

## Change in broker-fee policy drops a 'sledgehammer' on real estate

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A "sledgehammer" tucked 1,600 words into a [guidance document](#), buried three clicks into a state regulatory website, has completely upended the way of doing business in the city's market of more than [2 million rental apartments](#).

Landlords must pay the fees charged by brokers they hire to lease an apartment, according to regulations published this week by the Department of State. The [guidance](#)—intended to clarify the rent reforms passed by state lawmakers last summer—bans the long-held practice of landlords passing on those fees to tenants.

Real estate brokers described a state of chaos and confusion in response to the policy, which said "a landlord's agent cannot be compensated by the prospective tenant."

"Everyone is stunned and not sure what to do," said Heather McDonough Domi, a broker with Compass. "There hasn't been enough guidance from the Department of State. This was like a sledgehammer that came down on the whole industry."

The Real Estate Board of New York is exploring legal action and coordinating a public campaign to get the Department of State to reverse the guidance, which is not legally binding.

While the industry says the costs of the fees will be passed on via higher rents, housing advocates cheered the move as a way to cut down on costs they say are a barrier to finding an affordable home.

A typical broker's fee runs between about 8% and up to 15% at the high end. The broker fee can pile up with costs for a security deposit, application fees and requirements to pay first and sometimes last month's rent. [The New York Times](#) in 2018 tallied up the total costs to lease a \$2,300-per-month studio and found that a prospective renter could need to cut a check of \$11,190 to land the apartment.

The rent-law reforms Gov. Andrew Cuomo signed last summer have chipped away at those costs. Along with pushing broker fees away from tenants, the law also prohibits [application fees of more than \\$20](#).

"Our intent is to eliminate barriers that currently prevent low-income and vulnerable people from obtaining housing," said Brooklyn state Sen. Julia Salazar, a sponsor of the legislative package.

About 45% of apartments listed on StreetEasy last year included a broker fee, according to the company. Twitter on Wednesday was filled with tales from New Yorkers who said they forked over large sums to land their first apartment. [NY1](#) surveyed several residents and found similar frustrations.

That reaction is part of why Frederick Peters, CEO of Warburg Realty, acknowledged the state's guidance may be good politics, "but it's bad policy."

"It won't save renters any money," he continued. "It will complicate the transaction while at the same time guaranteeing a higher rent for the tenant, which works against that tenant going forward on year-over-year increases and renewals."

Although large property companies typically have in-house brokers, small landlords often rely on brokerages for their listings. "They may need to look instead toward avenues that are not as effective," said Steven Sedereas, a real estate attorney at Davidoff Hatcher & Citron. "Or they may still retain brokers, but those costs will be passed on through the rent."

McDonough Domi, founder and chairwoman of the broker advocacy group New York Residential Agent Continuum, said brokers serve a crucial role for landlords promoting listings, showing and sometimes staging properties, as well as handling applications from potential renters. They also can help score tenants a better deal.

"There are brokerages whose primary business is working for landlords," McDonough Domi said. "It is going to put a lot of these agents or small brokerages out of business."

Brokers successfully rallied against a bill in the City Council last year that would have limited broker fees to one month's rent in instances where the agent is working for the landlord. The bill stalled in committee after a [tense hearing in June](#). A spokeswoman for Councilman Keith Powers, the bill's sponsor, said Powers would like the Department of State's guidance to be "codified and give New York City local enforcement."