Staff: Committee on Housing & Buildings

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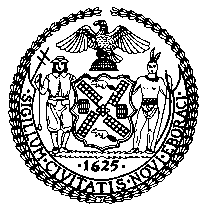
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**The Council of the City of New York**

**COMMITTEE REPORT OF THE INFRASTRUCTURE DIVISION**

**Jeffrey Baker, Legislative Director**

**COMMITTEE ON HOUSING & BUILDINGS**

**Robert E. Cornegy, Jr., Chair**

**June 27, 2019**

**Proposed Int. No. 1423-A:** By Council Members Powers, Rivera, Cumbo, the Public Advocate (Mr. Williams), Lander, Levin, Kallos, Van Bramer, Levine, Ayala, Chin, Rosenthal, Gibson, Moya, Constantinides, Dromm, Koslowitz, Richards, Reynoso, Cornegy, Espinal, Ampry-Samuel and King

**Title:** A Local Law to amend the administrative code of the city of New York, in relation to limiting the fees charged in a rental real estate transaction

**Administrative Code:** Adds a new chapter 26 to title 26

**Int. No. 1424:** By Council Members Powers, Rivera, the Public Advocate (Mr. Williams), Treyger, Cumbo, Levin, Lander, Kallos, Levine, Chin, Ayala, Van Bramer, Rosenthal, Gibson, Moya, Constantinides, Dromm, Adams, Koslowitz, Holden, Richards, Reynoso, Cornegy, Espinal, Ampry-Samuel, Brannan, Diaz and King

**Title:** A Local Law to amend the administrative code of the city of New York, in relation to limiting rental security deposits to one month of rent

**Administrative Code:** Adds a new chapter 23 to title 26

**Proposed Int. No. 1431-A:** By Council Members Rivera, Powers, Cumbo, Levine, Brannan, Holden, Dromm, Levin, Kallos, Rosenthal, Ayala, Adams, Chin, Lander, Reynoso, Ampry-Samuel, Louis and King

**Title:** A Local Law to amend the administrative code of the city of New York, in relation to requiring the return of security deposits within 14 days of the end of a lease

**Administrative Code:** Adds a new chapter 23 to title 26

**Int. No. 1432:** By Council Member Rivera, Powers, Cumbo, Levine, Brannan, Holden, Dromm, Levin, Kallos, Rosenthal, Ayala, Adams, Chin, Lander, Reynoso, Louis and King

**Title:** A Local Law to amend the administrative code of the city of New York, in relation to transparency in residential rental application fees

**Administrative Code:** Adds a new chapter 23 to title 26

**Int. No. 1433:** By Council Members Rivera, Powers, Cumbo, Levine, Brannan, Dromm, Levin, Kallos, Rosenthal, Ayala, Adams, Lander, Reynoso, Ampry-Samuel, Louis and King

**Title:** A Local Law to amend the administrative code of the city of New York, in relation to providing tenants the option of paying a security deposit in six equal monthly installments

**Administrative Code:** Adds a new chapter 23 to title 26

**Int. No. 1499:** By Council Members Cohen, Rivera, Kallos, Powers, Ampry-Samuel, Louis, Reynoso, Rosenthal, Levin and King

**Title:** A Local Law to amend the administrative code of the city of New York, in relation to the provision of tenant screening reports

**Administrative Code:** Adds a new section 20-812

**Introduction**

On June 27, 2019, the Committee on Housing and Buildings, chaired by Council Member Robert E. Cornegy, Jr. will hold a hearing on the following legislation: Proposed Int. No. 1423-A, Int. No. 1424, Proposed Int. No. 1431-A, Int. No. 1432, Int. No. 1433 and Int. No. 1499. The Committee expects to receive testimony from the Department of Housing Preservation and Development (HPD), the Department of Consumer Affairs, members of the real estate and brokerage industries, tenant advocates, and other interested members of the public.

**Background**

According to the NYU Furman Center report titled *State of New York City’s Housing and Neighborhoods in 2018*, 67.3% of New Yorkers are renters instead of homeowners.[[1]](#footnote-1) For those New Yorkers who rent, the upfront costs associated with renting an apartment may be cost-prohibitive. Although rising rents have caused some tenants to leave the City, an increasing number of tenants are forced to leave because they lack the savings or liquidity to pay the upfront costs of renting: security deposits, brokers’ fees, fees for credit reports and background checks, and other costs associated with moving.[[2]](#footnote-2) While each of these costs taken alone may not represent a large sum of money, the cumulative costs may amount to sums that would be unaffordable to many New Yorkers.

