BUSINESS LICENSE FEE AMENDMENTS

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: John L. Valentine

AN ACT RELATING TO THE MUNICIPAL CODE; MODIFYING THE BUSINESS LICENSE REQUIREMENTS A MUNICIPALITY MAY IMPOSE ON THE OWNER OF A RENTAL DWELLING; ESTABLISHING A STANDARD OF REVIEW FOR CERTAIN ORDINANCES; AND MAKING TECHNICAL CHANGES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

10-1-203, as last amended by Chapter 305, Laws of Utah 1997

10-8-85.5, as enacted by Chapter 267, Laws of Utah 1997

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

Section 1. Section **10-1-203** is amended to read:

10-1-203. License fees and taxes -- Application information to be transmitted to the county auditor.

(1) For the purpose of this section, "business" means any enterprise carried on for the purpose of gain or economic profit, except that the acts of employees rendering services to employers are not included in this definition.

(2) Except as provided in Subsections (3) through (5), the governing body of a municipality may license for the purpose of regulation and revenue any business within the limits of the municipality and may regulate that business by ordinance.

(3) (a) The governing body of a municipality may raise revenue by levying and collecting a municipal energy sales or use tax as provided in Part 3, Municipal Energy Sales and Use Tax Act, except a municipality may not levy or collect a franchise tax or fee as defined in Subsection 10-1-303(7) on an energy supplier other than the municipal energy sales and use tax provided in Part 3, Municipal Energy Sales and Use Tax Act.

(b) (i) Subsection (3)(a) does not affect the validity of a franchise agreement as defined in Subsection 10-1-303(6), that is in effect on July 1, 1997, or a future franchise.

(ii) A franchise agreement as defined in Subsection 10-1-303(6) in effect on January 1, 1997, or a future franchise shall remain in full force and effect.

(c) A municipality that collects a contractual franchise fee pursuant to a franchise agreement as defined in Subsection 10-1-303(6) with an energy supplier that is in effect on July 1, 1997, may continue to collect that fee as provided in Subsection 10-1-310(2).

(d) (i) Subject to the requirements of Subsection (3)(d)(ii), a franchise agreement as defined in Subsection 10-1-303(6) between a municipality and an energy supplier may contain a provision that:

(A) requires the energy supplier by agreement to pay a contractual franchise fee that is otherwise prohibited under Part 3, Municipal Energy Sales and Use Tax Act; and

(B) imposes the contractual franchise fee on or after the day on which Part 3, Municipal Energy Sales and Use Tax is:

(I) repealed, invalidated, or the maximum allowable rate provided in Section 10-1-305 is reduced; and

(II) is not superseded by a law imposing a substantially equivalent tax.

(ii) A municipality may not charge a contractual franchise fee under the provisions permitted by Subsection (3)(b)(i) unless the municipality charges an equal contractual franchise fee or a tax on all energy suppliers.

(4) Subject to the provisions of Title 11, Chapter 26, Local Taxation of Utilities Limitation, a municipality may impose upon, charge, or collect from a public utility engaged in the business of supplying telephone service or other person or entity engaged in the business of supplying telephone service any tax, license, fee, license fee, license tax, or similar charge, or any combination of any of these, based upon the gross revenues of the utility, person, or entity derived from sales or use or both sales and use of the telephone service within the municipality.

(5) (a) The governing body of a municipality may by ordinance raise revenue by levying and collecting a license fee or tax on [~~the following~~]:

(i) a parking service business in an amount that is less than or equal to:

(A) $1 per vehicle that parks at the parking service business; or

(B) 2% of the gross receipts of the parking service business;

(ii) a public assembly facility in an amount that is less than or equal to $1 per ticket purchased from the public assembly facility; and

(iii) subject to the limitations of Subsections (5)(c) and (d), a business that causes disproportionate costs of municipal services or for which the municipality provides an enhanced level of municipal services in an amount that is reasonably related to the costs of the municipal services provided by the municipality.

