

**Representative Kenneth W. Sumsion** proposes the following substitute bill:

**POLITICAL SUBDIVISION RESIDENTIAL RENTAL**

**AMENDMENTS**

2012 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kenneth W. Sumsion**

Senate Sponsor: Wayne L. Niederhauser

---

---

**LONG TITLE**

**General Description:**

This bill enacts language related to a municipal regulation of a residential rental unit.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ enacts language related to a disproportionate rental fee charged by a municipality;
- ▶ prohibits a municipality from making certain requirements of a landlord;
- ▶ enacts language related to a good landlord program; and
- ▶ makes technical corrections.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**10-1-203**, as last amended by Laws of Utah 2011, Chapter 391

**10-8-85.5**, as last amended by Laws of Utah 2011, Chapter 14



26           **10-9a-511**, as last amended by Laws of Utah 2011, Chapter 210  
27           **57-22-7**, as last amended by Laws of Utah 2011, Chapter 279  
28           **72-7-102**, as last amended by Laws of Utah 2008, Chapter 382

29 ENACTS:

30           **10-1-203.5**, Utah Code Annotated 1953



31  
32 *Be it enacted by the Legislature of the state of Utah:*

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

34           **10-1-203. License fees and taxes -- Application information to be transmitted to**  
35 **the county assessor.**

36           (1) As used in this section:

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

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

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

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

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

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

52           (ii) A franchise agreement as defined in Subsection 10-1-303(6) in effect on January 1,  
53 1997, or a future franchise shall remain in full force and effect.

54           (c) A municipality that collects a contractual franchise fee pursuant to a franchise  
55 agreement as defined in Subsection 10-1-303(6) with an energy supplier that is in effect on July  
56 1, 1997, may continue to collect that fee as provided in Subsection 10-1-310(2).

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

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

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

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

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

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

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

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

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

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

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

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

82 (B) a public assembly or other related facility in an amount that is less than or equal to  
83 \$5 per ticket purchased from the public assembly or other related facility; and

84 (C) subject to the limitations of Subsections (5)(c)[;] and (d)[, ~~and~~ (e)]:

85 (I) a business that causes disproportionate costs of municipal services; or

86 (II) a purchaser from a business for which the municipality provides an enhanced level  
87 of municipal services.

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

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

93 (i) "Municipal services" includes:

94 (A) public utilities; and

95 (B) services for:

96 (I) police;

97 (II) fire;

98 (III) storm water runoff;

99 (IV) traffic control;

100 (V) parking;

101 (VI) transportation;

102 (VII) beautification; or

103 (VIII) snow removal.

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

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

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

108 (C) that charges a fee for parking.

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

110 (A) is wholly or partially funded by public money;

111 (B) is operated by a business; and

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

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

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

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

119 provided by the municipality.

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

122 (d) (i) Before the legislative body of a municipality imposes a license fee on a  
123 purchaser from a business for which it provides an enhanced level of municipal services under  
124 Subsection (5)(a)(i)(C)(II), the legislative body of the municipality shall adopt an ordinance  
125 defining for purposes of the fee under Subsection (5)(a)(i)(C)(II):

126 (A) the level of municipal services that constitutes the basic level of municipal services  
127 in the municipality; and

128 (B) the amounts that are reasonably related to the costs of providing an enhanced level  
129 of municipal services in the municipality.

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

132 [~~(e) (i) As used in this Subsection (5)(e):~~]

133 [~~(A) "Disproportionate rental fee" means a license fee on rental housing based on the  
134 disproportionate costs of municipal services caused by the rental housing or on an enhanced  
135 level of municipal services provided to the rental housing;]~~]

136 [~~(B) "Disproportionate rental fee reduction" means a reduction of a disproportionate  
137 rental fee as a condition of complying with the requirements of a good landlord program;]~~]

138 [~~(C) "Good landlord program" means a program established by a municipality that  
139 provides a reduction in a disproportionate rental fee for a landlord who:]~~]

140 [~~(F) completes a landlord training program approved by the municipality;]~~]

