



Massachusetts Fee Transparency Rules Take Effect: What Rental Housing Providers Need to Know

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After a long introduction, new general business rules from the Massachusetts Office of the Attorney General (OAG) governing transparency in price disclosure and negative option renewals took effect September 2. As discussed in [Hudson Cook's March 6 Insight](#), the rule establishes a new disclosure regime for the "Total Price" of goods and services, including rental housing marketing, leasing, and renewals. The sweeping [regulation](#) on Unfair and Deceptive Fees under the Massachusetts Consumer Protection Act, codified at 940 CMR 38.00, was issued March 3. Industry-specific [guidance](#) and a [webinar](#) clarifying compliance expectations for businesses were subsequently issued July 29.

The guidance also positions the Massachusetts OAG as a leader in the broader fee transparency crackdown, running ahead of the Federal Trade Commission's recent rulemaking and ongoing enforcement activities. Emphasizing the OAG was prepared to enforce the rule immediately, Attorney General Andrea Joy Campbell specifically identified rental housing providers, hotels, subscriptions services, and ticket resellers in her [remarks](#) introducing the rule.

What the Guidance Clarifies

The guidance provides clarity on how property owners and property managers must handle the Total Price standard in rental housing in marketing, leasing, and renewals. The OAG specifies when fees must be included in the advertised price, how utilities and payment processing charges should be disclosed, and how negative option features apply to lease renewals and recurring services. It also underscores that Massachusetts intends to enforce against "practically unavoidable" fees that are structured as optional on paper but imposed in practice.

Pricing for "Built-In" Fees That Require Opt-Out

Charges that are provided by default and require renter action to remove must be included in the Total Price, even if they can later be waived. The Attorney General's view is that a fee is not "optional" if the tenant must take action to avoid it. For property managers, this means reevaluating fee architecture: either make the feature a true opt-in or incorporate the cost directly into the advertised rent.

Utility Calculations in Price Advertising

Water and sewer passthroughs remain a special case. If charges are submetered, compliance with specified state utility laws will satisfy the regulation and additional disclosure in the Total Price is

not required. Where charges are imposed monthly regardless of consumption, they are considered unavoidable and must be rolled into the advertised rent. The Attorney General also addressed payment processing charges: if no alternative fee-free payment option exists, payment fees are not avoidable and must be reflected in the Total Price.

Ad Links to Service Descriptions

For online advertising, the guidance recognizes practical limits and permits the use of hyperlinks or information buttons to describe fees. A listing can show the Total Price and provide a link that explains the purpose of additional charges such as parking or pet amenities. However, linked descriptions must be accurate, easy to find, and not buried in fine print. Importantly, traditional practices to disclose base rents are out – now, the Total Price must be the most prominent figure displayed.

Notice Requirements for Leases and Services with Negative Option Auto-Renewal

The guidance confirms that residential leases and amenity programs with automatic renewal provisions (i.e., those where consumer action is required to stop the agreement’s renewal) fall under the rule’s “Negative Option” provisions. Residents must receive advance notices that clearly state renewal terms and cancellation instructions. Cancellation methods must be simple and mirror the channel through which the service was obtained. For phone cancellations, businesses may use automated systems or voicemail but must ensure prompt processing before the next charge. In light of this change, prudent housing providers will review renewal and cancellation workflows to ensure they can withstand regulatory scrutiny.

Implications for the Property Management Sector

For property owners, managers, and leasing teams, the new rule can have significant operational consequences. Smart operators have been reviewing first- and third-party marketing materials, call centers, automated response scripts, and online listings to include all of base rent, mandatory, and unavoidable fees in the advertised prices, and to ensure fees are clearly explained. Where leases auto-renew, well-run operators have reviewed renewal disclosures to ensure negative option provisions comply.

Importantly, the Office of Attorney General’s rule asserts coverage of “Advertising or marketing, solicitation, or offer of Sale that is Targeted To, or results in a Sale [including a lease] in, Massachusetts.” This broad claim of jurisdiction over out-of-state marketing efforts to Massachusetts consumers, “regardless of whether the sale is completed,” suggests 940 CMR 38.00 as a reference standard wherever property marketing engages with Commonwealth consumers.

Multistate rental property operators must resolve state-specific calculations of total price and compliance fee disclosures not just in Massachusetts, but also New Mexico (as of June 20), Connecticut (coming October 1), Nevada (October 1), and Colorado (January 1). Larger states such as California, Illinois, New Jersey, and New York are reviewing rental housing fee disclosure legislation as well.

What Property Managers Should Do Now

The Massachusetts rule’s September 2 effective date marks an opportunity for property management companies to review their marketing, leasing, and renewal flows. Savvy operators

continue to work with outside counsel experienced in property management matters to:

- **Audit marketing materials and listings** to ensure “built-in” fees are included with mandatory fees and base rents in the advertised Total Price, rather than disclosed only in fine print.
- **Update first-party websites and third-party ads and listings** to use hyperlinks and info buttons for detailed service descriptions that provide sufficient clarity.
- **Update renewal notice workflows** for leases and any negative option services, to ensure residents receive clear, advance notice of renewal terms through the appropriate channel.