

1                                   **DISPROPORTIONATE RENTAL FEE**

2                                   **AMENDMENTS**

3                                   2009 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Chief Sponsor: Gage Froerer**

6                                   Senate Sponsor: Curtis S. Bramble

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8 **LONG TITLE**

9 **General Description:**

10           This bill modifies a provision of the Utah Municipal Code relating to disproportionate  
11 rental fees imposed by municipalities.

12 **Highlighted Provisions:**

13           This bill:

14           ▶ clarifies that a municipality that has not already imposed a disproportionate rental  
15 fee is authorized to impose the fee after meeting specified requirements and  
16 conditions;

17           ▶ requires municipalities imposing a disproportionate rental fee for the first time to  
18 establish a good landlord program allowing the landlord to qualify for a reduction  
19 in the disproportionate rental fee if complying with certain requirements;

20           ▶ removes the requirement to update the municipal services study every six years for  
21 municipalities with a good landlord program;

22           ▶ clarifies and rewrites provisions that grandfather certain municipalities from certain  
23 requirements and restrictions;

24           ▶ establishes a deadline for completing a municipal services study for certain  
25 municipalities;

26           ▶ changes the term "governing body" to "legislative body" in certain provisions;

27           ▶ provides definitions; and

28           ▶ makes technical changes.

29 **Monies Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 None

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **10-1-203**, as last amended by Laws of Utah 2008, Chapter 207



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

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

39 **10-1-203. License fees and taxes -- Disproportionate rental fee -- Application**  
40 **information to be transmitted to the county assessor.**

41 (1) As used in this section:

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

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

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

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

50 (3) (a) The ~~[governing]~~ legislative body of a municipality may raise revenue by  
51 levying and collecting a municipal energy sales or use tax as provided in Part 3, Municipal  
52 Energy Sales and Use Tax Act, except a municipality may not levy or collect a franchise tax or  
53 fee on an energy supplier other than the municipal energy sales and use tax provided in Part 3,  
54 Municipal Energy Sales and Use Tax Act.

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

57 (ii) A franchise agreement as defined in Subsection 10-1-303(6) in effect on January

58 1, 1997, or a future franchise shall remain in full force and effect.

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

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

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

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

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

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

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

75 (4) (a) Subject to Subsection (4)(b), beginning July 1, 2004, the [governing]  
76 legislative body of a municipality may raise revenue by levying and providing for the  
77 collection of a municipal telecommunications license tax as provided in Part 4, Municipal  
78 Telecommunications License Tax Act.

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

82 (5) (a) (i) The [governing] legislative body of a municipality may by ordinance raise  
83 revenue by levying and collecting a license fee or tax on:

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

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

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

87 (B) a public assembly or other related facility in an amount that is less than or equal to

88 \$5 per ticket purchased from the public assembly or other related facility; and

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

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

91 (II) for which the municipality provides an enhanced level of municipal services [~~in an~~

92 ~~amount that is reasonably related to the costs of the municipal services provided by the~~

93 ~~municipality~~].

94 (ii) Nothing in this Subsection (5)(a) may be construed to authorize a municipality to

95 levy or collect a license fee or tax on a public assembly or other related facility owned and

96 operated by another political subdivision other than a community development and renewal

97 agency without the written consent of the other political subdivision.

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

99 (i) "Municipal services" [~~include~~] includes:

100 (A) public utilities; [~~or~~] and

101 (B) services for:

102 (I) police;

103 (II) fire;

104 (III) storm water runoff;

105 (IV) traffic control;

106 (V) parking;

107 (VI) transportation;

108 (VII) beautification; or

109 (VIII) snow removal.

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

111 (A) that primarily provides off-street parking services for a public facility that is

112 wholly or partially funded by public moneys;

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

114 (C) that charges a fee for parking.

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

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

117 (B) is operated by a business; and

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

119 (c) (i) Before the ~~[governing]~~ legislative body of a municipality imposes a license fee

120 ~~[or tax]~~ on a business that causes disproportionate costs of municipal services under

121 Subsection (5)(a)~~[(iii)](i)(C)(I)~~, the ~~[governing]~~ legislative body of the municipality shall

122 adopt an ordinance defining for purposes of the tax under Subsection (5)(a)~~[(iii)](i)(C)(I)~~

123 ~~[what constitutes]~~:

124 (A) ~~the costs that constitute~~ disproportionate costs; and ~~[what]~~

125 (B) ~~the amounts that~~ are reasonably related to the costs of the municipal services

126 provided by the municipality.

127 (ii) The amount of a fee under Subsection (5)(a)(i)(C)(I) shall be reasonably related to

128 the costs of the municipal services provided by the municipality.