141 [~~(H) implements measures to reduce crime in rental housing as specified in municipal  
142 ordinances; and]~~]

143 [~~(H) operates and manages rental housing in accordance with applicable municipal  
144 ordinances;]~~]

145 [~~(D) "Municipal services study" means a study, or an updated study, conducted by a  
146 municipality of the cost of all municipal services that the municipality provides to the  
147 applicable rental housing;]~~]

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

149 [~~(F) of providing municipal services to the rental housing;]~~]

150 ~~[(H) that is reasonably attributable to the rental housing; and]~~  
151 ~~[(H) that would not have occurred in the absence of the rental housing.]~~  
152 ~~[(ii) A municipality may impose and collect a disproportionate rental fee if:]~~  
153 ~~[(A) the municipality:]~~  
154 ~~[(F) adopts the ordinances required under Subsections (5)(c) and (d), as applicable;]~~  
155 ~~[(H) conducts a municipal services study;]~~  
156 ~~[(H) updates the municipal services study.]~~  
157 ~~[(Aa) before increasing the amount of the disproportionate rental fee; and]~~  
158 ~~[(Bb) before decreasing the amount of the disproportionate rental fee reduction; and]~~  
159 ~~[(IV) establishes a good landlord program; and]~~  
160 ~~[(B) the disproportionate rental fee does not exceed the rental housing cost, as~~  
161 ~~determined by the municipal services study.]~~  
162 ~~[(iii) (A) The requirement under Subsection (5)(c)(ii)(A)(IV) to establish a good~~  
163 ~~landlord program does not apply to a municipality that imposed and collected a~~  
164 ~~disproportionate rental fee on January 1, 2009.]~~  
165 ~~[(B) A municipality claiming an exemption under Subsection (5)(c)(iii)(A) shall~~  
166 ~~conduct an updated municipal services study at least every four years.]~~  
167 ~~[(iv) The requirement under Subsection (5)(c)(ii)(A)(H) to conduct a municipal~~  
168 ~~services study does not apply to a municipality that:]~~  
169 ~~[(A) imposed and collected a disproportionate rental fee on May 2, 2005, of \$17 or less~~  
170 ~~per unit per year;]~~  
171 ~~[(B) does not increase the amount of its disproportionate rental fee; and]~~  
172 ~~[(C) does not decrease the amount of its disproportionate rental fee reduction.]~~  
173 ~~[(v) The fee limitation under Subsection (5)(c)(ii)(B) does not apply to a municipality~~  
174 ~~that:]~~  
175 ~~[(A) imposed and collected a disproportionate rental fee on May 2, 2005, that was \$17~~  
176 ~~or less per unit per year;]~~  
177 ~~[(B) does not increase the amount of its disproportionate rental fee; and]~~  
178 ~~[(C) does not decrease the amount of its disproportionate rental fee reduction.]~~  
179 ~~[(vi) Until May 2, 2012, the requirement under Subsection (5)(c)(ii)(A)(H) to conduct a~~  
180 ~~municipal services study before imposing and collecting a disproportionate rental fee, does not~~

181 apply to a municipality that:]

182 ~~[(A) on May 2, 2005, imposed and collected a disproportionate rental fee that exceeds~~  
183 ~~\$17 per unit per year;]~~

184 ~~[(B) had implemented, before January 1, 2005, a good landlord program;]~~

185 ~~[(C) does not decrease the amount of the disproportionate rental fee reduction; and]~~

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

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

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

192 (8) If challenged in court, an ordinance enacted by a municipality before January 1,  
193 1994, imposing a business license fee on rental dwellings under this section shall be upheld  
194 unless the business license fee is found to impose an unreasonable burden on the fee payer.

195 Section 2. Section **10-1-203.5** is enacted to read:

196 **10-1-203.5. Disproportionate rental fee--Good landlord training program -- Fee**  
197 **reduction.**

198 (1) As used in this section:

199 (a) "Business" means the rental of one or more residential units within a municipality.

200 (b) "Disproportionate rental fee" means a fee adopted by a municipality to recover its  
201 disproportionate costs of providing municipal services to residential rental units compared to  
202 similarly-situated owner-occupied housing.

