

Heidi Balderree proposes the following substitute bill:

1

Unauthorized Use of Real Property Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Heidi Balderree

House Sponsor: Karianne Lisonbee

2

LONG TITLE

General Description:

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

Highlighted Provisions:

9 This bill:

- 10 ▶ authorizes property owners or their agents to request assistance from the sheriff for the
11 immediate removal of a trespasser from real property under certain conditions;
- 12 ▶ requires an owner seeking removal of a trespasser, or the owner's authorized agent, to
13 submit a complaint;
- 14 ▶ specifies requirements for the complaint;
- 15 ▶ provides requirements for the sheriff;
- 16 ▶ authorizes a sheriff to arrest a trespasser for legal cause;
- 17 ▶ provides that a sheriff is entitled to a specified fee for service of notice to vacate;
- 18 ▶ authorizes the owner or agent to request that the sheriff stand by while the owner or agent
19 takes possession of the property;
- 20 ▶ authorizes the sheriff to charge a reasonable hourly rate;
- 21 ▶ provides that the sheriff is not liable to any party for loss, destruction, or damage;
- 22 ▶ provides that the property owner or agent is not liable to any party for the loss or
23 destruction of, or damage to, personal property unless it was wrongfully removed;
- 24 ▶ provides civil remedies;
- 25 ▶ imposes criminal penalties for unlawfully detaining, occupying, or trespassing of, real
26 property intentionally and causing a specified amount of damage;
- 27 ▶ imposes criminal penalties for any person who knowingly and willfully presents a false
28 document purporting to be a valid lease agreement, deed, or other instrument conveying

- 29 real property rights;
- 30 ▸ 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 AMENDS:

39 **76-6-206**, as last amended by Laws of Utah 2024, Chapter 2

40 ENACTS:

41 **76-6-106.2**, Utah Code Annotated 1953

42 **76-6-525**, Utah Code Annotated 1953

43 **78B-6-817**, Utah Code Annotated 1953



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

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

47 **76-6-106.2 . Property damage or destruction by a trespasser on real property.**

- 48 (1) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.
- 49 (2) An actor commits property damage or destruction by a trespasser on real property if,
- 50 under circumstances not amounting to burglary as defined in Section 76-6-202 or
- 51 76-6-203, the actor:
 - 52 (a) enters or remains unlawfully on real property; and
 - 53 (b) causes damage or pecuniary loss equal to or in excess of \$1,500.
- 54 (3) A violation of Subsection (2) is a second degree felony.

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

56 **76-6-206 . Criminal trespass.**

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

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

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

97 (D) loitering in a privacy space under Section 76-9-702.8; or
 98 (iii) if a violation of Subsection (2)(d) is committed in a sex-designated privacy
 99 space, as defined in Section 76-9-702.8, that is not designated for individuals of
 100 the actor's sex.

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

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

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

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

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

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

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

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

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

114 **76-6-525 . Fraudulent advertisement, sale, lease, or mortgaging of real property.**

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

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

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

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

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

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

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

124 **78B-6-817 . Limited alternative remedy to remove a trespasser from real**
 125 **property.**

126 (1) An owner of real property, or the property owner's authorized agent, may request that
 127 the sheriff of the county in which the real property is located, immediately remove a
 128 trespasser occupying the real property if the following conditions are met:

129 (a) the property owner, or an authorized agent of the property owner, attests that the
 130 trespasser has unlawfully entered and remains on the real property;

- 131 (b) the real property was not open to members of the public at the time the trespasser
132 entered;
- 133 (c) the property owner has directed the trespasser to leave the real property;
- 134 (d) the trespasser is not a current or former tenant of the real property under a written
135 rental agreement authorized by the property owner;
- 136 (e) the trespasser is not an immediate family member of the property owner; and
- 137 (f) there is no pending litigation related to the real property between the property owner
138 and the trespasser.
- 139 (2)(a) To request the immediate removal of a trespasser on the real property, the
140 property owner or property owner's authorized agent shall submit a complaint by
141 presenting a completed and verified Complaint to Remove Trespassers Unlawfully
142 Occupying Real Property to the sheriff of the county in which the real property is
143 located.
- 144 (b) The submitted complaint shall be in substantially the following form:
- 145 "COMPLAINT TO REMOVE TRESPASSERS UNLAWFULLY OCCUPYING
146 REAL PROPERTY
- 147 I, the owner or authorized agent of the owner of the real property located at
148 [physical address of the real property], declare under the penalty of perjury that
149 (initial each box):
- 150 1. I am the owner of the real property or the authorized agent of the owner of
151 the real property.
- 152 2. I purchased the property on [date].
- 153 3. A trespasser has unlawfully entered and is remaining or residing unlawfully
154 on the real property.
- 155 4. The real property was not open to members of the public at the time the
156 trespasser entered.
- 157 5. I have directed the trespasser to leave the real property, but the trespasser
158 has not done so.
- 159 6. The trespasser is not a current or former tenant according to any valid lease
160 authorized by the property owner for the real property, and any lease that may be
161 produced by an occupant is fraudulent.
- 162 7. The trespasser sought to be removed is not an owner or a co-owner of the
163 property and has not been listed on the title to the property unless the trespasser has
164 engaged in title fraud.

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

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

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

173 11. I am requesting the sheriff to immediately remove the trespasser from the
174 real property.

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

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

183

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

185 (3)(a) Upon receipt of the complaint, the sheriff shall verify that the individual
186 submitting the complaint is the record owner of the real property, or the authorized
187 agent of the owner, and appears entitled to the relief described in this section.

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

190 (c) The sheriff may serve the trespasser by hand delivery of the notice or by posting the
191 notice on the real property.

192 (d) The sheriff shall attempt to verify the identity of any trespasser occupying the real
193 property and note the identities on the return of service.

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

196 (4)(a) The sheriff is entitled to the same fee for service of the notice to immediately
197 vacate as if the sheriff were serving a writ of possession or restitution under Section
198 17-22-2.5.

- 199 (b) After the sheriff serves the notice to immediately vacate, the property owner or
200 authorized agent may request that the sheriff stand by to keep the peace while the
201 property owner or authorized agent of the property owner changes the locks and
202 removes the personal property of the trespasser from the real property to or near the
203 property line.
- 204 (c) When a property owner or an authorized agent makes a request under Subsection
205 (4)(b), the sheriff may charge a reasonable hourly rate, and the individual requesting
206 the sheriff to stand by and keep the peace is responsible for paying the reasonable
207 hourly rate set by the sheriff.
- 208 (d) The sheriff is not liable to the trespasser or any other party for loss, destruction, or
209 damage of property.
- 210 (e) The property owner and authorized agent are not liable to the trespasser or any other
211 party for the loss, destruction, or damage to the personal property unless the removal
212 was wrongful.
- 213 (5)(a) An individual may bring a civil cause of action for wrongful removal under this
214 section.
- 215 (b)(i) An individual harmed by a wrongful removal under this section may be
216 restored to possession of the real property and may recover actual costs and
217 damages incurred, statutory damages equal to triple the fair market rent of the
218 dwelling, court costs, and reasonable attorney fees.
- 219 (ii) The court shall expedite the trial and any hearing in an action described in this
220 Subsection (5).
- 221 (6) This section does not limit the rights of a property owner or limit the authority of a law
222 enforcement officer to arrest a trespasser for trespassing, vandalism, theft, or other
223 crimes.
- 224 **Section 5. Effective Date.**
- 225 This bill takes effect on May 7, 2025.