

Ban Property Owners from Charging Broker Fees to Renters

Savings: \$22 million per year

New York City is one of the only cities in the United States where it is common practice for a prospective tenant to pay for the services of the property owner's real estate broker. While no-fee apartments do exist, many renters are required to pay for the property owner's broker as part of leasing. The cost of the broker fee—which can be upwards of 15 percent of the yearly gross rent—must be paid on top of other upfront costs, usually the first month's rent and a security deposit. In Manhattan, where the average market-rate apartment rent now tops \$5,000, that can mean \$10,000 to \$20,000 in upfront costs to move into a new apartment.

For both the One Shot Deal and the CityFHEPS rental housing programs, the city pays broker fees on behalf of clients. The One Shot Deal program provides grants and loans to families facing housing instability while the CityFHEPS program provides rental assistance to households facing homelessness. The city also employs housing navigators to assist clients in finding apartments and navigating the rental process. With renter-paid broker fees the norm, were the city to cease to pay for broker fees, One Shot Deal or CityFHEPS clients would have to pay broker fees some other way or be limited to no-fee apartments. This would likely result in fewer housing placements. Due to discrimination based on a prospective tenants' source of income by some landlords and a tight rental market for lower-priced apartments, clients of city housing programs already struggle to find apartments, even with the city currently paying full broker fees.

Under this option, which would require state approval, the city would ban property owners from charging renters for the cost of their real estate brokers. This change, which would impact all renters seeking a new apartment, would save the city \$22 million per year for the broker fees it pays the One Shot Deal and CityFHEPS programs based on the yearly average the city paid since 2020, while not impacting the competitiveness of renters participating in these programs.

Proponents might argue that broker fees contribute to the unaffordability of New York City's notoriously expensive housing market by adding a large upfront cost to renting an apartment, reducing the wealth of renters, and making it more expensive to switch apartments. Furthermore, the cost of broker fees is likely inflated because, while the property owner hires the broker, they do not pay the fee. Were property owners forced to pay their own brokers, they would have an incentive to negotiate broker fees down, list apartments themselves, or hire a dedicated leasing agent. Property owners could still try to pass the costs of broker fees on to tenants through higher rents, but they would be competing with other property owners who may have negotiated more effectively or found another way to list apartments without hiring a broker. In the case of the One Shot Deals and CityFHEPS programs, the city is already paying housing navigators to serve prospective renters, so prospective renters would lose little, if any, of the benefits from working with the property owner's broker.

Opponents might argue that property owners would likely still pass the entire cost of the broker fee onto tenants in the form of higher rents, which over time may be a larger dollar cost to the renter than if paid as an upfront broker fee. They may also argue that real estate brokers depend on renter-paid broker fees for their incomes and—were the city to ban this practice—fewer real estate brokers would be employed. Finally, they might argue that policymakers should instead seek to increase housing supply to reduce the leverage property owners have in lease transactions.

State Reimbursement for Inmates in City Jails Awaiting Trial for More Than One Year

Savings: \$347 million annually

At any given time two-thirds of the inmates in Department of Correction (DOC) custody are pretrial detainees. A major determinant of the agency's workload and spending is therefore the swiftness with which the state court system processes criminal cases. Throughout the adjudication process, detention costs are almost exclusively borne by the city regardless of the length of time it takes criminal cases to reach disposition. The majority of long-term DOC detainees are eventually convicted and sentenced to multiyear terms in the state correctional system, with their period of incarceration upstate (at the state's expense) shortened by that period of time already spent in local jail custody at the city's expense. Consequently, the quicker the adjudication of court cases involving defendants detained in city jails and ultimately destined for state prison, the smaller the city's share of total incarceration costs.

Existing state court standards call for felony cases in New York State to be pending in Supreme Court for no more than six months at the time of disposition. In calendar year 2017, however, 1,577 convicted prisoners from the city had already spent more than a year in city jails as pretrial detainees.

If the state reimbursed the city only for local jail time in excess of one year at the city's average cost of \$733 per day, the city would realize annual revenue of about \$347 million. It should be stressed that the reimbursement being proposed in this option is separate from what the city has been seeking for several years from the state for other categories of already-convicted state inmates, such as parole violators, temporarily held in city jails. The reimbursement sought with this option is associated with excessive pretrial detention time served by inmates who are later convicted and sentenced to multiyear terms in the state prison system.

Proponents might argue that the city is unfairly bearing a cost that should be the state's, and that the city has little ability to affect the speedy adjudication of cases in the state court system. They could add that imposing what would amount to a penalty on the state for failure to meet state court guidelines might push the state to improve the speed with which cases are processed. In addition, the fact that pretrial detention time spent in city jails is ultimately subtracted from upstate prison sentences means that under the existing arrangement the state effectively saves money at the city's expense.

Opponents might argue that many of the causes of delay in processing criminal cases are due to factors out of the state court's direct control, including the speed with which local district attorneys bring cases and the availability of defense attorneys.

Resumption of State Reimbursement for the Cost of Temporarily Housing Alleged Technical Parole Violators in City Jails

Savings: \$104 million annually

About 4 percent of individuals incarcerated in city jails on an average day last year were alleged technical parole violators. These individuals, an average of 214 a day in fiscal year 2021, had previously been released on parole from state prison but subsequently ordered detained in the city jail system for alleged noncriminal violations of their state-imposed parole conditions, such as by being late for curfew or testing positive for drugs. Technical parole violators spend an average of about 87 days in the city's jails while state officials determine whether to revoke parole, in which case the individual is sent back to state prison.

Under this option, New York State would resume providing reimbursement to the city for the cost of temporarily housing alleged technical parole violators in city jails, which was the practice until about 10 years ago. The average cost to the city of holding a person in custody in the city jail system is currently \$1,325 per day. Full reimbursement of the cost of jailing alleged parole violators in city jails during state parole revocation proceedings could generate annual savings for the city of roughly \$104 million depending on the number housed in future years.

Proponents might argue that state reimbursement is warranted given that alleged parole violators are essentially state inmates who had previously been sentenced to time in state prison and then released by state officials. Requiring localities to bear the cost of housing these individuals while the state determines whether to revoke parole is burdensome and unjust. They might also argue that shifting costs to the state could incentivize state officials to institute needed reforms, such as ending mandatory jail time for technical parole violations and speeding up parole violation hearings so individuals do not spend weeks or months in a local jail before state officials decide whether to return them to state prison.

Opponents might argue that because local public safety is enhanced when individuals alleged to have not fully complied with parole conditions are at least temporarily incarcerated, it is not unreasonable to look to localities to shoulder the cost of incarceration. They might also argue that shifting to localities the full cost of temporarily incarcerating alleged technical parole violators is justified given the state's responsibility for bearing the cost of incarcerating individuals sentenced to multiyear prison terms from jurisdictions across the state.