129 (d) (i) Before the ~~[governing]~~ legislative body of a municipality imposes a license fee

130 ~~[or tax]~~ on a business for which it provides an enhanced level of municipal services under

131 Subsection (5)(a)~~[(iii)](i)(C)(II)~~, the ~~[governing]~~ legislative body of the municipality shall

132 adopt an ordinance defining for purposes of the ~~[tax] fee~~ under Subsection

133 (5)(a)~~[(iii)](i)(C)(II)~~: ~~[what]~~

134 (A) ~~the level of municipal services that~~ constitutes the basic level of municipal

135 services in the municipality; and ~~[what]~~

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

137 of municipal services in the municipality.

138 (ii) The amount of a fee under Subsection (5)(a)(i)(C)(II) shall be reasonably related to

139 the costs of providing an enhanced level of the municipal services.

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

141 (A) "Disproportionate rental fee" means a license fee ~~[or tax]~~ on rental housing based

142 on the disproportionate costs of municipal services caused by the rental housing or on an  
143 enhanced level of municipal services provided to the rental housing.

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

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

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

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

151 (III) operates and manages rental housing in accordance with applicable municipal  
152 ordinances.

153 ~~[(B)]~~ (D) "Municipal services study" means a study, or an updated study, conducted  
154 by a municipality of the cost of all municipal services that the municipality provides to the  
155 applicable rental housing.

156 ~~[(C)]~~ (E) "Rental housing cost" means the municipality's cost:

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

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

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

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

161 (A) the municipality:

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

163 (II) conducts a municipal services study;

164 (III) updates the municipal services study:

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

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

167 (IV) establishes a good landlord program; and

168 (B) the disproportionate rental fee does not exceed the rental housing cost, as

169 determined by the municipal services study.

170           ~~[(ii)]~~ (iii) (A) [Each] The requirement under Subsection (5)(e)(ii)(A)(IV) to establish a  
171 good landlord program does not apply to a municipality that [levies] imposed and [collects]  
172 collected a disproportionate rental fee [that exceeds \$17 per unit per year or that intends to  
173 impose a disproportionate rental fee for the first time shall: (I) before] on January 1, [2007 and  
174 except as provided in Subsection (5)(e)(iv), conduct a municipal services study; and (II)]  
175 2009. (B) A municipality claiming an exemption under Subsection (5)(e)(iii)(A) shall  
176 conduct an updated municipal services study[: (Aa) every six years after the first municipal  
177 services study, if the municipality has established a program that provides a reduction in the  
178 disproportionate rental fee for a landlord that participates in a landlord training program; and  
179 ~~(Bb)]~~ at least every four years [after the first municipal services study, for each other  
180 municipality].

181           ~~[(B) Each]~~ (iv) The requirement under Subsection (5)(e)(ii)(A)(II) to conduct a  
182 municipal services study does not apply to a municipality that [levies]:

183           (A) imposed and [collects] collected a disproportionate rental fee [that is] on May 2,  
184 2005 of \$17 or less per unit per year [and that intends to]:

185           (B) does not increase the amount of its disproportionate rental fee [shall conduct a  
186 municipal services study before increasing]; and

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

188           ~~[(iii) (A) Beginning January 1, 2007, a disproportionate rental fee may not exceed the~~  
189 rental housing cost, as determined in a municipal services study. (B)]

190           (v) The fee limitation under Subsection (5)(e)[(iii)(A)](ii)(B) does not apply to a  
191 municipality [whose] that:

192           (A) imposed and collected a disproportionate rental fee [is] on May 2, 2005 that was  
193 \$17 or less [and that] per unit per year;

194           (B) does not increase the amount of its disproportionate rental fee[:]; and

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

196           ~~[(iv) The]~~ (vi) Until May 2, 2012, the requirement under Subsection

197 (5)(e)(ii)(A)[(I)](II) to conduct a municipal services study before [January 1, 2007] imposing

198 and collecting a disproportionate rental fee, does not apply to a municipality that [~~levies~~]:

199        (A) on May 2, 2005, imposed and [collects] collected a disproportionate rental fee that  
200 exceeds \$17 per unit per year [~~if the municipality~~];

201        [~~(A) has~~] (B) had implemented, before January 1, 2005, a good landlord program  
202 [~~that provides a reduction in the disproportionate rental fee for each landlord that implements~~  
203 ~~measures to reduce crime in the rental housing~~];

204        [~~(B)~~] (C) does not decrease the amount of the disproportionate rental fee reduction  
205 [~~provided in a program described in Subsection (5)(e)(iv)(A)~~]; and

206        [~~(C)~~] (D) does not increase the amount of its disproportionate rental fee.

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

209        (7) The [~~governing body~~] municipality shall transmit the information from each  
210 approved business license application to the county assessor within 60 days following the  
211 approval of the application.

212        (8) If challenged in court, an ordinance enacted by a municipality before January 1,  
213 1994, imposing a business license fee [~~or tax~~] on rental dwellings under this section shall be  
214 upheld unless the business license fee [~~or tax~~] is found to impose an unreasonable burden on  
215 the fee [~~or tax~~] payer.