

**DISPROPORTIONATE RENTAL FEE**

**AMENDMENTS**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Gage Froerer**

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

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**LONG TITLE**

**General Description:**

This bill modifies provisions relating to municipal disproportionate rental fees.

**Highlighted Provisions:**

This bill:

▶ prohibits municipalities from excluding landlords from participation in a good landlord program, under which the landlord qualifies for a disproportionate rental fee reduction, based on the landlord's accepting tenants with no more than one felony conviction.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**10-1-203**, as last amended by Laws of Utah 2009, Chapter 189

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*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 -- Disproportionate rental fee -- Application**



28 **information to be transmitted to the county assessor.**

29 (1) As used in this section:

30 (a) "Business" means any enterprise carried on for the purpose of gain or economic  
31 profit, except that the acts of employees rendering services to employers are not included in  
32 this definition.

33 (b) "Telecommunications provider" is as defined in Section 10-1-402.

34 (c) "Telecommunications tax or fee" is as defined in Section 10-1-402.

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

38 (3) (a) The legislative body of a municipality may raise revenue by levying and  
39 collecting a municipal energy sales or use tax as provided in Part 3, Municipal Energy Sales  
40 and Use Tax Act, except a municipality may not levy or collect a franchise tax or fee on an  
41 energy supplier other than the municipal energy sales and use tax provided in Part 3, Municipal  
42 Energy Sales and Use Tax Act.

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

45 (ii) A franchise agreement as defined in Subsection 10-1-303(6) in effect on January 1,  
46 1997, or a future franchise shall remain in full force and effect.

47 (c) A municipality that collects a contractual franchise fee pursuant to a franchise  
48 agreement as defined in Subsection 10-1-303(6) with an energy supplier that is in effect on July  
49 1, 1997, may continue to collect that fee as provided in Subsection 10-1-310(2).

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

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

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

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

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

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

63 (4) (a) Subject to Subsection (4)(b), beginning July 1, 2004, the legislative body of a  
64 municipality may raise revenue by levying and providing for the collection of a municipal  
65 telecommunications license tax as provided in Part 4, Municipal Telecommunications License  
66 Tax Act.

67 (b) A municipality may not levy or collect a telecommunications tax or fee on a  
68 telecommunications provider except as provided in Part 4, Municipal Telecommunications  
69 License Tax Act.

70 (5) (a) (i) The legislative body of a municipality may by ordinance raise revenue by  
71 levying and collecting a license fee or tax on:

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

73 (I) \$1 per vehicle that parks at the parking service business; or

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

75 (B) a public assembly or other related facility in an amount that is less than or equal to  
76 \$5 per ticket purchased from the public assembly or other related facility; and

77 (C) subject to the limitations of Subsections (5)(c), (d), and (e), a business:

78 (I) that causes disproportionate costs of municipal services; or

79 (II) for which the municipality provides an enhanced level of municipal services.

80 (ii) Nothing in this Subsection (5)(a) may be construed to authorize a municipality to  
81 levy or collect a license fee or tax on a public assembly or other related facility owned and  
82 operated by another political subdivision other than a community development and renewal  
83 agency without the written consent of the other political subdivision.

84 (b) As used in this Subsection (5):

85 (i) "Municipal services" includes:

86 (A) public utilities; and

87 (B) services for:

88 (I) police;

89 (II) fire;

- 90 (III) storm water runoff;
- 91 (IV) traffic control;
- 92 (V) parking;
- 93 (VI) transportation;
- 94 (VII) beautification; or
- 95 (VIII) snow removal.

96 (ii) "Parking service business" means a business:

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

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

100 (C) that charges a fee for parking.

101 (iii) "Public assembly or other related facility" means an assembly facility that:

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

103 (B) is operated by a business; and

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

105 (c) (i) Before the legislative body of a municipality imposes a license fee on a business  
106 that causes disproportionate costs of municipal services under Subsection (5)(a)(i)(C)(I), the  
107 legislative body of the municipality shall adopt an ordinance defining for purposes of the tax  
108 under Subsection (5)(a)(i)(C)(I):

109 (A) the costs that constitute disproportionate costs; and

110 (B) the amounts that are reasonably related to the costs of the municipal services  
111 provided by the municipality.

112 (ii) The amount of a fee under Subsection (5)(a)(i)(C)(I) shall be reasonably related to  
113 the costs of the municipal services provided by the municipality.

