

THE RISE OF RENT CONTROL

An Early 2020 Roundup

Last year was a significant chapter in the rent control debate as comprehensive statewide reform was enacted in Oregon followed by New York and California. This was the boldest step yet in a surge of initiatives to address the affordable-housing shortage nationwide.

Rent reform has also become a national issue. Democratic presidential contender Bernie Sanders recently announced his housing policy, which among other things, would establish a national rent standard, capping annual rent increases at 1.5 times the rate of inflation or 3%, whichever is higher.

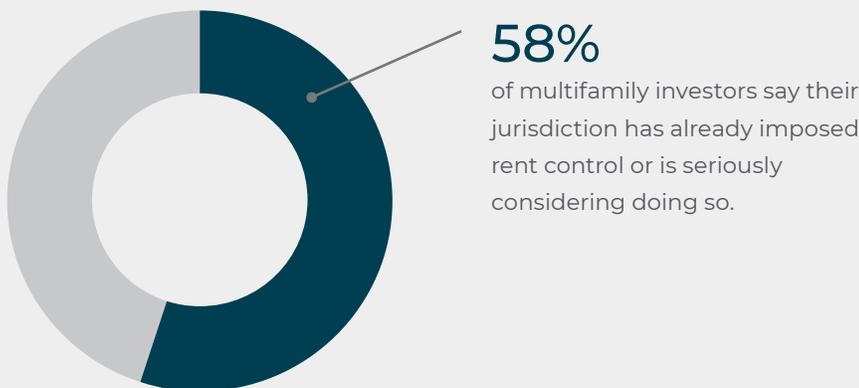


In this year's State of the State address, I asked the Legislature to send me a strong renter protection package. Today, they sent me the strongest package in America."

Gov. G. Newsom, Sept. 11, 2019

This trend naturally has investors taking action.

A recent survey from the National Multifamily Housing Council shows:



Philadelphia & South Florida

A portion of investors are pivoting their focus from cities like NYC and Los Angeles to higher-yield, non-regulated areas such as Downtown Philadelphia and South Florida, which also offer property tax incentives.

We here at Berkadia feel it is important to examine this major issue as we head into 2020 and beyond.

This report explores the **impacts of rent control** on affordable housing, delves into the five most pressing pieces of statewide **rent control legislative proposals**, and provides a **watchlist** where continued rent control threats are looming.



We are actively expanding our engagement with affordable housing investors and public agencies to preserve existing affordable housing stock without the need for rent control."

David Leopold, SVP, Head of Affordable Housing, Berkadia

How Rent Control Impacts Affordability

Housing affordability is clearly top-of-mind for residents, real estate professionals, and lawmakers alike.

Unfortunately, many legislators continue to leverage rent control as a source of immediate relief. In reality, the solutions to the nation's shortfall of available housing are far more complex.



93% OF ECONOMISTS AGREE

rent controls are bad policy, reducing the quantity and quality of available housing.

American Economic Association

Rent controls dampen supply and lead to a bifurcated market split between properties that are controlled and those that are not. Properties deteriorate because there is no incentive to invest in them and often leads to a negative outcome for those intended to be helped by rent control.

The extent of the affordable housing challenge, however, varies across geographies. The housing market is affected not only by market conditions but also by socio political factors, environmental concerns, and the regulatory landscape. Finding solutions in a particular city requires a broader understanding of what constitutes affordability and the factors that affect it. Ensuring the healthy functioning of the housing market requires actions that address interdependencies on the supply side while stimulating interventions on the demand side.



Developers are also looking at some of the modular opportunities to see if it is possible to get development costs down a little lower and build more workforce-targeted projects that aren't rent restricted projects."

Hillary Provinse, EVP Mortgage Banking, Berkadia

Hillary Provinse, executive vice president and head of mortgage banking for Berkadia, has observed former Low Income Housing Tax Credit (LIHTC) developers trying new approaches to build more affordable apartments without relying on subsidies. To bring down costs, these developers are constructing stick-built, garden-style communities further out of cities where land costs are less expensive.

3 Key Ways Rent Control Impacts Affordability



RENT CONTROL

decreases supply.

Price ceilings make rental housing an unprofitable venture, and developers have less incentive to build. Money flows out of the local rental market and into more profitable markets.