In July 2018, New York City Comptroller Scott Stringer released a report[[3]](#footnote-3) detailing the role security deposits play in driving up initial costs for renters in the New York City rental housing market.[[4]](#footnote-4) The report found that in fifteen community districts, the typical household would have to pay over 10% of its annual income in order to pay the first month’s rent and security deposit for an apartment within the same community district. That percentage does not account for other upfront costs associated with moving, including brokers’ fees. In addition, tenants are required to pay these moving costs, including first month’s rent, security, and broker’s fee as a lump sum, requiring them to come up with a significant sum at once. The report also found that these costs particularly affected Black and Hispanic families and low-income households.[[5]](#footnote-5)

Many renters in New York City may also be required to pay a fee to the broker involved in the rental real estate transaction. The average broker charges anywhere from one month’s rent, which is 8.3% of the annual rent, to 15% of the annual rent as a fee when signing the lease for a rental apartment.[[6]](#footnote-6) That fee is paid by either the apartment owner or by the prospective tenant. While it is possible to negotiate with brokers regarding their fees, many prospective tenants in New York City find that industry norms and the ubiquitous presence of brokers in real estate transactions dictate a lack of bargaining power for anyone other than landlords or property owners.

In addition to security deposits and brokers’ fees, prospective tenants may also be liable for other upfront fees, including an application fee that can range from $50 to $200,[[7]](#footnote-7) a nonrefundable credit check authorization fee, move-in fees, and in some instances the last month’s rent.[[8]](#footnote-8)

**Legislation**

Below is a brief summary of the legislation being heard by the Committee at this hearing. This summary is intended for informational purposes only and does not substitute for legal counsel. For more detailed information, you should review the full text of the bill, which is attached below.

**Proposed Int. No. 1423-A, A Local Law to amend the administrative code of the city of New York, in relation to limiting the fees charged in a rental real estate transaction**

This bill would limit the fees that an individual can collect in a rental real estate transaction. An individual who represents a building owner would be prohibited from collecting a fee from a prospective tenant that exceeds the value of one month’s rent. This bill would not prohibit such individual from collecting any fee beyond that amount.

This local law would take effect 60 days after it becomes law.

**Int. No. 1424, A Local Law to amend the administrative code of the city of New York, in relation to limiting rental security deposits to one month of rent**

This bill would limit the amount that individuals, corporations, or entities can collect as a security deposit in a residential rental real estate transaction to the equivalent of one month’s rent.

This legislation would take effect 60 days after it becomes law.

**Proposed Int. No. 1431-A, A Local Law to amend the administrative code of the city of New York, in relation to requiring the return of security deposits within 14 days of the end of a lease**

This bill would require commercial or residential landlords to return security deposits, less any lawful deductions, to the tenants within 14 days of the end of the lease.

This legislation would take effect 120 days after it becomes law.

**Int. No. 1432, A Local Law to amend the administrative code of the city of New York, in relation to transparency in residential rental application fees**

This bill would require brokers to provide tenants an itemized explanation of how any application fee collected as part of the apartment rental application process will be spent. Any person who collects such an application fee without making the required disclosure would be subject to a civil penalty of $150.

This legislation would take effect 60 days after it becomes law.

**Int. No. 1433, A Local Law to amend the administrative code of the city of New York, in relation to providing tenants the option of paying a security deposit in six equal monthly installments**

This bill would require that, for a residential tenancy that is six months or longer, the tenant must be provided with the option of paying the security deposit in six equal, consecutive monthly installments added to the first six rental payments, respectively. A tenant with a tenancy of less than six months would be provided the option of paying equal, consecutive monthly installments provided that the number of installments match the number of months of the tenancy.

This legislation would take effect 120 days after it becomes law.

**Int. No. 1499, A Local Law to amend the administrative code of the city of New York, in relation to the provision of tenant screening reports**

This bill would prohibit any individual from charging a prospective tenant a fee in order to obtain a tenant screening report when the individual knows the unit is not or will not be vacant for such prospective tenant to lease. This bill would also require such individual to provide an applicant with the tenant screening report as long as the required fee has been paid, regardless of whether or not a lease has been signed. This bill would also require the Department of Consumer Affairs to conduct a feasibility study on whether the City could establish its own tenant screening report system.

This legislation would take effect 120 days after it becomes law.

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Proposed Int. No. 1423-A

By Council Members Powers, Rivera, Cumbo, the Public Advocate (Mr. Williams), Lander, Levin, Kallos, Van Bramer, Levine, Ayala, Chin, Rosenthal, Gibson, Moya, Constantinides, Dromm, Koslowitz, Richards, Reynoso, Cornegy, Espinal, Ampry-Samuel and King

..Title

A Local Law to amend the administrative code of the city of New York, in relation to limiting the fees charged in a rental real estate transaction

..Body

Be it enacted by the Council as follows:

Section 1. Title 26 of the administrative code of the city of New York is amended by adding new chapter 26 to read as follows:

CHAPTER 26

FEES ASSOCIATED WITH REAL ESTATE TRANSACTIONS

§ 26-2601 Definitions.

