

City of Northampton
MASSACHUSETTS

In City Council, March 3, 2022

Upon the recommendation of Councilor Alex Jarrett, Councilor Rachel Maiore, and Mayor Gina-Louise Sciarra:

22.043 An Order for Special Legislation to Prohibit Landlords and Brokers from Requiring Brokers' Commissions to be Paid By a Tenant or Prospective Tenant

Ordered, that

WHEREAS, in August 2019, the Pioneer Valley Planning Commission (PVPC), in conjunction with the Northampton Housing Partnership, issued its report “Unlocking Opportunity: An Assessment Of Barriers To Fair Housing In Northampton”; and

WHEREAS, two-thirds of the landlords in the PVPC study engaged rental brokers whose commissions are paid by the prospective tenant, most of which were at or above 60% of the monthly rent; and

WHEREAS, the PVPC report found that the such rental commissions, along with the necessity of paying first month’s rent, last month’s rent and security deposit, constitute significant barriers to fair housing in the City; and

WHEREAS, among the items in the PVPC report “action plan” to mitigate this barrier to fair housing in the City is for the City to “address barrier created for tenants by rental agency finder’s fee requirement”; and

WHEREAS, under section 7 (5) of the Home Rule Amendment to the Massachusetts Constitution, Amendment Article 89, the City may not enact private or civil law governing civil relationships and, therefore, the city may not regulate the civil contractual relationship between a landowner and a rental broker as to the party paying the commission or fee to such broker; and

WHEREAS, in the Report of the 2020 Special Committee for Review of Ordinances, the committee called upon the City to petition the legislature for a special act prohibiting the charging of rental commissions to prospective tenants.

NOW, THEREFORE, BE IT ORDERED

Voted, to petition the General Court to the end that legislation be adopted precisely as follows. The General Court may make clerical or editorial changes of form only to the bill, unless the mayor approves amendments to the bill before enactment by the General Court. The mayor is

hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition.

AN ACT PROHIBITING LANDLORDS AND BROKERS FROM REQUIRING BROKERS' COMMISSIONS TO BE PAID BY A TENANT OR PROSPECTIVE TENANT

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the Authority of the same, as follows:

SECTION 1. No licensed real estate broker or other person or entity engaged in the rental or leasing of residential real estate in the City of Northampton as agent of the landowner, landlord, lessor, or sub-lessor shall demand, receive or retain any payment, fee, commission or other charge from a tenant or prospective tenant for any services on behalf of such landowner, landlord, lessor, or sub-lessor for the listing, showing, qualifying of prospective tenants, preparation and execution of documents, or otherwise arising out of the leasing of a residential rental unit in such city.

SECTION 2. No landowner, landlord, lessor, or sub-lessor shall demand or require that a tenant or prospective tenant engage a rental agent or broker as a condition to applying for or leasing a residential rental unit in the City of Northampton, and no such landowner, landlord, lessor, or sub-lessor shall demand or require that a tenant or prospective tenant make any payment in violation of SECTION 1 of this act.

SECTION 3. Violation of this act shall constitute an unfair or deceptive act or practice in the conduct of a trade or commerce in violation of section 2 (a) of chapter 93A.

SECTION 4. The City of Northampton may, by ordinance, establish a fine or penalty for violation of this act, not to exceed \$1,000.00 per violation.

This act shall take effect upon passage.