



# Removing Unlawful Occupants

Prepared by the Office of Legislative Research and General Counsel



## Key Facts

- ▶ Utah law does not provide legal protections for occupants that are not current or former tenants.
- ▶ Occupants that remain on property unlawfully can be arrested and charged with criminal trespass.
- ▶ Occupants claiming a tenancy dispute or rightful claims of ownership can present practical issues for law enforcement.
- ▶ Recent legislative efforts in other states have created processes for owners to formally attest that the occupant has no right to the property.



## Recent Legislation

While Utah has not seen any reports of widespread issues related to squatting, four states have passed legislation during the 2024 session to address trends on social media advising viewers on the use of adverse possession to lawfully take property.

- ▶ Legislation in [Florida](#) and [Tennessee](#) created a new process where property owners provide certain information to law enforcement before officers remove an occupant.
  - Owners must attest, under penalty of perjury, that they are the lawful owner and that the occupant has no legal claim to the property.
  - Similar legislation in [Arizona](#) passed the Legislature but has been vetoed by the Governor.
- ▶ Meanwhile, legislation in [Georgia](#) and New York revised the statutory definitions of squatter and tenant to clarify to law enforcement that any occupant without a valid lease agreement is squatting and may be guilty of trespassing.



## What is required to remove occupants?

The process required for an owner to remove an occupant depends on whether the occupant meets the statutory definition of a **tenant**.

For an occupant that is a **non-tenant**, [Utah Code Section 76-6-206](#) defines criminal trespass as entering or remaining on property after the occupant has received notice by the owner or posting of signs.

For an occupant that is a **current or former tenant**, [Utah Code Section 78B-6-814](#) prohibits an owner from removing a tenant except by judicial process (eviction).



## Who is considered a tenant?

[Utah Code Section 78B-6-802](#) grants rights of tenancy to an individual upon an established agreement between the individual and the property owner for **either**:

1. A definite period of time; or
2. An indefinite period of time with periodic rent payments.

Occupants that remain past the end of a lease or fail to make rent payments would meet the definition of a tenant and must be evicted.



## How are trespassing laws enforced?

Non-tenants that violate the criminal trespass statute may be removed or arrested by law enforcement and may be charged with a class A or class B misdemeanor.

However, alleged disputes over lawful tenancy or property rights may create practical problems for law enforcement. When an occupant claims to have a right to the property or shows a purported lease agreement, law enforcement officers may refuse to adjudicate at the scene and direct the property owner to seek judicial remedies.



## What is adverse possession?

Adverse possession is a process that allows an individual to obtain legal title to a property once certain conditions are met. [Utah Code 78B-2-2](#) requires that an occupant seeking to claim title through adverse possession must:

1. Occupy the property continuously for at least seven years;
2. Occupy the property without the owner's consent and in a manner that would be visible to a reasonable owner; and
3. Pay all property taxes on the property for the duration of the occupation.