

Unauthorized Use of Residential 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 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

31 leasing, residential real property under certain circumstances; and
32 ▸ provides criminal 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

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, or an authorized agent of the property owner, has directed the
73 trespasser to leave the residential dwelling;
- 74 (d) the trespasser is not a current or former tenant of the residential dwelling under a
75 written rental agreement authorized by the property owner;
- 76 (e) the trespasser is not an immediate family member of the property owner; and
77 (f) there is no pending litigation related to the residential dwelling between the property
78 owner and the trespasser.
- 79 (2)(a) To request the immediate removal of a trespasser of a residential dwelling, the
80 property owner or property owner's authorized agent shall submit a complaint by
81 presenting a completed and verified Complaint to Remove Trespassers Unlawfully
82 Occupying a Residential Dwelling to the sheriff of the county in which the real
83 property is located.
- 84 (b) The submitted complaint shall be in substantially the following form:
- 85 "COMPLAINT TO REMOVE TRESPASSERS UNLAWFULLY OCCUPYING
86 A RESIDENTIAL DWELLING
- 87 I, the owner or authorized agent of the owner of the real property located at
88 [physical address of the residential dwelling], declare under the penalty of perjury
89 that (initial each box):
- 90 1. I am the owner of the real property or the authorized agent of the owner of
91 the real property.
- 92 2. I purchased the property on [date].
- 93 3. The real property is a residential dwelling.
- 94 4. A trespasser has unlawfully entered and is remaining or residing unlawfully
95 in the residential dwelling.
- 96 5. The residential dwelling was not open to members of the public at the time
97 the trespasser entered.
- 98 6. I have directed the trespasser to leave the residential dwelling, but the

99 trespasser has not done so.

100 7. The trespasser is not a current or former tenant according to any valid lease
101 authorized by the property owner for the residential dwelling, and any lease that may
102 be produced by an occupant is fraudulent.

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

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

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

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

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

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

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

124
125 (Signature of Property Owner or Authorized Agent of Owner)"

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

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

132 (c) The sheriff may serve the trespasser by hand delivery of the notice or by posting the

- 133 notice on the front door or entrance of the residential dwelling.
- 134 (d) The sheriff shall attempt to verify the identity of any trespasser occupying the
135 residential dwelling and note the identities on the return of service.
- 136 (e) If appropriate, the sheriff may arrest any trespasser found in the residential dwelling
137 for trespassing, outstanding warrants, or any other legal cause.
- 138 (4)(a) The sheriff is entitled to the same fee for service of the notice to immediately
139 vacate as if the sheriff were serving a writ of possession or restitution under Section
140 17-22-2.5.
- 141 (b) After the sheriff serves the notice to immediately vacate, the property owner or
142 authorized agent of the property owner may request that the sheriff stand by to keep
143 the peace while the property owner or authorized agent of the property owner
144 changes the locks and removes the personal property of the trespasser from the
145 residential dwelling to or near the property line.
- 146 (c) When a property owner or an authorized agent of the property owner makes a
147 request under Subsection (4)(b), the sheriff may charge a reasonable hourly rate, and
148 the individual requesting the sheriff to stand by and keep the peace is responsible for
149 paying the reasonable hourly rate set by the sheriff.
- 150 (d) The sheriff is not liable to the trespasser or any other party for loss, destruction, or
151 damage of property.
- 152 (e) The property owner and authorized agent of the property owner are not liable to the
153 trespasser or any other party for the loss, destruction, or damage to the personal
154 property unless the removal was wrongful.
- 155 (5)(a) An individual may bring a civil cause of action for wrongful removal under this
156 section.
- 157 (b)(i) An individual harmed by a wrongful removal under this section may be
158 restored to possession of the residential dwelling and may recover actual costs and
159 damages incurred, statutory damages equal to triple the fair market rent of the
160 dwelling, court costs, and reasonable attorney fees.
- 161 (ii) The court shall expedite the trial and any hearing in an action described in this
162 Subsection (5).
- 163 (6) This section does not limit the rights of a property owner or limit the authority of a law
164 enforcement officer to arrest a trespasser for trespassing, vandalism, theft, or other
165 crimes.

166 Section 4. **Effective date.**

167 This bill takes effect on May 7, 2025.