

Fee Disclosure in Utah

Presented by



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Tenants, Utah Department of Consumer Protection, Federal Trade Commission, Private Tenant Attorneys, Utah Division of Real Estate, Cities, Counties, etc.



Why Fee Disclosure?

- Primarily Consumer Protection
- Started with Biden Administration Blueprint for Reenters Bill of Rights
- Generally Failed at Federal level (but some agencies started to review)
- Many States picked up the theme and started to enact laws

JUNK FEES

- ▶ Common types considered by many states and regulators
 - ▶ Application and screening fees that exceed actual costs
 - ▶ Resident Benefit Packages for mandatory services that do not give tenant ability to opt out
 - ▶ Surcharges for payments (online, credit cards, etc.)
 - ▶ Amenity Fees that are mandatory (valet trash, gym, etc.)
 - ▶ Administrative Fees that have no compensatory basis
 - ▶ Any fee or charge that should or could be included in the rent



Why are Junk Fees considered “BAD”

- Often hidden costs and fees are mandatory and hide the real cost of the rental
- Makes it difficult for a consumer to compare
- Unsophisticated renters are unable to “see” the actual cost of a rental

Utah Fee Disclosure Law

- **Before accepting an application fee or any other payment** from a prospective tenant, the landlord must provide a **written disclosure** containing:
 - a **good-faith estimate of the rent**;
 - the amount of **each fixed, non-rent expense** that will be part of the rental agreement;
 - the **type** of each use-based or variable non-rent expense;
 - the date the unit is expected to be available;
 - the criteria used to determine rental eligibility, including applicable criminal-history, credit, income, employment, and rental-history criteria; and
 - the requirements and process for recovering money paid in connection with the prospective tenancy. Utah Code § 57-22-4(3).

Fixed Fee vs. Use Based Fee

➤ Fixed Fees

- Must Disclose the anticipated amount
- Rent
- Insurance
- Garage
- Internet
- Deposit
- Application Fee

➤ Use Based Fees

- Must Disclose a Good Faith Estimate
- Gas
- Electric
- Water/Sewer
- Landscape Maintenance

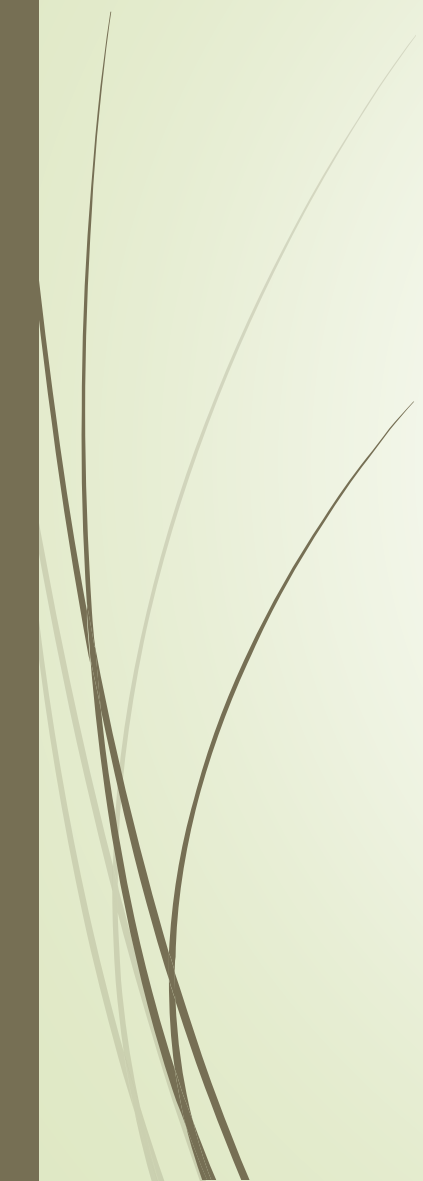


Date Unit Available

- ▶ If it is not available right now, you should identify when it is going to be available
- ▶ This should be in writing and have the anticipated date
- ▶ Specific Date if possible



Rental Criteria



- the criteria that the owner will consider in determining the prospective renter's eligibility as a renter in the residential rental unit, including criteria related to the prospective renter's criminal history, credit, income, employment, or rental history;
- Let them know what you are checking and any specifics
 - Must make a certain multiple of rent
 - Any specific policies that would eliminate the renter
 - Employment and income verification

Explain Refund Procedure

- The disclosure should explain that if:
 - an amount in the good-faith estimate differs from the amount contained in the rental agreement; **or**
 - the rental agreement contains a type of use-based non-rent expense that was not disclosed,
- the prospective renter can make a **written demand for return of the money paid.**
- The applicant must make the demand:
- **within five business days after receiving the rental agreement, and before signing the rental agreement or taking possession.**



BUT.....

ONCE THE LEASE IS SIGNED, THE TENANT CAN NO LONGER MAKE ANY CLAIMS FOR THE NON-DISCLOSURE, and THE TERMS OF THE LEASE BECOME BINDING ON THE TENANT EVEN IF THE FEE DISCLOSURE IS DIFFERENT THAN THE LEASE TERMS.



UDCP

Utah Division of Consumer Protection

- The UDCP feels that if a landlord that gives a disclosure and that the lease agreement differs from the disclosure, that is a violation of the Utah Consumer Sales Practices Act.
- Last year a bill (supported by the UDCP) was proposed that would have codified new disclosure and other rules. It was killed in the Senate.



FTC and Colorado case against Landlord 2025

- Colorado case wherein a Landlord paid out millions of dollars due to alleged problems in the way they advertised units using a “base rent” and allegedly did not properly disclose all mandatory recurring fees.
- Colorado requires that most fees be included in the base rent.
- Requires landlords to clearly disclose **all fees, their amounts, their nature/purpose, and whether each is mandatory**
- *This case may have created a new federal consumer protection issue with the FTC*



Trending

- Advertising Total Monthly obligation not base rent
- Incorporating mandatory fees and costs into the base rent
- More and better disclosure on all fees and costs including more details and estimates on variable fees and costs
- Disclosure BEFORE any money changes hands
- THE UDCP wants to incorporate the Colorado laws and the terms of the FTC settlement into Utah law.



Caution on Administrative Fees

- Adding “administrative fees”
 - Be cautious
 - Disclosure
 - Attach the fee to some required action
 - Avoid monthly administrative fees where no work is done to “earn” it

WHAT TO DO NOW

- ▶ Get or have a GOOD disclosure document that is given to prospective tenants PRIOR to accepting application fees
 - ▶ From your legal counsel
 - ▶ Utah Rental Housing Association
- ▶ Publish for prospective tenants your rental criteria. Again, make it available prior to accepting any fees.
- ▶ Review your fees and costs that are not included in the rent
- ▶ Make sure you are using a good lease agreement
- ▶ Avoid fees that are unusual or that really should be part of the base rent

Contribute to the PAC

- Utah has a battle coming up
- Know your legislators and put yourself in a position to have discussions with them
- URHA PAC is our best defense
- Be active in the process