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## Bill to cap rental commissions is amended to only affect brokers repping landlords

*Brokers say it's "anti-American," will increase rents and throw the market into chaos*

By [Erin Hudson](#) | May 31, 2019 07:30PM



Council member Keith Powers (Credit: Manhattan Community Board 5)

**UPDATE Friday, May 31, 2019, 9:19 p.m.:** Residential brokers are up in arms over the latest change to a proposed law that would cap the amount a renter can pay for a broker hired by a landlord.

Douglas Wagner, Bond New York's executive vice president of brokerage services, predicted "chaos" and the obliteration of exclusive rental listings. Cathy Taub, a broker at Sotheby's International Realty and co-founder of the New York Residential Agent Continuum (NYRAC), called it "an unjustified, illegal and unwarranted restraint."

"I don't understand why this is lawful," she told *The Real Deal*. "There's no other industry where politicians have 'capped compensation.' It's anti-American."

The bill, also known as Intro 1423, was [introduced](#) in February and initially proposed capping the amount a renter could pay a broker for their services to the value of one month's rent. In the weeks that followed, [fierce backlash](#) from real estate interests led to three sponsors [withdrawing](#) their support, while its prime sponsor, Council member Keith Powers, clarified his intention was to shift the burden of paying for a

landlord's broker away the renter, who traditionally foots the bill, and not limit brokers' incomes. On Wednesday, May 29, the bill was amended to reflect that position.

"The amendment explicitly clarifies that landlords should be paying for the hard-working brokers that hustle on their behalf and does nothing about capping broker compensation," Powers wrote in a statement. "The legislation has been and remains about making it more affordable for New Yorkers to rent an apartment by protecting tenants in these costly transactions."

But brokers and industry groups including NYRAC and the Real Estate Board of New York disagree.

Wagner, who represents landlords ranging in size from small owners to large institutions and sits on REBNY's residential brokerage board, said he's heard from his clients that they will either raise rents to pay for the added cost of brokers, or they'll just stop hiring brokers. Both would be bad for tenants, he argued.

He predicted that the latter case would generate "an amount of chaos" wherein people would have to hire a broker to get access to rental inventory owned by firms that aren't equipped, or don't want, to interact with potential tenants.

"I could see that pushing the broker fee higher," Wagner explained.

In a prior interview with *TRD*, Powers characterized the case of a renter paying for the landlord's broker as a "consumer protection issue." Wagner argues that renters paying for their landlord's representation is simply a client and customer relationship akin to walking into a store and making a purchase.

"You're a customer and you have to pay," he said.

Wagner claimed about two-thirds of the city's landlords hire brokers to handle leases.

"The consensus among [landlords]," he said, is that they'll pay broker commissions "when the conditions warrant it" but, if it becomes law, they'll "find ways to avoid it. Tough luck brokers."

Frank Ricci from the Rent Stabilization Association, which represents about 25,000 residential property owners, isn't hearing any issues from his members, however.

"I don't really see this as an owners' issue," he said. "My members don't care that much."

He described who pays for a landlord's representative as a "function of the market," and owners foot the bill when they're "really having trouble renting apartments." Ricci also noted that a lot of owners like to handle screening tenants themselves to "make sure they have a good tenant."

"This is more of a REBNY issue than a RSA issue," he said.

REBNY sent out an email blast to its members on Friday evening noting concern and encouraging members to attend the bill's public hearing on June 11.

If the bill becomes law, landlords could only have tenants cover one month's rent, or roughly 8 percent, of their rental broker's typical 15 percent commission of the annual rent. Broker fees are generally paid in addition to security deposits — usually 1.5 or two times the monthly rent — and the first month's rent. For a Manhattan apartment with the median rental price for the borough — \$3,300, according to [Douglas Elliman](#) — that means paying \$14,190 upfront.

Douglas Elliman's head of rentals Hal Gavzie described the amendment as "a poorly written idea," noting that there's no explanation for what would happen on a rental transaction that's co-brokered.

“I’m stunned. I’m just so confused by what I’m reading,” he said. “I’m sure there will be quite a bit of opposition... and we’ll see what the next amendment to this will be.”

*Correction: The timing of REBNY learning about the amendment was incorrectly stated in an earlier version of this article and Wagner’s role on REBNY’s residential brokerage board of directors was clarified. The article was also clarified to reflect the amount landlords can have tenants pay towards their rental broker’s fees.*

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