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## **Broker Fee Law in NYC Shifts Financial Burden to Landlords - What it Means for Property Owners and Brokers**

New York City has recently enacted legislation that will significantly impact the economics of residential leasing—and while it applies only to NYC for now, its effects may soon ripple into Westchester County and beyond.

### **☐ FARE Act: Landlords Must Pay Broker Fees Starting June 2025**

The Fairness in Apartment Rental Expenses (FARE) Act, passed by the NYC Council, mandates that landlords—not tenants—must pay broker commissions when they retain a broker to market and lease an apartment.

#### **Key Requirements:**

- Effective June 11, 2025.
- If a landlord or their agent engages a broker to list or show an apartment, the landlord must cover the broker's commission.
- A tenant is only liable for the commission if they independently engage a broker to find a rental.

### **⚠ Financial Impact on Landlords**

This law adds yet another layer of financial pressure on property owners in a market already burdened by:

- Escalating insurance, maintenance, and tax costs;
- Strained cash flow due to rent payment delays;
- Rent increase caps under the Emergency Tenant Protection Act (ETPA) in many buildings, which often limit increases to well below inflation.

Landlords are now expected to absorb thousands in broker fees per lease, even when the unit is subject to strict rent stabilization. For smaller landlords and owners of rent-regulated buildings, this cuts deeper into already-tight margins and may discourage investment in rental housing.

### **☐ What About Westchester?**

At this time, the FARE Act applies only to New York City. However, given the pattern of NYC housing laws influencing regional policy, Westchester property owners and brokers should be alert to potential spillover. We recommend preparing contingency protocols now in case similar legislation is introduced at the state or county level in the future.

### **☐ Brokers: New Challenges Ahead**

This shift also places brokers in a difficult position. Traditionally, commissions were paid by tenants as part of the leasing process. Going forward:

## Brokers should consider:

- Clarifying the party they represent—landlord or tenant—and documenting this explicitly in writing.
- Updating brokerage agreements and disclosure forms to reflect who will be paying the fee.
- Communicating upfront with both parties about fee obligations to avoid disputes.
- Working with legal counsel to develop standardized language for listings and contracts under the new framework.

Failure to comply could result in enforcement actions by NYC's Department of Consumer and Worker Protection, including fines of up to \$2,000 per violation.

## Recommendations for Landlords & Property Managers

While the new law imposes additional financial obligations on landlords, real estate brokers continue to play a critical role in efficiently marketing and leasing apartments, especially in competitive or regulated markets. Rather than cutting brokers out of the process, landlords should focus on thoughtfully adjusting their leasing strategy to remain compliant without compromising quality.

We recommend that landlords and property managers:

- Review and renegotiate broker agreements to ensure clear fee structures and responsibilities under the new law.
- Collaborate with trusted brokers to streamline lease-ups and reduce vacancies—partnering strategically can offset the cost of commissions.
- Explore whether internal leasing efforts can complement broker activity for select units, but not as a replacement for professional broker services.
- Include broker fees in budget planning and evaluate lease turnover costs holistically to maintain profitability.
- Ensure transparent communication with brokers and tenants about commission arrangements, consistent with legal requirements.
- Working with experienced brokers not only preserves strong referral networks but also supports compliance, market reach, and tenant quality—benefits that far outweigh a purely cost-driven approach.

## How We Can Help

At James G. Dibbini & Associates, P.C., we help landlords and brokers navigate complex legal shifts with practical, strategic advice. If you own or manage rental properties, or if you are a broker representing landlords, now is the time to review your policies and agreements.

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