

- 28 **78B-6-810**, as last amended by Laws of Utah 2017, Chapter 414
- 29 **78B-6-811**, as last amended by Laws of Utah 2017, Chapter 203
- 30 **78B-6-812**, as last amended by Laws of Utah 2017, Chapter 414
- 31 **78B-6-815**, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

34 Section 1. Section **78B-6-805** is amended to read:

35 **78B-6-805. Notice -- How served.**

36 (1) ~~[The notices]~~ A notice required by this part may be served:

37 (a) by delivering a copy to the tenant personally or, if the tenant is a commercial tenant,  
38 by delivering a copy to the commercial tenant's usual place of business by leaving a copy of the  
39 notice with a person of suitable age and discretion;

40 (b) ~~§→ [subject to Subsection (3);] ←§~~ by sending a copy through registered ~~[or]~~ mail,  
40a certified  
41 mail, or an equivalent means, addressed to the tenant at the tenant's residence~~[or, if the tenant is~~  
42 ~~a commercial tenant, by sending a copy through registered or certified mail addressed to the~~  
43 ~~commercial tenant's], leased property, or usual place of business;~~

44 (c) if the tenant is absent from the residence, leased property, or usual place of  
45 business, by leaving a copy with a person of suitable age and discretion ~~[at either place and~~  
46 ~~mailing a copy to the tenant at the tenant's residence or place of business]~~ at the tenant's  
47 residence, leased property, or usual place of business;

48 (d) if a person of suitable age or discretion cannot be found at the place of residence,  
49 leased property, or usual place of business, then by affixing a copy in a conspicuous place on  
50 the leased property; or

51 (e) if an order of abatement by eviction of the nuisance is issued by the court as  
52 provided in Section **78B-6-1109**, when issued, the parties present shall be on notice that the  
53 abatement by eviction order is issued and immediately effective or as to any absent party,  
54 notice shall be given as provided in Subsections (1)(a) through (e).

55 (2) Service upon a subtenant may be made in the same manner as provided in  
56 Subsection (1).

57 ~~§→ [(3) Service by mail under Subsection (1)(b) is complete three calendar days after~~  
58 ~~mailing:] ←§~~

59 Section 2. Section 78B-6-807 is amended to read:

60 **78B-6-807. Allegations permitted in complaint -- Time for appearance -- Service**  
61 **of summons.**

62 (1) The plaintiff, in [his] the plaintiff's complaint:

63 (a) shall set forth the facts on which [he] the plaintiff seeks to recover;

64 (b) may set forth any circumstances of fraud, force, or violence [~~which~~] that may have  
65 accompanied the alleged forcible entry, or forcible or unlawful detainer; and

66 (c) may claim damages or compensation for the occupation of the premises, or both.

67 (2) If the unlawful detainer charged is after default in the payment of rent or other  
68 amounts due, the complaint shall state the amount of rent due or other amounts due.

69 (3) (a) The summons shall include the number of days within which the defendant is  
70 required to appear and defend the action, which shall be three business days from the date of  
71 service, unless the defendant objects to the number of days, and the court determines that the  
72 facts of the case should allow more time.

73 ~~§→ [(b) A summons requiring a response within three business days under this section may~~  
74 ~~be used with a complaint, counterclaim, third-party claim, or similar claim.~~

75 ~~— [(c) The time frames provided in this section may not be expanded by including~~  
76 ~~multiple causes of action in a complaint beyond unlawful detainer.]~~

76a ~~(b) A claim for unlawful detainer brought by counterclaim shall be served to any~~  
76b ~~opposing party in accordance with Utah Rules of Civil Procedure, and any response required~~  
76c ~~shall be due within the timelines stated under Subsection (3)(a) ←§~~

77 ~~§→ [(4) (a) The court may authorize service by publication [or], mail, or email for cause~~  
78 ~~shown.~~