(b) For purposes of this Subsection (5):

[~~(iii)~~] (i) "Municipal services" include:

(A) public utilities; or

(B) services for:

(I) police;

(II) fire;

(III) storm water runoff;

(IV) traffic control;

(V) parking;

(VI) transportation;

(VII) beautification; or

(VIII) snow removal.

[~~(i)~~] (ii) "Parking service business" means a business:

(A) that primarily provides off-street parking services for a public facility that is wholly or partially funded by public moneys;

(B) that provides parking for one or more vehicles; and

(C) that charges a fee for parking.

[~~(ii)~~] (iii) "Public assembly facility" means a business operating an assembly facility that:

(A) is wholly or partially funded by public moneys; and

(B) requires a person attending an event at the assembly facility to purchase a ticket.

(c) Before the governing body of a municipality imposes a license fee or tax on a business

that causes disproportionate costs of municipal services under Subsection (5)(a)(iii), the governing body of the municipality shall adopt an ordinance defining for purposes of the tax under Subsection (5)(a)(iii) what constitutes disproportionate costs and what amounts are reasonably related to the costs of the municipal services provided by the municipality.

(d) Before the governing body of a municipality imposes a license fee or tax on a business for which it provides an enhanced level of municipal services under Subsection (5)(a)(iii), the governing body of the municipality shall adopt an ordinance defining for purposes of the tax under Subsection (5)(a)(iii) what constitutes the basic level of municipal services in the municipality and what amounts are reasonably related to the costs of providing an enhanced level of municipal services in the municipality.

(6) All license fees and taxes shall be uniform in respect to the class upon which they are imposed.

(7) The governing body shall transmit the information from each approved business license application to the county assessor within 60 days following the approval of the application.

(8) If challenged in court, an ordinance enacted by a municipality before January 1, 1994, imposing a business license fee or tax on rental dwellings under this section shall be upheld unless the business license fee or tax is found to impose an unreasonable burden on the fee or tax payer.

Section 2. Section **10-8-85.5** is amended to read:

10-8-85.5. "Rental dwelling" defined -- Municipality may require a business license or a regulatory business license and inspections -- Exception.

(1) As used in this section, "rental dwelling" means a building or portion of a building that is:

(a) used or designated for use as a residence by one or more persons; and

(b) (i) available to be rented, loaned, leased, or hired out for a period of one month or longer; or

(ii) arranged, designed, or built to be rented, loaned, leased, or hired out for a period of one month or longer.

(2) (a) [~~Except as provided in Subsection (3), the~~] The legislative body of a municipality may

by ordinance require the owner of a rental dwelling located within the municipality:

(i) to obtain a business license pursuant to Section 10-1-203; or[:]

(ii) except as provided in Subsection (3):

[~~(i)~~] (A) to obtain a regulatory business license to operate and maintain the rental dwelling; and

[~~(ii)~~] (B) to allow inspections of the rental dwelling as a condition of obtaining a regulatory business license.

(b) A municipality may not require an owner of multiple rental dwellings or multiple buildings containing rental dwellings to obtain more than one regulatory business license for the operation and maintenance of those rental dwellings.

(c) Notwithstanding Subsection (2)(b), a municipality may impose upon an owner subject to Subsection (2)(a) a reasonable inspection fee for the inspection of each rental dwelling owned by that owner.

(d) If a municipality's inspection of a rental dwelling, allowed under Subsection (2)(a)(ii)(B), approves the rental dwelling for purposes of a regulatory business license, a municipality may not inspect that rental dwelling during the next 36 months, unless the municipality has reasonable cause to believe that a condition in the rental dwelling is in violation of an applicable law or ordinance.

(3) A municipality may not impose the requirements of Subsection (2)(a)(ii) on the owner of a building containing two or fewer rental dwellings.

(4) Nothing in this section shall be construed to affect the rights and duties established under Title 57, Chapter 22, Utah Fit Premises Act, or to restrict a municipality’s ability to enforce its generally applicable health ordinances or building code, a local health department's authority under Title 26A, Chapter 1, Local Health Departments, or the Utah Department of Health's authority under Title 26, Utah Health Code.