203 (c) "Disproportionate rental fee reduction" means a reduction of a disproportionate  
204 rental fee as a condition of complying with the requirements of a good landlord training  
205 program.

206 (d) "Exempt business" means the rental of a residential unit within a single structure  
207 that contains:

208 (i) no more than four residential units; and

209 (ii) one unit occupied by the owner.

210 (e) "Exempt landlord" means a residential landlord who demonstrates to a  
211 municipality:

212 (i) ~~H→ [(A)] ←H~~ completion of any live good landlord training program offered by any  
 212a other  
 213 Utah city that offers a good landlord program; H→ [and  
 214 ~~—— (B) familiarity with the essential provisions of that municipality's good landlord~~  
 215 ~~program;] ←H~~  
 216 (ii) ~~H→ [(A)] ←H~~ that the residential landlord has H→ a ←H current H→ ["certified  
 216a1 ~~property manager"~~  
 216a ~~status with~~  
 217 ~~the Utah Division of Real Estate] professional designation of "property manager" ←H ; S→or ←S~~  
 217a ~~H→ [and~~  
 218 ~~—— (B) familiarity with the essential provisions of that municipality's good landlord~~  
 219 ~~program;] ←H~~  
 220 ~~S→ [(iii) an exemption from continuing education from the Division of Real Estate under~~  
 221 ~~Subsection 61-2f-204(2)(a)(iv)(B); or~~  
 222 ~~—— (iv)] (iii) ←S~~ compliance with a requirement described in Subsection (4).  
 223 (f) "Good landlord training program" means a program offered by a municipality to  
 224 encourage business practices that are designed to reduce the disproportionate cost of municipal  
 225 services to residential rental units by offering a disproportionate rental fee reduction for any  
 226 landlord who:  
 227 (i) (A) completes a landlord training program provided by the municipality; or  
 228 (B) is an exempt landlord;  
 229 (ii) implements measures to reduce crime in rental housing as specified in a municipal  
 230 ordinance or policy; and  
 231 (iii) operates and manages rental housing in accordance with an applicable municipal  
 232 ordinance.  
 233 (g) "Municipal services" means:  
 234 (i) public utilities;  
 235 (ii) police;  
 236 (iii) fire;  
 237 (iv) code enforcement;  
 238 (v) storm water runoff;  
 239 (vi) traffic control;  
 240 (vii) parking  
 241 (viii) transportation;  
 242 (ix) beautification; or



243 (x) snow removal.

244 (h) "Municipal services study" means a study of the cost of all municipal services to  
245 rental housing that:

246 (i) are reasonably attributable to the rental housing; and

247 (ii) exceed the municipality's cost to serve similarly-situated, owner-occupied housing.

248 (2) The legislative body of a municipality may charge and collect a disproportionate  
249 rental fee on a business that causes disproportionate costs to municipal services if the  
250 municipality:

251 (a) has performed a municipal services study; and

252 (b) adopts a disproportionate rental fee that does not exceed the amount that is justified  
253 by the municipal services study on a per residential rental unit basis.

254 (3) A municipality may not:

255 (a) impose a disproportionate rental fee on an exempt business;

256 (b) require a landlord to deny tenancy to an individual released from probation or  
257 parole whose conviction date occurred more than four years before the date of tenancy; or

258 (c) without cause and notice, require a landlord to submit to a random building  
259 inspection.

260 (4) In addition to a requirement or qualification described in Subsection (1)(e), a  
261 municipality may recognize a landlord training described in its ordinance.

262 (5) ~~H~~→ (a) ←~~H~~ If a municipality adopts a good landlord program, the municipality shall  
262a provide an  
263 appeal procedure affording due process of law to a landlord who is denied a disproportionate  
264 rental fee reduction.

264a **~~H~~→ (b) A municipality may not adopt a new disproportionate rental fee unless the**  
264b **municipality provides a disproportionate rental fee reduction. ←~~H~~**

265 Section 3. Section **10-8-85.5** is amended to read:

266 **10-8-85.5. "Rental dwelling" defined -- Municipality may require a business**  
267 **license or a regulatory business license and inspections -- Exception.**

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

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

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

273 (ii) arranged, designed, or built to be rented, loaned, leased, or hired out for a period of

274 one month or longer.

