of the public at the time the
155 trespasser entered.

156 5. I have directed the trespasser to leave the real property, but the trespasser
157 has not done so.

158 6. The trespasser is not a current or former tenant according to any valid lease
159 authorized by the property owner for the real property, and any lease that may be
160 produced by an occupant is fraudulent.

161 7. The trespasser sought to be removed is not an owner or a co-owner of the
162 property and has not been listed on the title to the property unless the trespasser has
163 engaged in title fraud.

164 8. The trespasser is not an immediate family member of the property owner.

165 9. There is no litigation related to the real property pending between the
166 property owner and any trespasser sought to be removed.

167 10. I understand that an individual removed from the real property with this
168 procedure may bring a cause of action against me for any false statements made in
169 this complaint, or for wrongfully using this procedure, and that as a result of such
170 action I may be held liable for actual damages, penalties, costs, and reasonable
171 attorney fees.

172 11. I am requesting law enforcement to immediately remove the trespasser
173 from the real property.

174 12. A copy of my valid government-issued identification is attached, or I am
175 an agent of the property owner and documents evidencing my authority to act on the
176 property owner's behalf are attached.

177 I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND
178 EACH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT THE
179 STATEMENTS MADE IN THIS PETITION ARE BEING MADE UNDER
180 PENALTY OF PERJURY, PUNISHABLE AS PROVIDED IN UTAH CODE,
181 SECTION 76-8-502.

182

183 (Signature of Property Owner or Authorized Agent of Owner)"

184 (3)(a) Upon receipt of the complaint and evidence of ownership, and the owner or
185 authorized agent appears entitled to the relief described in this section, law
186 enforcement shall, without delay, instruct the trespasser or serve a notice to
187 immediately vacate on any trespasser and shall put the owner or authorized agent in
188 possession of the real property.

189 (b) If verified, law enforcement shall, without delay, serve a notice to immediately
190 vacate on any trespasser and shall put the owner in possession of the real property.

191 (c) Law enforcement may serve the trespasser by hand delivery of the notice or by
192 posting the notice on the real property.

193 (d) Law enforcement shall attempt to verify the identity of any trespasser occupying the
194 real property and note the identities on the return of service.

195 (e) If appropriate, law enforcement may arrest any trespasser found on the real property
196 for trespass, outstanding warrants, or any other legal cause.

197 (4)(a) After law enforcement serves the notice to immediately vacate, the property

owner or authorized agent may request that law enforcement stand by to keep the peace while the property owner or authorized agent of the property owner changes the locks and removes the personal property of the trespasser from the real property to or near the property line.

(b) Law enforcement is not liable to the trespasser or any other party for loss, destruction, or damage of property.

(c) The property owner and authorized agent are not liable to the trespasser or any other party for the loss, destruction, or damage to the personal property unless the removal was wrongful.

(5)(a) An individual may bring a civil cause of action for wrongful removal under this section.

(b)(i) An individual harmed by a wrongful removal under this section may be restored to possession of the real property and may recover actual costs and damages incurred, statutory damages equal to triple the fair market rent of the dwelling, court costs, and reasonable attorney fees.

(ii) The court shall expedite the trial and any hearing in an action described in this Subsection (5).

(6) This section does not limit the rights of a property owner or limit the authority of a law enforcement officer to arrest a trespasser for trespassing, vandalism, theft, or other crimes.

Section 5. **Effective Date.**

This bill takes effect on May 7, 2025.