§ 26-2602 Fees in rental real estate transactions.

§ 26-2601 Definitions. As used in this subchapter, the term “rental real estate transaction” means a residential real estate transaction involving the rental of real property.

§ 26-2602 Fees in rental real estate transactions. a. It shall be unlawful for any individual or individuals to collect fees in connection with a rental real estate transaction from a tenant or prospective tenant which, in the aggregate, exceed the value of one month of rent of the property in such transaction, where such individual is a representative or an agent of the owner of such property. Nothing in this chapter shall limit the total fees any such individual or individuals can collect in any rental real estate transaction.

b. Subdivision a shall not apply to the collection of fees by the owner or landlord of a residential rental property.

§ 2. This local law takes effect 60 days after it becomes law, and shall only apply to rental real estate transactions entered into on or after the effective date of this law.

SIL/AS

LS #7080

05/29/2019 2:37 PM

Int. No. 1424

By Council Members Powers, Rivera, the Public Advocate (Mr. Williams), Treyger, Cumbo, Levin, Lander, Kallos, Levine, Chin, Ayala, Van Bramer, Rosenthal, Gibson, Moya, Constantinides, Dromm, Adams, Koslowitz, Holden, Richards, Reynoso, Cornegy, Espinal, Ampry-Samuel, Brannan, Diaz and King

..Title

A Local Law to amend the administrative code of the city of New York, in relation to limiting rental security deposits to one month of rent

..Body

Be it enacted by the Council as follows:

Section 1. Title 26 of the administrative code of the city of New York is amended by adding a new chapter 23 to read as follows:

CHAPTER 23

SECURITY DEPOSITS IN REAL ESTATE TRANSACTIONS

§ 26-2301 Definitions.

§ 26-2302 Security deposits in rental real estate transactions.

§ 26-2301 Definitions. As used in this subchapter, the following terms have the following meanings:

Rental real estate transaction. The term “rental real estate transaction” means a residential real estate transaction involving the rental of real property.

Security deposit. The term “security deposit” means money, whether cash or otherwise, paid to a landlord to be held for all or part of the term of a tenancy to secure performance of any obligation of the tenant under the rental agreement.

§ 26-2302 Security Deposits in rental real estate transactions. It shall be unlawful for any individual, corporation or entity to collect a security deposit in connection with a rental real estate transaction from a tenant or prospective tenant which, in the aggregate, exceeds the value of one month of rent of the property in such transaction.

§ 2. This local law takes effect 60 days after it becomes law, and shall only apply to rental real estate transactions entered into on or after the effective date of this local law.

SIL

LS # 7647, 7625, 7654, 7669

11/21/18

Proposed Int. No. 1431-A

By Council Members Rivera, Powers, Cumbo, Levine, Brannan, Holden, Dromm, Levin, Kallos, Rosenthal, Ayala, Adams, Chin, Lander, Reynoso, Ampry-Samuel, Louis and King

..Title

A Local Law to amend the administrative code of the city of New York, in relation to requiring the return of security deposits within 14 days of the end of a lease

..Body

Be it enacted by the Council as follows:

Section 1. Title 26 of the administrative code of the city of New York is amended by adding a new chapter 23 to read as follows:

CHAPTER 23

SECURITY DEPOSITS

§ 26-2301 Definitions

§ 26-2302 Return of security deposit

§ 26-2301 Definitions. As used in this chapter, the following terms have the following meanings:

Landlord. The term “landlord” means an owner, lessor, sublessor, assignee or other person receiving or entitled to receive rent for the use or occupancy of a premises or an agent of any of the foregoing.

Security deposit. The term “security deposit” means money, whether cash or otherwise, paid to a landlord to be held for all or part of the term of a tenancy to secure performance of any obligation of the tenant under the rental agreement.

Tenant. The term “tenant” means a person, paying or required to pay rent for a premises as a lessee, sublessee, licensee or concessionaire.

§ 26-2302 Return of security deposit. A landlord shall return in full any security deposit received from a tenant, less any lawful deductions, no later than 14 days from the ending of the applicable residential or commercial tenancy.