275 (2) (a) The legislative body of a municipality may by ordinance require the owner of a  
276 rental dwelling located within the municipality:

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

278 (ii) (A) to obtain a regulatory business license to operate and maintain the rental  
279 dwelling in accordance with Section 10-1-203.5; and

280 (B) to allow inspections of the rental dwelling as a condition of obtaining a regulatory  
281 business license.

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

285 ~~[(c) (i) Notwithstanding Subsection (2)(b), a municipality may, until August 31, 2008,~~  
286 ~~impose upon an owner subject to Subsection (2)(a) a reasonable inspection fee for the~~  
287 ~~inspection of each rental dwelling owned by that owner.]~~

288 ~~[(ii) Beginning September 1, 2008, a]~~

289 (c) A municipality may not charge a fee for the inspection of a rental dwelling.

290 (d) If a municipality's inspection of a rental dwelling, allowed under Subsection  
291 (2)(a)(ii)(B), approves the rental dwelling for purposes of a regulatory business license, a  
292 municipality may not inspect that rental dwelling ~~[during the next 36 months, unless the~~  
293 ~~municipality has reasonable cause to believe that a condition in the rental dwelling is in~~  
294 ~~violation of an applicable law or ordinance]~~ except as provided for in Section 10-1-203.5.

295 (3) A municipality may not:

296 (a) interfere with the ability of an owner of a rental dwelling to contract with a tenant  
297 concerning the payment of the cost of a utility or municipal service provided to the rental  
298 dwelling; or

299 (b) except as required under the State Construction Code or an approved code under  
300 Title 15A, State Construction and Fire Codes Act, for a structural change to the rental dwelling,  
301 or as required in an ordinance adopted before January 1, 2008, require the owner of a rental  
302 dwelling to retrofit the rental dwelling with or install in the rental dwelling a safety feature that  
303 was not required when the rental dwelling was constructed.

304 (4) Nothing in this section shall be construed to affect the rights and duties established

305 under Title 57, Chapter 22, Utah Fit Premises Act, or to restrict a municipality's ability to  
306 enforce its generally applicable health ordinances or building code, a local health department's  
307 authority under Title 26A, Chapter 1, Local Health Departments, or the Utah Department of  
308 Health's authority under Title 26, Utah Health Code.

309 Section 4. Section **10-9a-511** is amended to read:

310 **10-9a-511. Nonconforming uses and noncomplying structures.**

311 (1) (a) Except as provided in this section, a nonconforming use or noncomplying  
312 structure may be continued by the present or a future property owner.

313 (b) A nonconforming use may be extended through the same building, provided no  
314 structural alteration of the building is proposed or made for the purpose of the extension.

315 (c) For purposes of this Subsection (1), the addition of a solar energy device to a  
316 building is not a structural alteration.

317 (2) The legislative body may provide for:

318 (a) the establishment, restoration, reconstruction, extension, alteration, expansion, or  
319 substitution of nonconforming uses upon the terms and conditions set forth in the land use  
320 ordinance;

321 (b) the termination of all nonconforming uses, except billboards, by providing a  
322 formula establishing a reasonable time period during which the owner can recover or amortize  
323 the amount of his investment in the nonconforming use, if any; and

324 (c) the termination of a nonconforming use due to its abandonment.

325 (3) (a) A municipality may not prohibit the reconstruction or restoration of a  
326 noncomplying structure or terminate the nonconforming use of a structure that is involuntarily  
327 destroyed in whole or in part due to fire or other calamity unless the structure or use has been  
328 abandoned.

329 (b) A municipality may prohibit the reconstruction or restoration of a noncomplying  
330 structure or terminate the nonconforming use of a structure if:

331 (i) the structure is allowed to deteriorate to a condition that the structure is rendered  
332 uninhabitable and is not repaired or restored within six months after written notice to the  
333 property owner that the structure is uninhabitable and that the noncomplying structure or  
334 nonconforming use will be lost if the structure is not repaired or restored within six months; or

335 (ii) the property owner has voluntarily demolished a majority of the noncomplying

336 structure or the building that houses the nonconforming use.

