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FTC Proposes New Rules on Rental Housing Fee Practices: What Property Owners Need to Know

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The Federal Trade Commission (FTC) has published an Advanced Notice of Proposed Rulemaking (ANPRM) seeking public comment on the attached proposed rule regarding what the FTC characterizes as unfair or deceptive rental housing fee practices. Such a rule could result in significant new risks and costs, and also create operational inconsistencies that may impact the ability to finance and operate all types of rental housing (including affordable housing where special issues may arise to comply with the rule, as well as state and federal housing subsidy programs). We strongly encourage you to review this letter and the attached ***Exhibits A and B***, and to consider submitting comments to the FTC during the public comment period, which is scheduled to close on April 13, 2026, and comments for any rule later issued by the FTC that we expect.

In the ANPRM, the FTC says it intends to regulate how landlords disclose and charge rents and fees independent of, and potentially in conflict with, other state or local laws and customs. The FTC has already adopted a "Rule on Unfair or Deceptive Fees" (16 C.F.R. Part 464), which currently applies to the live event ticketing and hospitality industries, imposing broad fee disclosure and transparency requirements on covered businesses. The ANPRM strongly suggests that the FTC intends to extend a similar framework to the rental housing sector. Given the agency's track record of expanding its fee transparency rules into new industries, it seems highly likely that some version of this rule targeting rental housing will be adopted in some form, unless the Trump administration changes its direction. It is therefore critical that property owners, lenders, management companies and others understand that they have an opportunity to impact the FTC's consideration of this rule.

Exhibit A

Potential Impacts on Landlords and Property Owners

Operational Inflexibility and Uncertainty. A rule that on its face may seem to simply attempt to require disclosure of "Unfair and Deceptive Fees" could easily create uncertainties and risks for owners, which can result in unintended risks, litigation and costs. The rule could also be expanded to

apply more broadly to vague concepts of unfair and deceptive practices generally. If it is not clearly and tightly drafted, such a rule could easily create uncertainty for owners, lenders, management companies and others that would make the development, financing and operations of rental housing more expensive. A broad federal rule that tries to apply the same requirements to everyone could cause confusion and make it harder for landlords to run their properties and be compliant with the various levels of laws. Such an approach may be viewed by many as inconsistent with current national attempts to reduce the cost and increase the amount of rental properties and affordable housing. If it is not carefully drafted and administered, a rule could create significant issues around the legitimate differences in treatment of prospective tenants. Landlords regularly and lawfully make individualized decisions about pricing, concessions and lease terms based on a variety of legitimate factors. A rigid fee disclosure requirement could constrain this flexibility and potentially expose landlords to claims of treating tenants differently, even where differences in pricing are justified by legitimate business considerations.

Subsidized Housing and Advertised Pricing. The ANPRM raises concerns for landlords who participate in subsidy programs, such as Section 8 Housing Choice Vouchers (Section 8), Project-Based Vouchers (PBVs) and other federal, state or local housing subsidies. Under many of these programs, landlords are permitted to charge rents that may exceed market rate rents, with the subsidy covering the difference. If a rule requires landlords to publicly advertise all-in pricing, it could prevent them from using the pricing structures that make such subsidy programs possible due to their availability. Under Section 8, for example, the rents for subsidized tenants can be more than the rents for unsubsidized tenants. The ANPRM, as currently proposed, does not appear to include any carveout or exemption for affordable housing providers

Re-Leasing and Tenant-Specific Pricing. When re-leasing a unit, landlords frequently adjust pricing based on the prospective tenant's qualifications, creditworthiness, lease term and other factors. A broad fee transparency mandate could interfere with a landlord's ability to offer different terms to different prospective tenants based on their qualifications.

We encourage all our real estate clients to take this proposed rulemaking seriously. The comment period provides a meaningful opportunity to share your perspective with the FTC and to advocate. We strongly encourage you to submit comments, and our team is available to assist you in preparing and submitting those comments. Please refer to ***Exhibit B*** for additional details regarding the specific topics on which the FTC is seeking comment and the submission deadline. Additionally, we will be hosting a webinar in the coming weeks to discuss this ANPRM and its potential impact on property owners, lenders, management companies and others in more detail. Further details on this webinar will be forthcoming.

We will continue to monitor this rulemaking closely and will provide updates as developments warrant. Please do not hesitate to reach out to us with any questions.

Exhibit B

The full text of the ANPRM and related materials are available here. Below is a summary of the key topics for which the FTC is seeking comments.

- **Total Rent.** Do rental housing providers fail to clearly and conspicuously disclose or misrepresent the true total rent for a unit or property, including all mandatory fees or charges?
- **Fees and Charges.** Do rental housing providers fail to clearly and conspicuously disclose or misrepresent the nature, purpose, amount, refundability, optionality and recurrence of fees or charges?
- **Application Fees.** What practices do rental housing providers engage in relating to application fees that harm consumers?
- **Security Deposits.** What practices do rental housing providers engage in relating to security deposits that harm consumers?
- **Billing Issues.** What practices do rental housing providers engage in relating to billing that harms consumers?
- **Consumer Choice.** What practices do rental housing providers engage in that harm consumers by impeding consumer choice?

Notably, the FTC has already taken enforcement action in this space and has brought an action against a major landlord for a lack of transparency regarding all fees charged to tenants. This enforcement action underscores that the FTC is not merely studying these issues.

The public comment period for the ANPRM is currently scheduled to close on **April 13, 2026**. We strongly encourage property owners, lenders, management companies and others to submit comments to the FTC during this period, as well as if and when the rule gets published.

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