

Unauthorized Use of Residential Real Property Modifications

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karianne Lisonbee

LONG TITLE**General Description:**

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

Highlighted Provisions:

This bill:

- ▶ authorizes property owners or their agents to request assistance from the sheriff for the immediate removal of a trespasser from a residential dwelling 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 the sheriff;
- ▶ authorizes a sheriff to arrest a trespasser for legal cause;
- ▶ provides that a sheriff is entitled to a specified fee for service of notice to vacate;
- ▶ authorizes the owner or agent to request that the sheriff stand by while the owner or agent takes possession of the property;
- ▶ authorizes the sheriff to charge a reasonable hourly rate;
- ▶ provides that the sheriff 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 detaining, occupying, or trespassing of, a residential dwelling 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

32 penalties for committing perjury.

33 **Money Appropriated in this Bill:**

34 None

35 **Other Special Clauses:**

36 None

37 **Utah Code Sections Affected:**

38 ENACTS:

39 **76-6-106.2**, Utah Code Annotated 1953

40 **76-6-525**, Utah Code Annotated 1953

41 **78B-6-817**, Utah Code Annotated 1953

42

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

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

45 **76-6-106.2 . Property damage or destruction by a trespasser in a residential**
 46 **dwelling.**

47 (1) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.

48 (2) An actor commits property damage or destruction by a trespasser in a residential
 49 dwelling if the actor:

50 (a) enters and remains unlawfully in a residential dwelling; and

51 (b) causes damage or pecuniary loss equal to or in excess of \$1,000.

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

53 Section 2. Section **76-6-525** is enacted to read:

54 **76-6-525 . Fraudulent advertisement, sale, or lease of residential real property.**

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

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

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

59 (ii) sells or leases residential real property; and

60 (b) does not have legal title to the property or authority to sell or lease the property.

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

62 Section 3. Section **78B-6-817** is enacted to read:

63 **78B-6-817 . Limited alternative remedy to remove a trespasser from residential**
 64 **real property**

65 (1) An owner of a residential dwelling, or the property owner's authorized agent, may

66 request that the sheriff of the county in which the dwelling is located, immediately
67 remove a trespasser occupying a residential dwelling if the following conditions are met:

- 68 (a) the property owner, or an authorized agent of the property owner, attests that the
69 trespasser has unlawfully entered and remains in the residential dwelling;
70 (b) the residential dwelling was not open to members of the public at the time the
71 trespasser entered;
72 (c) the property owner has directed the trespasser to leave the residential dwelling;
73 (d) the trespasser is not a current or former tenant of the residential dwelling under a
74 written rental agreement authorized by the property owner;
75 (e) the trespasser is not an immediate family member of the property owner; and
76 (f) there is no pending litigation related to the residential dwelling between the property
77 owner and the trespasser.

78 (2)(a) To request the immediate removal of a trespasser of a residential dwelling, the
79 property owner or property owner's authorized agent shall submit a complaint by
80 presenting a completed and verified Complaint to Remove Trespassers Unlawfully
81 Occupying Residential Dwelling to the sheriff of the county in which the real
82 property is located.

83 (b) The submitted complaint shall be in substantially the following form:
84 COMPLAINT TO REMOVE TRESPASSERS UNLAWFULLY OCCUPYING A
85 RESIDENTIAL DWELLING

86 I, the owner or authorized agent of the owner of the real property located at
87 [physical address of the residential dwelling], declare under the penalty of perjury
88 that (initial each box):

89 1. I am the owner of the real property or the authorized agent of the owner of
90 the real property.

91 2. I purchased the property on [date].

92 3. The real property is a residential dwelling.

93 4. A trespasser has unlawfully entered and is remaining or residing unlawfully
94 in the residential dwelling.

95 5. The residential dwelling was not open to members of the public at the time
96 the trespasser entered.

97 6. I have directed the trespasser to leave the residential dwelling, but the
98 trespasser has not done so.

99 7. The trespasser is not a current or former tenant according to any valid lease

100 authorized by the property owner for the residential dwelling, and any lease that may
101 be produced by an occupant is fraudulent.

102 8. The trespasser sought to be removed is not an owner or a co-owner of the
103 property and has not been listed on the title to the property unless the trespasser has
104 engaged in title fraud.

105 9. The trespasser is not an immediate family member of the property owner.

106 10. There is no litigation related to the residential dwelling pending between
107 the property owner and any trespasser sought to be removed.

108 11. I understand that an individual removed from the residential dwelling with
109 this procedure may bring a cause of action against me for any false statements made
110 in this complaint, or for wrongfully using this procedure, and that as a result of such
111 action I may be held liable for actual damages, penalties, costs, and reasonable
112 attorney fees.

113 12. I am requesting the sheriff to immediately remove the trespasser from the
114 residential dwelling.

115 13. A copy of my valid government-issued identification is attached, or I am
116 an agent of the property owner, and documents evidencing my authority to act on the
117 property owners behalf are attached.

118 I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND
119 EACH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT THE
120 STATEMENTS MADE IN THIS PETITION ARE BEING MADE UNDER
121 PENALTY OF PERJURY, PUNISHABLE AS PROVIDED IN SECTION 76-8-502.

122
123 (Signature of Property Owner or Authorized Agent of Owner)

124 (3)(a) Upon receipt of the complaint, the sheriff shall verify that the individual
125 submitting the complaint is the record owner of the residential dwelling, or the
126 authorized agent of the owner, and appears entitled to the relief described in this
127 section.

128 (b) If verified, the sheriff shall, without delay, serve a notice to immediately vacate on
129 any trespasser and shall put the owner in possession of the residential dwelling.

130 (c) The sheriff may serve the trespasser by hand delivery of the notice or by posting the
131 notice on the front door or entrance of the residential dwelling.

132 (d) The sheriff shall attempt to verify the identity of any trespasser occupying the
133 residential dwelling and note the identities on the return of service.

134 (e) If appropriate, the sheriff may arrest any trespasser found in the residential dwelling
135 for trespass, outstanding warrants, or any other legal cause.

136 (4)(a) The sheriff is entitled to the same fee for service of the notice to immediately
137 vacate as if the sheriff were serving a writ of possession or restitution under Section
138 17-22-2.5.

139 (b) After the sheriff serves the notice to immediately vacate, the property owner or
140 authorized agent may request that the sheriff stand by to keep the peace while the
141 property owner or authorized agent of the property owner changes the locks and
142 removes the personal property of the trespasser from the residential dwelling to or
143 near the property line.

144 (c) When a property owner or an authorized agent makes a request under Subsection
145 (4)(b), the sheriff may charge a reasonable hourly rate, and the individual requesting
146 the sheriff to stand by and keep the peace is responsible for paying the reasonable
147 hourly rate set by the sheriff.

148 (d) The sheriff is not liable to the trespasser or any other party for loss, destruction, or
149 damage of property.

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

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

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

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

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

164 Section 4. **Effective date.**

165 This bill takes effect on May 7, 2025.