337 (c) (i) Notwithstanding a prohibition in its zoning ordinance, a municipality may  
338 permit a billboard owner to relocate the billboard within the municipality's boundaries to a  
339 location that is mutually acceptable to the municipality and the billboard owner.

340 (ii) If the municipality and billboard owner cannot agree to a mutually acceptable  
341 location within 90 days after the owner submits a written request to relocate the billboard, the  
342 provisions of Subsection 10-9a-513(2)(a)(iv) apply.

343 (4) (a) Unless the municipality establishes, by ordinance, a uniform presumption of  
344 legal existence for nonconforming uses, the property owner shall have the burden of  
345 establishing the legal existence of a noncomplying structure or nonconforming use.

346 (b) Any party claiming that a nonconforming use has been abandoned shall have the  
347 burden of establishing the abandonment.

348 (c) Abandonment may be presumed to have occurred if:

349 (i) a majority of the primary structure associated with the nonconforming use has been  
350 voluntarily demolished without prior written agreement with the municipality regarding an  
351 extension of the nonconforming use;

352 (ii) the use has been discontinued for a minimum of one year; or

353 (iii) the primary structure associated with the nonconforming use remains vacant for a  
354 period of one year.

355 (d) The property owner may rebut the presumption of abandonment under Subsection  
356 (4)(c), and shall have the burden of establishing that any claimed abandonment under  
357 Subsection (4)(b) has not in fact occurred.

358 (5) A municipality may terminate the nonconforming status of a school district or  
359 charter school use or structure when the property associated with the school district or charter  
360 school use or structure ceases to be used for school district or charter school purposes for a  
361 period established by ordinance.

362 (6) A municipal ordinance adopted under Section [~~10-1-203~~] 10-1-203.5 may not:

363 (a) require physical changes in a structure with a legal nonconforming rental housing  
364 use unless the change is for:

365 (i) the reasonable installation of:

366 (A) a smoke detector that is plugged in or battery operated;

- 367 (B) a ground fault circuit interrupter protected outlet on existing wiring;
- 368 (C) street addressing;
- 369 (D) except as provided in Subsection (7), an egress bedroom window if the existing  
370 bedroom window is smaller than that required by current state building code;
- 371 (E) an electrical system or a plumbing system, if the existing system is not functioning  
372 or is unsafe as determined by an independent electrical or plumbing professional who is  
373 licensed in accordance with Title 58, Occupations and Professions;
- 374 (F) hand or guard rails; or
- 375 (G) occupancy separation doors as required by the International Residential Code; or
- 376 (ii) the abatement of a structure; or
- 377 (b) be enforced to terminate a legal nonconforming rental housing use.
- 378 (7) A municipality may not require a change described in Subsection (6)(a)(i)(D) if the  
379 change:
- 380 (a) would compromise the structural integrity of a building; or
- 381 (b) could not be completed in accordance with current building codes, including  
382 set-back and window well requirements.
- 383 (8) A legal nonconforming rental housing use may not be terminated under Section  
384 ~~[10-1-203]~~ 10-1-203.5.
- 385 Section 5. Section **57-22-7** is amended to read:
- 386 **57-22-7. Limitation on counties and municipalities.**
- 387 (1) A county or municipality may not adopt an ordinance, resolution, or regulation that  
388 is inconsistent with this chapter.
- 389 (2) (a) Subsection (1) may not be construed to limit the ability of a county or  
390 municipality to enforce an applicable administrative remedy with respect to a residential rental  
391 unit for a violation of a county or municipal ordinance, subject to Subsection (2)(b).
- 392 (b) A county or municipality's enforcement of an administrative remedy may not have  
393 the effect of:
- 394 (i) modifying the time requirements of a corrective period, as defined in Section  
395 57-22-6;
- 396 (ii) limiting or otherwise affecting a tenant's remedies under Section 57-22-6; or
- 397 (iii) modifying an owner's obligation under this chapter to a tenant relating to the

398 habitability of a residential rental unit.

