

EXECUTIVE SUMMARY

Renters across the country face a dizzying number of junk fees that cost them hundreds of millions of dollars per year and push safe, affordable, and sustainable housing out of reach. These junk fees disproportionately harm people of color who are more likely to rent homes and pay steep application fees. The National Consumer Law Center (NCLC) 2023 report, [*Too Damn High: How Junk Fees Add to Skyrocketing Rents*](#), shined a light on the harmful junk fees that people must pay to secure and maintain rental housing. *Too Damn High* provided detailed information through survey data collected from legal services and nonprofit attorneys about these fees and urged the Federal Trade Commission (FTC) to rein them in through its ongoing rulemaking to regulate junk fees across the economy and enforcement actions.

In this companion report, which takes its title from an individual renter's comment to the FTC on rental housing junk fees (captured in endnote 1), we focus on steps that state and local governments and advocates can take to address junk fees. State and local governments play a central role in landlord-tenant law in the United States, as they have traditionally been the entities regulating rental housing. They should build on federal efforts to fully protect vulnerable renters from widespread and abusive junk fees-related practices. State and local laws are a traditional, straightforward, and potentially stronger tool for imposing outright fee prohibitions and price limits in rental housing.

State and local policymakers and advocates have already started to regulate rental housing junk fees where federal law does not through legislation, regulation, state enforcement of existing and new laws, and private litigation. We provide a detailed description and appendix of actions taken by more than a dozen states, including laws:

- Targeting application and screening fees.
- Regulating other specific types of fees, such as late fees.
- Imposing conditions on landlords before they can charge fees.
- Requiring disclosure and documentation of fees.

We also describe innovative steps that local governments, such as Montgomery County, Md., and Olympia, Wash., have taken that are more protective of tenants than many statewide laws.

Finally, we highlight steps that government, private, and non-profit attorneys have taken to limit fees through the enforcement of relevant laws and lease provisions. Tackling rental housing junk fees has added an important dimension to the work tenants and tenant organizers are already doing to address poor rental conditions.

Recommendations

State legislatures and, where appropriate, local governments, should:

- Ban housing providers and their agents from charging any mandatory fees in addition to the stated amount of rent other than a short list of specified, legitimate fees with defined limits. This prohibition should include fees charged to tenants by a third party pursuant to a contract between that third party and the housing provider, even if the third party bills the tenant directly. The only mandatory fees housing providers and their agents should be permitted to charge are:
 - A refundable security deposit.
 - A late fee that is reasonable, not unconscionable, and proportionate to the amount of monthly rent and any cost of the late payment to the housing provider.
 - A modest fee for payments returned for insufficient funds that only covers costs to the landlord.
 - Any fees tenants are required to pay under federal or state law.
- Ban mandatory and optional fees that:
 - Are excessive in amount or greater than the landlord's cost for a service.
 - Pay for services that the landlord is already required to provide (such as pest fees despite having an obligation under state law to maintain the rental unit pest-free).
 - Pay for services not ultimately provided (for example, January fee, valet trash).
 - Prevent competition (such as requiring use of a certain cable/internet provider).
 - Violate the common-law doctrine against liquidated damages (such as penalty fees, lease termination fees that do not consider whether a landlord was able to mitigate by re-renting to a new tenant).
- Permit housing providers to charge reasonable fees for optional goods or services only if:
 - The tenant affirmatively opts in via written, informed consent after receiving a disclosure containing: (1) a description of the good or service; (2) the amount of the fee for the good or service; and (3) how the tenant can cancel or opt out of the good or service.

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- Require housing providers to disclose in writing, before the tenant submits an application for housing, in any advertisements, and in any rental agreement, the total cost of the rental unit, including itemization of all mandatory and optional fees and a statement of whether they are one-time or ongoing.

State attorneys general should:

- Bring enforcement actions against housing providers engaging in unlawful junk fees-related practices under their state consumer protection laws, landlord-tenant, and/or junk fees-specific laws.
- Collaborate with federal agencies, such as the Federal Trade Commission, the Consumer Financial Protection Bureau, and the Department of Justice, to investigate and bring enforcement actions against landlords engaging in unlawful junk fees-related practices.
- Collaborate with relevant state agencies to collect and publish data on rental housing junk fees in their state, including the types, prevalence, and cost of the fees as well as the types and location of housing providers imposing such fees.