

**PROTECTION OF PROPERTY AMENDMENT**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Carl Wimmer**

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

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**LONG TITLE**

**General Description:**

This bill modifies the Criminal Code regarding the offense of use of force in defense of property.

**Highlighted Provisions:**

This bill:

▶ amends the provision regarding justified use of force in defense of property to provide an affirmative defense if:

- the defendant reasonably believes the action is justified; and
- the force used does not cause death or serious bodily injury.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**76-2-406**, as enacted by Laws of Utah 1973, Chapter 196

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

Section 1. Section **76-2-406** is amended to read:

**76-2-406. Force in defense of property -- Affirmative defense.**



28           (1) A person is justified in using force, other than deadly force, against another when  
29 and to the extent that ~~[he]~~ the person reasonably believes that force is necessary to prevent or  
30 terminate criminal interference with real property or personal property:

31           ~~[(1) Lawfully]~~ (a) lawfully in ~~[his]~~ the person's possession; ~~[or]~~

32           ~~[(2) Lawfully]~~ (b) lawfully in the possession of a member of ~~[his]~~ the person's  
33 immediate family; or

34           ~~[(3) Belonging]~~ (c) belonging to a person whose property ~~[he]~~ the person has a legal  
35 duty to protect.

36           (2) It is an affirmative defense to prosecution under Subsection (1) that:

37           (a) the person acted on the reasonable belief that the person's conduct was lawful under  
38 this section; and

39           (b) the force used:

40           (i) did not cause serious bodily injury or death; and

41           (ii) did not constitute the offense of aggravated assault causing serious bodily injury  
42 under Subsection 76-5-103(1)(a).

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**Legislative Review Note**  
as of **12-28-09 9:34 AM**

**Office of Legislative Research and General Counsel**

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**H.B. 207 - Protection of Property Amendment**

**Fiscal Note**

2010 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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