399 (3) A municipality with a good landlord program under [~~Subsection 10-1-203(5)(e)~~]  
400 Section 10-1-203.5 may not limit an owner's participation in the program or reduce program  
401 benefits to the owner because of renter or crime victim action that the owner is prohibited  
402 under Subsection 57-22-5.1(5) from restricting or penalizing.

403 Section 6. Section **72-7-102** is amended to read:

404 **72-7-102. Excavations, structures, or objects prohibited within right-of-way**  
405 **except in accordance with law -- Permit and fee requirements -- Rulemaking -- Penalty**  
406 **for violation.**

407 (1) As used in this section, "management costs" means the reasonable, direct, and  
408 actual costs a highway authority incurs in exercising authority over the highways under its  
409 jurisdiction.

410 (2) Except as provided in Subsection (3) and Section 54-4-15, a person may not:

411 (a) dig or excavate, within the right-of-way of any state highway, county road, or city  
412 street; or

413 (b) place, construct, or maintain any approach road, driveway, pole, pipeline, conduit,  
414 sewer, ditch, culvert, billboard, advertising sign, or any other structure or object of any kind or  
415 character within the right-of-way.

416 (3) (a) A highway authority having jurisdiction over the right-of-way may allow  
417 excavating, installation of utilities and other facilities or access under rules made by the  
418 highway authority and in compliance with federal, state, and local law as applicable.

419 (b) (i) The rules may require a permit for any excavation or installation and may  
420 require a surety bond or other security.

421 (ii) The application for a permit for excavation or installation on a state highway shall  
422 be accompanied by a fee established under Subsection (4)(f).

423 (iii) The permit may be revoked and the surety bond or other security may be forfeited  
424 for cause.

425 (4) (a) Except as provided in Section 72-7-108 with respect to the department  
426 concerning the interstate highway system, a highway authority may require compensation from  
427 a utility service provider for access to the right-of-way of a highway only as provided in this  
428 section.

429 (b) A highway authority may recover from a utility service provider, only those  
430 management costs caused by the utility service provider's activities in the right-of-way of a  
431 highway under the jurisdiction of the highway authority.

432 (c) (i) A fee or other compensation under this Subsection (4) shall be imposed on a  
433 competitively neutral basis.

434 (ii) If a highway authority's management costs cannot be attributed to only one entity,  
435 the management costs shall be allocated among all privately owned and government agencies  
436 using the highway right-of-way for utility service purposes, including the highway authority  
437 itself. The allocation shall reflect proportionately the management costs incurred by the  
438 highway authority as a result of the various utility uses of the highway.

439 (d) A highway authority may not use the compensation authority granted under this  
440 Subsection (4) as a basis for generating revenue for the highway authority that is in addition to  
441 its management costs.

442 (e) (i) A utility service provider that is assessed management costs or a franchise fee by  
443 a highway authority is entitled to recover those management costs.

444 (ii) If the highway authority that assesses the management costs or franchise fees is a  
445 political subdivision of the state and the utility service provider serves customers within the  
446 boundaries of that highway authority, the management costs may be recovered from those  
447 customers.

448 (f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
449 department shall adopt a schedule of fees to be assessed for management costs incurred in  
450 connection with issuing and administering a permit on a state highway under this section.

451 (g) In addition to the requirements of this Subsection (4), a telecommunications tax or  
452 fee imposed by a municipality on a telecommunications provider, as defined in Section  
453 10-1-402, is subject to Section 10-1-406.

454 (5) Permit fees collected by the department under this section shall be deposited with  
455 the state treasurer and credited to the Transportation Fund.

456 (6) Nothing in this section shall affect the authority of a municipality under:

457 (a) Section ~~[10-1-203]~~ or 10-1-203.5;

458 (b) Section 11-26-1;

459 (c) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act; or

460 (d) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.  
461 (7) A person who violates the provisions of Subsection (2) is guilty of a class B  
462 misdemeanor.