

**UNLAWFUL DETAINER AMENDMENTS**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Gage Froerer**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill requires the court to hold an evidentiary hearing, upon the request of either party, within ten days for an action involving unlawful detainer.

**Highlighted Provisions:**

This bill:

► requires the court, upon the request of either party, to hold an evidentiary hearing for an action involving unlawful detainer.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**78B-6-810**, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

Section 1. Section **78B-6-810** is amended to read:

**78B-6-810. Court procedures.**

(1) In an action under this chapter in which the tenant remains in possession of the property:



28 (a) the court shall expedite the proceedings, including the resolution of motions and  
29 trial;

30 (b) the court shall begin the trial within 60 days after the day on which the complaint is  
31 served, unless the parties agree otherwise; and

32 (c) if this chapter requires a hearing to be held within a specified time, the time may be  
33 extended to the first date thereafter on which a judge is available to hear the case in a  
34 jurisdiction in which a judge is not always available.

35 (2) (a) In an action for unlawful detainer [~~where the claim is for nonpayment of rent~~],  
36 the court shall hold an evidentiary hearing, upon request of either party, within ten days after  
37 the day on which the defendant files the defendant's answer.

38 (b) At the evidentiary hearing held in accordance with Subsection (2)(a):

39 (i) the court shall determine who has the right of occupancy during the litigation's  
40 pendency; and

41 (ii) if the court determines that all issues between the parties can be adjudicated  
42 without further proceedings, the court shall adjudicate those issues and enter judgment on the  
43 merits.

44 (3) (a) In an action for unlawful detainer in which the claim is for nuisance and alleges  
45 an act that would be considered criminal under the laws of this state, the court shall hold an  
46 evidentiary hearing within ten days after the day on which the complaint is filed to determine  
47 whether the alleged act occurred.

48 (b) The hearing required by Subsection (3)(a) shall be set at the time the complaint is  
49 filed and notice of the hearing shall be served upon the defendant with the summons at least  
50 three calendar days before the scheduled time of the hearing.

51 (c) If the court, at an evidentiary hearing held in accordance with Subsection (3)(a),  
52 determines that it is more likely than not that the alleged act occurred, the court shall issue an  
53 order of restitution.

54 (d) If an order of restitution is issued in accordance with Subsection (3)(c), a constable  
55 or the sheriff of the county where the property is situated shall return possession of the property  
56 to the plaintiff immediately.

57 (e) The court may allow a period of up to 72 hours before restitution may be made  
58 under Subsection (3)(d) if the court determines the time is appropriate under the circumstances.

59 (f) At the evidentiary hearing held in accordance with Subsection (3)(a), if the court  
60 determines that all issues between the parties can be adjudicated without further proceedings,  
61 the court shall adjudicate those issues and enter judgment on the merits.

62 (g) "An act that would be considered criminal under the laws of this state" under  
63 Subsection (3)(a) includes only the following:

64 (i) an act that would be considered a felony under the laws of this state;

65 (ii) an act that would be considered criminal affecting the health or safety of a tenant,  
66 the landlord, the landlord's agent, or other person on the landlord's property;

67 (iii) an act that would be considered criminal that causes damage or loss to any tenant's  
68 property or the landlord's property;

69 (iv) a drug- or gang-related act that would be considered criminal;

70 (v) an act or threat of violence against any tenant or other person on the premises, or  
71 against the landlord or the landlord's agent; and

72 (vi) any other act that would be considered criminal that the court determines directly  
73 impacts the peaceful enjoyment of the premises by any tenant.

74 (4) (a) At any hearing held in accordance with this chapter in which the tenant after  
75 receiving notice fails to appear, the court shall issue an order of restitution.

76 (b) If an order of restitution is issued in accordance with Subsection (4)(a), a constable  
77 or the sheriff of the county where the property is situated shall return possession of the property  
78 to the plaintiff immediately.

79 (5) A court adjudicating matters under this chapter may make other orders as are  
80 appropriate and proper.

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**Legislative Review Note**  
as of 2-2-09 6:30 AM

**Office of Legislative Research and General Counsel**

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**H.B. 299 - Unlawful Detainer Amendments**

**Fiscal Note**

2009 General Session  
State of Utah

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**State Impact**

Enactment of this will increase the rate at which the Courts manage certain caseloads. It is estimated that the Courts will require \$26,400 in ongoing General Funds.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
General Fund	\$0	\$26,400	\$26,400	\$0	\$0	\$0
<b>Total</b>	<b>\$0</b>	<b>\$26,400</b>	<b>\$26,400</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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**Individual, Business and/or Local Impact**

Enactment of this bill may impact certain individuals in eviction cases.