§ 2. This local law takes effect 120 days after it becomes law, except that the commissioner may take such measures as are necessary for its implementation, including the promulgation of rules, before such effective date

MJT/GZ

LS #9413

6.12.19 1:30pm

Int. No. 1432

By Council Members Rivera, Powers, Cumbo, Levine, Brannan, Holden, Dromm, Levin, Kallos, Rosenthal, Ayala, Adams, Chin, Lander, Reynoso, Louis and King

..Title

A Local Law to amend the administrative code of the city of New York, in relation to transparency in residential rental application fees

..Body

Be it enacted by the Council as follows:

Section 1. Title 26 of the administrative code of the city of New York is amended by adding a new chapter 23 to read as follows:

CHAPTER 23

REAL ESTATE BROKERS

§ 26-2301 Definitions

§ 26-2302 Disclosure in application fees

§ 26-2303 Penalties

§ 26-2301 Definitions. As used in this chapter, the following terms have the following meanings:

Application fee. The term “application fee” means money, remitted in cash or otherwise, as a condition for submitting an application to rent real property for residential purposes.

Rental real estate transaction. The term “rental real estate transaction” means a real estate transaction involving the rental of real property for residential purposes.

§ 26-2302 Disclosure in application fees. It shall be unlawful for any person to collect an application fee in connection with a rental real estate transaction from a prospective tenant without remitting to the prospective tenant an itemized list of expenses associated with processing the application that are to be paid by such fee at the time of collecting the fee.

§ 26-2303 Enforcement. The department of housing preservation and development shall have the power to enforce this chapter.

§ 26-2304 Penalties. A person who collects an application fee after failing to remit an itemized list of costs as required by section 26-2302 shall be liable for a civil penalty of $150 for each such violation. Such penalty may be recovered in a proceeding before the office of administrative trials and hearings or a court of competent jurisdiction.

§ 2. This local law takes effect 60 days after it becomes law and shall only apply to rental real estate transactions as defined in section one of this local law that are entered into on or after the effective date of this local law.

MJT

LS #9412

11:08am 1/23/2019

Int. No. 1433

By Council Members Rivera, Powers, Cumbo, Levine, Brannan, Dromm, Levin, Kallos, Rosenthal, Ayala, Adams, Lander, Reynoso, Ampry-Samuel, Louis and King

..Title

A Local Law to amend the administrative code of the city of New York, in relation to providing tenants the option of paying a security deposit in six equal monthly installments

..Body

Be it enacted by the Council as follows:

Section 1. Title 26 of the administrative code of the city of New York is amended by adding a new chapter 23 to read as follows:

CHAPTER 23

SECURITY DEPOSIT INSTALLMENT OPTION

§ 26-2301 Definitions. As used in this chapter, the following terms have the following meanings:

Landlord. The term “landlord” has the same meaning as provided in section 27-2004.

Security deposit. The term “security deposit” means money, whether cash or otherwise, paid to an owner to be held for all or part of the term of a tenancy to secure performance of any obligation of the tenant under the lease or rental agreement.

Tenant. The term “tenant” has the same meaning as provided in section 26-1101.

§ 26-2302 Security deposit installments. a. For tenancies that are six months or longer, a security deposit may be paid at the option of the tenant in six, equal, consecutive, monthly installments.

b. For tenancies that are less than six months, a security deposit may be paid at the option of the tenant in equal, consecutive, monthly installments provided that the number of such installments match the number of months of the tenancy.

c. Nothing in this section shall prohibit a tenant from paying a security deposit in full, or an owner accepting such payment, provided that the owner has complied with the requirements of section 26-2303.

§ 26-2303 Notification. The owner shall notify a tenant of the security deposit installment option established pursuant to section 26-2302 prior to entering into a lease or rental agreement with the tenant.

§ 26-2304 Damages for noncompliance; attorney’s fees. Upon finding a violation of section 26-2303 in any action brought before a court of competent jurisdiction, the court may award damages to the tenant in the amount of one half of the security deposit, in addition to reasonable attorney’s fees and other costs.

§ 26-2305 Outreach and education. The department shall conduct outreach and education efforts to inform owners and tenants about the requirements of this chapter.

§ 2. Paragraph 1 of subdivision b of section 26-1102 of the administrative code, as added by local law number 45 for the year 2014, is amended to read as follows:

(1) owners’ responsibilities with respect to eviction, heat and hot water, pest management, repairs and maintenance, security deposit installment options, tenant organizations, rent-regulated leases, rental assistance for elderly or disabled tenants, and housing discrimination;

§ 3. Paragraph 1 of subdivision c of section 26-1103 of the administrative code, as added by local law number 45 for the year 2014, is amended to read as follows:

(1) owners’ responsibilities with respect to eviction, heat and hot water, pest management, repairs and maintenance, security deposit installment options, tenant organizations, rent-regulated leases, rental assistance for elderly or disabled tenants, and housing discrimination;

§ 4. This local law takes effect 120 days after it becomes law, except that the commissioner may take such measures as are necessary for its implementation, including the promulgation of rules, before such effective date.

