

FTC Launches Anticipated Rulemaking on Rental Housing Fee Practices

74 Questions Prepare for Agency U-Turn on Disclosure Fairness Requirements, Address Fee Permissibility as Federal Matter

March 13, 2026 | [Jay Harris](#)

Today, the Federal Trade Commission ("FTC") published in the Federal Register its Advance Notice of Proposed Rulemaking ("ANPRM") for Unfair or Deceptive Rental Housing Fee Practices.

<https://www.federalregister.gov/d/2026-04907>

The agency has addressed rental fee disclosure in rulemaking before, electing in December 2024 to exclude rental housing (other than short-term rentals) from its current fee rule under Section 5 of the FTC Act (16 C.F.R. Part 464). In that rulemaking, the rental housing industry forcefully articulated the wide range of state and local landlord-tenant and consumer protection laws that already govern rental fee advertising.

FTC enforcement attorneys were active, notwithstanding the rule's exclusion, obtaining settlements under Section 5 of the FTC Act and other laws against Invitation Homes (2023) and Greystar (2025). In those matters, the agency applied established Section 5 advertising principles to rental fee disclosure: total monthly leasing prices (including all mandatory fees) should be disclosed clearly and conspicuously, and the nature, purpose, and amount of fees should be disclosed in marketing—upfront, not deferred to the leasing process. Characterizing these cases as evidence of industry-wide pricing transparency concerns rather than isolated misconduct, the agency has also notified several real estate software vendors of their pricing transparency obligations under federal law.

The absence of a trade regulation rule governing rental housing has limited the agency's enforcement arsenal. Following the Supreme Court's decision in *AMG Capital Management v. FTC*, the Commission can no longer obtain equitable monetary relief under Section 13(b) of the FTC Act. To seek civil penalties and consumer redress for rental fee practices, the FTC must build a record sufficient to support reversing its earlier exclusion decision and rewriting the current rule.

Today's 74-question ANPRM opens a short 30-day public comment period designed to develop the record that could support such a reversal. The questions cover a far wider range of rental housing fee practices than the FTC or the Department of Housing and Urban Development are thought to have previously evaluated. This wide-ranging ANPRM seeks details about not just fee disclosure practices, but the use of specific fee practices as well, exploring: industry advertising terminology and practices; vendors' roles in advertising; and specific practices for utility billing, government fee passthroughs,

required service providers, applications, leasing, payments, unit reservations, security deposits, and late and termination fees.

The agency also asks roughly twenty questions on the scope and effect of a potential FTC rental fee rule—not only the extent of required disclosures and covered parties, but also whether certain practices should be limited (such as security deposit charges), and the costs and benefits of such restrictions.

So Now What?

The agency's wide-ranging interest signals that fee permissibility—not just fee transparency—is now in play at the federal level. That debate has been active in state legislatures, New York City hearings, and litigation for some time; it now continues in Washington, where housing affordability has emerged as a rare bipartisan concern.

In somewhat surprising terms, FTC Chair Andrew Ferguson signaled the agency's direction in his January statement announcing the rulemaking's first steps:

"For too long, Americans have been unjustly squeezed of their hard-earned pay by hidden fees and other unfair or deceptive business practices in housing rental markets. The American consumer deserves honesty and transparency in housing rental agreements....The President has prioritized reducing cost of living and affordability in the housing market; the Trump-Vance FTC is delivering on both."

After the comment period closes, the agency can be expected to issue a proposed rule based on the record it builds. Given the visibility of the issue, the FTC may also provide for a public hearing on the rule with oral testimony. Rental trade associations are expected to participate actively, as in the prior rulemaking, to educate the agency on the wide range of disclosure laws already applicable to the industry and the industry's demonstrated responsiveness to changing consumer expectations on fee transparency.

Rental housing providers and their vendors have evaluated consumers' shifting expectations toward apartment marketing and services and are acting accordingly. An Apartments.com survey found 83% of renters prefer to see the total monthly price including fees rather than rent alone, while 94% of renters in a Zillow survey agreed that listings should clearly disclose all fees. More than half of consumers surveyed said they would eliminate a property from consideration where total costs exceeded advertised rents. In practice, total price information and fee transparency is increasingly visible in first- and third-party rental property marketing, and RETTC/MITS industry data standards are enabling freer flow of pricing information within marketing and operations software.

Some practical management questions savvy rental housing operators are asking include:

- Do advertised rents include mandatory fees and charges, and specify the nature, purpose, and amount of each?
- Can applicants see total monthly price and move-in costs before committing to apply?
- Are charges accurately described in marketing—including renewal offers—and in leases and addenda?
- Are individual fees—for applications, reservations, utilities, payments, trash, and pest

prevention—priced and disclosed in conformity with applicable law?

- Are security deposit practices consistent with reasonable wear and tear allowances under applicable law?
- Even where current fee revenues are supportable, would bundling some fees into rent reduce regulatory and reputational exposure?

In this environment of regulatory scrutiny and heightened consumer expectations, operators and vendors across the country would do well to review key operating areas—not simply against existing landlord-tenant and consumer protection laws, but in anticipation of potential new total price disclosure standards. Experienced legal counsel should be sought to understand obligations, available solutions, and industry practices.

To discuss this rulemaking and what it could mean for residential property managers, leasing platforms, and service providers, **Jay Harris will explore these developments in an upcoming Residential Property Management webinar.** The program will examine the FTC's evolving approach to rental housing fee disclosures, the potential expansion of federal oversight of fee practices, and practical compliance considerations for industry participants.

[Click here to register for the webinar.](#)

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