79 ~~— [(5) (b) Service by publication is complete one week after publication.~~

80 ~~— [(6) (c) Service by mail is complete three calendar days after mailing.~~

81 ~~— [(d) Service by email is complete upon sending.~~

82 ~~— [(7) (5) The summons shall be changed in form to conform to the time of service as~~  
83 ~~ordered, and shall be served as in other cases.]~~

83a ~~(4) The court may authorize alternative service pursuant to the Utah Rules of Civil~~  
83b ~~Procedure. ←§~~

84 Section 3. Section 78B-6-810 is amended to read:

85 **78B-6-810. Court procedures.**

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

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

90 (b) the court shall begin the trial within 60 days after the day on which the complaint is  
91 served, unless the parties agree otherwise; [~~and~~]

92 (c) if this chapter requires a hearing to be held within a specified time, the time may be  
93 extended to the first date thereafter on which a judge is available to hear the case in a  
94 jurisdiction in which a judge is not always available[~~-~~]; and

95 (d) if this chapter requires a hearing to be held within a specified time, this section does  
96 not require a hearing to be held before the assigned judge, and the court may, out of  
97 convenience, schedule a hearing before another judge within the jurisdiction.

98 (2) (a) In an action for unlawful detainer, the court shall hold an evidentiary hearing,  
99 upon request of either party, within 10 business days after the day on which the defendant files  
100 an answer or response.

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

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

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

107 (3) (a) In an action for unlawful detainer in which the claim is for nuisance and alleges  
108 an act that would be considered criminal under the laws of this state, the court shall hold an  
109 evidentiary hearing upon ~~§~~ **→ [the plaintiff's]** ~~←~~ ~~§~~ request within 10 days after the day on which the  
110 complaint is filed to determine whether the alleged act occurred.

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

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

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

120 (e) The court may allow a period of up to 72 hours before restitution may be made

245 occupying the premises.

246 (2) Abandonment is established as a matter of law if the owner has reason to believe  
 247 that the presumption of abandonment under Subsection (1) has been met, the owner serves the  
 248 tenant with a declaration of abandonment, and the tenant fails to dispute or rebut the  
 249 declaration of abandonment in accordance with this Subsection (2).

250 (a) The tenant may be served with a declaration of abandonment that includes at least a  
 251 contact address for the owner ~~§~~, **contains a brief factual basis supporting the owner's**  
 251a **reasonable belief that the presumption of abandonment under Subsection (1) has been**  
 251b **met, ~~§~~ and states the date and time of service and includes the following**  
 252 language, or language that is substantially similar: "It is believed that these premises are  
 253 abandoned and the owner is seeking to regain possession of the premises. If a tenant in legal  
 254 possession of the premises has not abandoned the premises, the tenant must dispute  
 255 abandonment in writing within 24 hours of service of this declaration of abandonment by  
 256 providing a copy to the owner at the contact address included with this declaration of  
 257 abandonment. If written notice is not served on the owner within 24 hours, the owner may  
 258 retake possession of the premises." ~~§~~ **The 24-hour period stated in this Subsection (2)(a) does**  
 258a **not include a Saturday, a Sunday, or a holiday during which the Utah state courts are**  
 258b **closed. ~~§~~**

259 (b) Service of the declaration of abandonment by the owner and any dispute or rebuttal  
 260 by the tenant shall be made pursuant to Section [78B-6-805](#).

261 (c) If the tenant fails to dispute the declaration of abandonment in writing by serving  
 262 notice to the owner within 24 hours of being served a declaration of abandonment, ~~§~~ **excluding a**  
 262a **Saturday, a Sunday, or a holiday during which the Utah state courts are closed, ~~§~~ the**  
 263 declaration of abandonment serves as prima facia evidence that the tenant has vacated and  
 264 abandoned the premises.

265 (d) The tenant bears the burden to rebut an abandonment that is established by a  
 266 declaration of abandonment by clear and convincing evidence.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**