PLS

LS #7651

2/7/19

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Int. No. 1499

By Council Members Cohen, Rivera, Kallos, Powers, Ampry-Samuel, Louis, Reynoso, Rosenthal, Levin and King

..Title

A Local Law to amend administrative code of the city of New York, in relation to the provision of tenant screening reports

..Body

Be it enacted by the Council as follows:

Section 1. Subchapter 16 of chapter 5 of title 20 of the administrative code of the city of New York, as added by local law number 2 for the year 2010, is amended to add a new section 20-812 to read as follows:

§ 20-812 Fees prohibited. a. Any person who requests application information for the purposes of obtaining a tenant screening report from a tenant, prospective tenant or agent acting on behalf of such tenant or prospective tenant shall not charge a fee for such information where such person is aware that the dwelling unit for which such application information is requested in connection with is not, or will not be, available for rent at the time that such tenant, prospective tenant or agent acting on behalf of such tenant or prospective tenant seeks to enter into an agreement for the lease of such dwelling unit.

b. If a tenant screening report is issued to a person requesting application information from a tenant, prospective tenant or agent acting on behalf of such tenant or prospective tenant, such person shall provide a copy of such report to such tenant, prospective tenant or agent upon request, regardless of whether such tenant has entered into an agreement for the lease of a dwelling unit.

§ 2. a. For the purposes of this section, the term “tenant screening report” has the meaning ascribed to it by section 20-807 of the administrative code of the city of New York.

b. By no later than January 1, 2020, the department of consumer affairs shall prepare and file with the mayor and the council, and post on its website, a report analyzing the cost of the city establishing its own tenant screening report system and the feasibility of implementing such a system.

§ 3. Section 1 of this local law takes effect 120 days after it becomes law, except that the commissioner of consumer affairs may take such measures as are necessary for its implementation, including the promulgation of rules, before such effective date. Section 2 of this local law takes effect immediately.

MPC/APB

LS 5684/5935

4/4/19 10:42am

1. New York University Furman Center, *State of New York City’s Housing and Neighborhoods in 2018*, 21 (May 28, 2019), *available at* https://furmancenter.org/files/sotc/SOC\_2018\_Full\_2018-05-22.pdf [↑](#footnote-ref-1)
2. Scott M. Stringer, *Insecurity Deposits: A Plan to Reduce High Entry Costs for NYC Tenants*, New York City Comptroller, (Jul. 15, 2018), *available at* <https://comptroller.nyc.gov/reports/insecurity-deposits-a-plan-to-reduce-high-entry-costs-for-nyc-tenants/>. [↑](#footnote-ref-2)
3. # *Id.*

   [↑](#footnote-ref-3)
4. Scott M. Stringer, *Comptroller Stringer: High Cost of Security Deposits Burden Working New Yorkers and Fuel Affordable Housing Crisis*, New York City Comptroller, (Jul. 15, 2018), *available at* <https://comptroller.nyc.gov/newsroom/comptroller-stringer-high-cost-of-security-deposits-burden-working-new-yorkers-and-fuel-affordable-housing-crisis/>. [↑](#footnote-ref-4)
5. [*Supra*](file:///\\nycc-fs\infhum\H&B%20and%20PH%20Files\2018-2021%20(Housing%20and%20Buildings)\Hearings\6.11.19%20Brokers%20Fee%20Hearing\Committee%20Report\Supra) note 3 at 3. [↑](#footnote-ref-5)
6. *See, e.g.*, Brick Underground, *How to rent an apartment in New York City, Step 1: Do you have to pay a broker's fee?*, *available at*, <https://www.brickunderground.com/agent-referral/how-to-rent>. [↑](#footnote-ref-6)
7. Brick Underground, *How to Rent a New York City Apartment, Step 3: How to fill out a rental application, and questions to ask about your lease before you sign it*, *available at* <https://www.brickunderground.com/agent-referral/application>. [↑](#footnote-ref-7)
8. Triplemint, *The True Cost of Renting a NYC Apartment*, (Sept. 16, 2015), *available at* <https://www.triplemint.com/blog/the-true-cost-of-renting-a-nyc-apartment/>; *see also* Kim Velsey, *A Guide to Getting Your First Apartment*, New York Times (June 1, 2018), *available at* <https://www.nytimes.com/2018/06/01/realestate/guide-getting-first-apartment.html>. [↑](#footnote-ref-8)