

Real Estate Alert

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Massachusetts' 2026 Budget Bill Eliminates Mandatory Tenant-Paid Broker Fees for Residential Property

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Effective August 1, 2025, Massachusetts residential landlords and brokers can no longer mandate that residential tenants pay broker fees – rather, the cost must be borne solely by the party who “originally engaged and entered into a contract with” the broker or salesperson.

The legislative change is part of the Commonwealth’s 2026 Budget and amends the section of the Massachusetts statute on registration of certain professions that pertains to real estate brokers and salespersons. That section, as it existed previously, prohibited engaging in the business of finding housing for prospective tenants for a fee without being a licensed broker or salesperson, but was silent as to how fees must be allocated.

The law seeks to decrease the upfront costs to residential tenants and to increase transparency by requiring the party that hired the broker to pay the broker’s fee. More specifically, it eliminates the situation where the landlord hires the broker but makes the broker’s fee a tenant’s responsibility at lease execution. Nonetheless, tenants are free to hire a broker, and after doing so, would be responsible for the broker’s fee.

The law does not currently have any built-in penalties, but the Legislature is likely to pass penalty provisions in the very near future. A pending bill (S.224)

would add new subsections to the law which would: (1) prohibit brokers acting as agents of landlords from demanding, receiving, or retaining payment of any kind from residential tenants or prospective residential tenants, (2) prohibit landlords from demanding or requiring that residential tenants or prospective residential tenants hire a broker or pay a broker who acted as agent for the landlord, (3) make a violation of any of these terms a violation of the Massachusetts Consumer Protection Act, which prohibits unfair and deceptive practices, and (4) impose penalties up to \$1,000 for each violation. A hearing on that bill was held on July 14, 2025.

Residential brokers, salespeople, and landlords should engage counsel to review any contracts, leases, and forms used to ensure that they do not require tenants to compensate brokers or salespeople whom they did not hire. A review for compliance with S.224 would not hurt as a proactive measure.

Landlords may want to impose rent hikes to offset broker fees previously paid by tenants, or sneak in other fees through leases to recoup this additional cost. As to the latter, landlords should be aware that the Massachusetts landlord-tenant statute contains a provision on payments and deposits which prohibits residential landlords from requiring, at or prior to the commencement of any tenancy, any amount more than first month's rent, last month's rent, a security deposit equal to first month's rent, and the cost to purchase and install a key and lock.

CONTACT

If you have questions regarding compliance with these recent changes (and proposed changes) – or to discuss residential or commercial real estate matters in general – please contact one of the authors or a member of our [Real Estate Law Practice](#).