

Proposed Int. No. 360-A

By Council Members Ossé, Abreu, Feliz, Hudson, Krishnan, Nurse, Marte, Hanif, Brooks-Powers, Cabán, Sanchez, Louis, Won, Gennaro, Bottcher, Powers, Gutiérrez, Holden, Salaam, Hanks, Restler, Joseph, Avilés, De La Rosa, Stevens, Farías, Narcisse, Williams, Salamanca, Banks, Riley, Rivera, Ayala and the Public Advocate (Mr. Williams) (in conjunction with the Brooklyn and Queens Borough Presidents)

A Local Law to amend the administrative code of the city of New York, in relation to the payment of fees imposed in relation to the rental of residential real property

Be it enacted by the Council as follows:

1 Section 1. Chapter 4 of title 20 of the administrative code of the city of New York is
2 amended by adding a new subchapter 15 to read as follows:

3 SUBCHAPTER 15

4 RENTAL REAL ESTATE AGREEMENTS

5 § 20-699.20 Definitions. For purposes of this subchapter, the following terms have the
6 following meanings:

7 Agent. The term “agent” means a person who is licensed as a real estate broker or real
8 estate salesperson under section 440-a of the real property law and is acting in a fiduciary capacity.

9 Dual agent. The term “dual agent” means an agent who is acting as a tenant’s agent and a
10 landlord’s agent with respect to an agreement regarding the same residential real property.

11 Engage. The term “engage” means to enter into an agreement that requires the payment of
12 a fee by a person for the performance of services by another person.

13 Fee. The term “fee” means an amount of money that is charged by a person for the
14 provision of services to one or more persons, including but not limited to a commission.

15 Landlord. The term “landlord” means the lessor in a residential real property agreement,
16 and includes an owner who lists residential real property for lease with an agent, whether or not a
17 lease results, or who receives an offer to lease residential real property, except for a cooperative

1 housing corporation leasing residential real property to a dwelling unit owner or shareholder of
2 such cooperative housing corporation.

3 Landlord's agent. The term "landlord's agent" means a listing agent who acts alone, or an
4 agent who acts in cooperation with a listing agent, acts as a landlord's subagent, or acts as a
5 broker's agent, to find or obtain a tenant for residential real property. The term "landlord's agent"
6 does not include a dual agent.

7 Listing. The term "listing" means an advertisement or written notice conveying that a
8 property is available for lease.

9 Listing agent. The term "listing agent" means a person who has entered into a listing
10 agreement to act as an agent of the landlord for compensation.

11 Listing agreement. The term "listing agreement" means an agreement between an owner
12 of residential real property and an agent, by which the agent has been authorized to lease the
13 residential real property or to find or obtain a lessee therefor.

14 Residential real property. The term "residential real property" means a dwelling unit, as
15 defined in paragraph 13 of subdivision a of section 27-2004, including a dwelling unit held in the
16 condominium or cooperative forms of ownership.

17 Tenant. The term "tenant" means a lessee in a residential real property agreement and
18 includes a person who executes an offer to lease residential real property from a landlord through
19 an agent, or who has engaged the services of an agent with the object of entering into a residential
20 real property agreement as a lessee.

21 Tenant's agent. The term "tenant's agent" means an agent who agrees to locate residential
22 real property for a tenant or who finds a tenant for a property and presents an offer to lease to the
23 landlord or landlord's agent and negotiates on behalf of the tenant.

1 § 20-699.21 Payment of certain fees imposed in relation to the rental of residential real

2 property. a. Except as expressly provided by subdivision 1 of section 238-a of the real property
3 law:

4 1. a landlord's agent shall not impose any fee on, or collect any fee from, a tenant related
5 to the rental of residential real property; and

6 2. any agent who publishes a listing for a rental of residential real property with the
7 permission or authorization of the landlord for such property shall not impose any fee on, or collect
8 any fee from, a tenant related to the rental of residential real property.

9 b. A landlord is in violation of subdivision a of this section if:

10 1. a landlord's agent of such landlord violates such subdivision; or

11 2. any agent who publishes a listing for a rental of residential real property with the
12 permission or authorization of such landlord violates such subdivision.

13 c. No person shall condition the rental of residential real property on a tenant engaging any
14 agent, including but not limited to a dual agent.

15 d. No person shall post a listing for the rental of residential real property that represents
16 that fees must be paid in a manner that would violate this section.

17 e. There shall be a rebuttable presumption that an agent who publishes a listing for a rental
18 of residential real property does so with the permission or authorization of the landlord of such
19 property.

20 § 20-699.22 Total fee disclosure. a. Every listing related to the rental of residential real
21 property shall disclose in such listing in a clear and conspicuous manner any fee to be paid by the
22 prospective tenant for the rental of such property.

1 b. Prior to the execution of an agreement for the rental of residential real property, the
2 landlord or landlord's agent shall provide to the tenant an itemized written disclosure of any fees
3 that the tenant must pay to the landlord or to any other person at the direction of the landlord in
4 connection with such rental of residential real property. Such itemized written disclosure shall
5 include a short description of each fee, and the tenant shall sign any such itemized written
6 disclosure prior to signing an agreement for the rental of residential real property. The landlord or
7 landlord's agent shall retain the signed written disclosure required by this subdivision for 3 years
8 and shall provide a copy of such signed written disclosure to the tenant.

9 § 20-699.23 Penalties. a. Any person who violates the provisions of section 20-699.21 shall
10 be subject to a civil penalty of not more than \$1,000 for the first violation and not more than \$2,000
11 for each subsequent violation occurring within a two-year period.

12 b. Any person who violates the provisions of section 20-699.22 shall be subject to a civil
13 penalty of not more than \$500 for the first violation and not more than \$1,000 for each subsequent
14 violation occurring within a two-year period.

15 c. In a proceeding alleging a violation of this subchapter, the department may seek an order
16 imposing all applicable civil penalties authorized pursuant to this section and requiring restitution
17 of any fees charged in violation of this subchapter.

18 § 20-699.24 Private cause of action. Any person alleging a violation of this subchapter may
19 bring a civil action, in accordance with applicable law, in any court of competent jurisdiction. Such
20 court may order compensatory, injunctive and declaratory relief.

21 § 20-699.25 Outreach and education. a. The commissioner shall establish an outreach and
22 education campaign about the provisions of this subchapter. Such outreach and education shall be

1 provided to real estate brokers, tenants, prospective tenants and members of the public who are
2 likely to be affected by this law.

3 b. The materials required by this section shall be made available on the department's
4 website in English and the designated citywide languages as provided in section 23-1101.

5 § 2. No person shall enter into an agreement that would allow the collection of a fee that
6 would violate section one of this local law during the period from the effective date of this section
7 until section one of this local law goes into effect. Any such agreement is void.

8 § 3. This local law takes effect as follows:

9 (i) section one of this local law takes effect 180 days after it becomes law, and applies only
10 to agreements that govern the rental or lease of residential real property, as the term “residential
11 real property” is defined in section 20-699.20, as added by section one of this local law, executed
12 on or after such effective date; and

13 (ii) section two of this local law takes effect immediately.

