

1st Sub. H.B. 299

UNLAWFUL DETAINER AMENDMENTS

Representative **David Litvack** proposes the following amendments:

1. *Page 1, Lines 12 through 16:*

12 This bill:

13 ▶ requires the court, upon the request of either party, to hold an evidentiary hearing
14 for an action involving unlawful detainer;

▶ exempts tenants from the treble damages provisions for unlawful detainer after a forced sale unless the tenant was given notice; and

15 ▶ adds occupying property after a forced sale to list of what constitutes unlawful
16 detainer.

2. *Page 1, Line 24:*

24 78B-6-810, as renumbered and amended by Laws of Utah 2008, Chapter 3

= **78B-6-811, as renumbered and amended by Laws of Utah 2008, Chapter 3**

3. *Page 5, Line 130:*

130 appropriate and proper.

= **Section 3. Section 78B-6-811 is amended to read:**

78B-6-811. Judgment for restitution, damages, and rent -- Immediate enforcement -- Treble damages.

(1) (a) A judgment may be entered upon the merits or upon default.

(b) A judgment entered in favor of the plaintiff shall include an order for the restitution of the premises as provided in Section 78B-6-812.

(c) If the proceeding is for unlawful detainer after neglect or failure to perform any condition or covenant of the lease or agreement under which the property is held, or after default in the payment of rent, the judgment shall also declare the forfeiture of the lease or agreement.

(d) (i) A forfeiture under Subsection (1)(c) does not release a defendant from any obligation for payments on a lease for the remainder of the lease's term.

(ii) Subsection (1)(d)(i) does not change any obligation on either party to mitigate damages.

(2) The jury or the court, if the proceeding is tried without a jury or upon the defendant's default, shall also assess the damages resulting to the plaintiff from any of the following:

(a) forcible entry;

(b) forcible or unlawful detainer;

(c) waste of the premises during the defendant's tenancy, if waste is alleged in the complaint and proved

at trial;

(d) the amounts due under the contract, if the alleged unlawful detainer is after default in the payment of amounts due under the contract; and

(e) the abatement of the nuisance by eviction as provided in Sections 78B-6-1107 through 78B-6-1114.

(3) (a) The judgment shall be entered against the defendant for the rent, for three times the amount of the damages assessed under Subsections (2)(a) through (2)(e), and for reasonable attorney fees.

(b) If the proceeding is for unlawful detainer, damages in Subsection (a) may not be entered against the defendant if the plaintiff acquired the property in a forced sale, unless the defendant was given notice of the sale and notice to quit, and proof of both notices is provided to the court.

(4) (a) If the proceeding is for unlawful detainer, execution upon the judgment shall be issued immediately after the entry of the judgment.

(b) In all cases, the judgment may be issued and enforced immediately.