114 (d) (i) Before the legislative body of a municipality imposes a license fee on a business  
115 for which it provides an enhanced level of municipal services under Subsection (5)(a)(i)(C)(II),  
116 the legislative body of the municipality shall adopt an ordinance defining for purposes of the  
117 fee under Subsection (5)(a)(i)(C)(II):

118 (A) the level of municipal services that constitutes the basic level of municipal services  
119 in the municipality; and

120 (B) the amounts that are reasonably related to the costs of providing an enhanced level

121 of municipal services in the municipality.

122 (ii) The amount of a fee under Subsection (5)(a)(i)(C)(II) shall be reasonably related to  
123 the costs of providing an enhanced level of the municipal services.

124 (e) (i) As used in this Subsection (5)(e):

125 (A) "Disproportionate rental fee" means a license fee on rental housing based on the  
126 disproportionate costs of municipal services caused by the rental housing or on an enhanced  
127 level of municipal services provided to the rental housing.

128 (B) "Disproportionate rental fee reduction" means a reduction of a disproportionate  
129 rental fee as a condition of complying with the requirements of a good landlord program.

130 (C) "Good landlord program" means a program established by a municipality that  
131 provides a reduction in a disproportionate rental fee for a landlord who:

132 (I) completes a landlord training program approved by the municipality;

133 (II) implements measures to reduce crime in rental housing as specified in municipal  
134 ordinances; and

135 (III) operates and manages rental housing in accordance with applicable municipal  
136 ordinances, subject to Subsection (5)(e)(vii).

137 (D) "Municipal services study" means a study, or an updated study, conducted by a  
138 municipality of the cost of all municipal services that the municipality provides to the  
139 applicable rental housing.

140 (E) "Rental housing cost" means the municipality's cost:

141 (I) of providing municipal services to the rental housing;

142 (II) that is reasonably attributable to the rental housing; and

143 (III) that would not have occurred in the absence of the rental housing.

144 (ii) A municipality may impose and collect a disproportionate rental fee if:

145 (A) the municipality:

146 (I) adopts the ordinances required under Subsections (5)(c) and (d), as applicable;

147 (II) conducts a municipal services study;

148 (III) updates the municipal services study:

149 (Aa) before increasing the amount of the disproportionate rental fee; and

150 (Bb) before decreasing the amount of the disproportionate rental fee reduction; and

151 (IV) establishes a good landlord program; and

152 (B) the disproportionate rental fee does not exceed the rental housing cost, as  
153 determined by the municipal services study.

154 (iii) (A) The requirement under Subsection (5)(e)(ii)(A)(IV) to establish a good  
155 landlord program does not apply to a municipality that imposed and collected a  
156 disproportionate rental fee on January 1, 2009.

157 (B) A municipality claiming an exemption under Subsection (5)(e)(iii)(A) shall  
158 conduct an updated municipal services study at least every four years.

159 (iv) The requirement under Subsection (5)(e)(ii)(A)(II) to conduct a municipal services  
160 study does not apply to a municipality that:

161 (A) imposed and collected a disproportionate rental fee on May 2, 2005 of \$17 or less  
162 per unit per year:

163 (B) does not increase the amount of its disproportionate rental fee; and

164 (C) does not decrease the amount of its disproportionate rental fee reduction.

165 (v) The fee limitation under Subsection (5)(e)(ii)(B) does not apply to a municipality  
166 that:

167 (A) imposed and collected a disproportionate rental fee on May 2, 2005 that was \$17 or  
168 less per unit per year;

169 (B) does not increase the amount of its disproportionate rental fee; and

170 (C) does not decrease the amount of its disproportionate rental fee reduction.

171 (vi) Until May 2, 2012, the requirement under Subsection (5)(e)(ii)(A)(II) to conduct a  
172 municipal services study before imposing and collecting a disproportionate rental fee, does not  
173 apply to a municipality that:

174 (A) on May 2, 2005, imposed and collected a disproportionate rental fee that exceeds  
175 \$17 per unit per year;

176 (B) had implemented, before January 1, 2005, a good landlord program;

177 (C) does not decrease the amount of the disproportionate rental fee reduction; and

178 (D) does not increase the amount of its disproportionate rental fee.

179 (vii) A municipality may not exclude a landlord from participation in a good landlord  
180 program on the basis that the landlord accepts tenants with no more than one felony conviction.

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

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

186           (8) If challenged in court, an ordinance enacted by a municipality before January 1,  
187 1994, imposing a business license fee on rental dwellings under this section shall be upheld  
188 unless the business license fee is found to impose an unreasonable burden on the fee payer.

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**Legislative Review Note**  
**as of 9-1-09 6:58 AM**

**Office of Legislative Research and General Counsel**

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**H.B. 220 - Disproportionate Rental Fee Amendments**

**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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