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## EDITORIAL

# Tenants shouldn't be forced to pay broker fees

Boston area city councilors want to ban the practice.

By [The Editorial Board](#) Updated December 4, 2024, 4:00 a.m.



Until recently, Boston and New York were the only major metropolitan cities to let landlords pass the cost of broker fees on to tenants. The New York City Council voted in November to ban the practice, leaving Boston as an outlier. MICHAEL TRAITOV - STOCK.ADOBE.COM

Several Boston city councilors — and some of their counterparts in nearby Cambridge and Somerville — are [launching an effort](#) to forbid landlords from requiring tenants to

pay broker fees. It's a good idea that will ease life slightly for renters looking to move amid a regional housing crunch.

In a competitive rental market, tenants are essentially forced to pay any fees the landlord imposes to obtain an apartment. Including broker fees in the calculation can make moving cost-prohibitive, especially for lower-income renters. It's also against the spirit — if not the letter — of Massachusetts law, which limits the up-front fees landlords can charge.

Until recently, Boston and New York were the only major metropolitan cities to let landlords pass the cost of broker fees on to tenants. The New York City Council [voted in November](#) to ban the practice, leaving Boston as an outlier.

Brokers can provide a valuable service, helping landlords screen prospective tenants, showing apartments, and handling paperwork. They deserve to get paid for their work. The question is who pays them.

New York City's new policy, and a similar policy that passed the Massachusetts State Senate this legislative session, takes a common-sense approach: The party that hires the broker pays the fee. In most cases, the landlord hires the broker and benefits from the broker's services, so the landlord would have to pay the fee.

“We are in a housing crisis, and all this law does is simply say in a crisis moment those who are seeking services should be paying for them,” said State Senator Lydia Edwards, a Boston Democrat who sponsored the Senate proposal.

This policy makes sense because using a broker is a choice made by the landlord for their convenience. Some small landlords screen tenants themselves. Larger companies may have their own leasing offices.

Anecdotally, groups representing both landlords and tenants say tenant-paid broker fees are most common in greater Boston, where a tight rental market works in landlords'

favor. But lawmakers from Northampton and Brockton also filed home rule petitions to allow those cities to prohibit broker fees from being charged to tenants, indicating the issue also exists outside Boston.

Typically, brokers will charge one month's rent for their services. Real estate listing website Zillow, in a letter to lawmakers, said the average monthly rent for a Boston-area apartment in June 2024 was \$3,127. A tenant paying up front for first month's rent, last month's rent, a one-month security deposit, and a one-month broker fee would have to find \$12,508 — or 14 percent of Boston's median annual household income. “Not a lot of people have that much money casually laying around,” said Boston City Councilor Enrique Pepén, who is seeking to ban landlords from passing on broker fees in Boston. Officials at Zillow wrote that the high up-front cost discourages people from moving, which keeps the supply of rental housing down and prices up.

The practice, though apparently legal, skirts around the edges of Massachusetts law. [State law](#) says a landlord can only charge a new tenant for first month's rent, last month's rent, a security deposit, and the installation of locks. That law put Massachusetts [ahead of many other states](#) in eliminating extra fees, like application and screening fees. But landlords get around the restriction by requiring tenants to pay a broker directly.

Of course, if the landlord pays the broker fee, that money has to come from somewhere. It's likely landlords would recoup some of the fee by charging higher rent. But renters' advocates say it would be preferable for tenants to pay the fee over 12 months, rather than all at once. In addition, low-income renters who qualify for state or federal rental assistance can use that assistance to pay rent — but not to cover a broker fee.

“There's no question this is creating huge barriers for low-income people and people with housing subsidies to enter the rental market in huge segments of available housing,” said Todd Kaplan, senior attorney in the consumer rights unit at Greater Boston Legal Services.

It's also at least possible that some landlords will think twice about whether they really need a broker at all, if they're the ones directly on the hook for the cost.

Ultimately, the state Legislature will decide this issue. Lawmakers could set a policy statewide. Or if city councils in Boston or elsewhere submit home rule petitions, the state Legislature would decide whether to approve those. Edwards said different proposals for statewide legislation that are likely to be discussed include prohibiting landlords from passing fees on, capping the size of fees that can be passed on, or applying a prohibition only to larger landlords.

When the Legislature returns to work for formal sessions in January, a serious conversation about eliminating tenant-paid broker fees should be on the table.

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