RENT CONTROL

is not tied to those who need it.

It does not provide a targeted subsidy for lower income households who need assistance the most. Rent control regulations are tied to units instead of households, and a rent-controlled unit can go to a household of any income.



RENT CONTROL

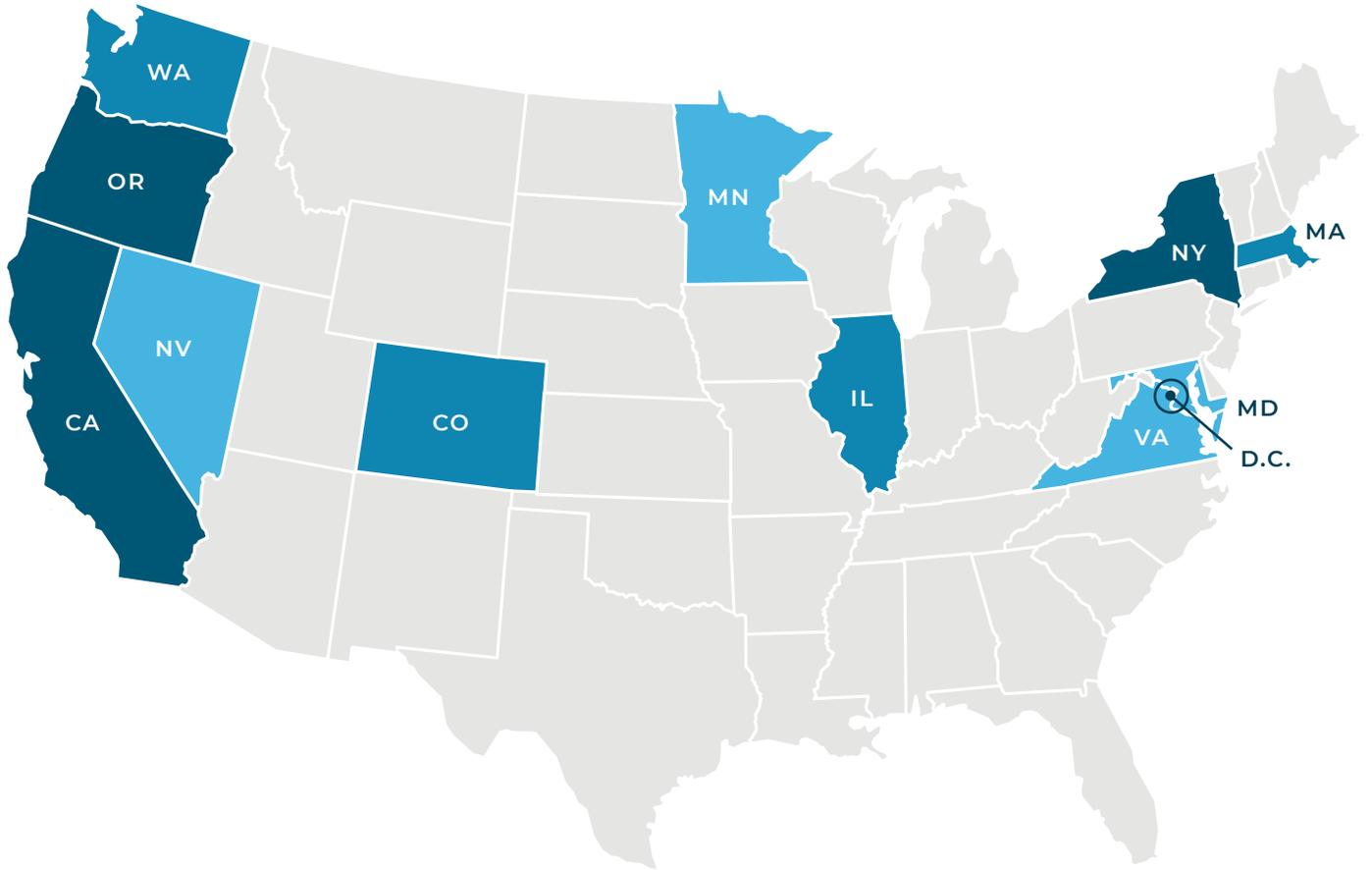
increases administrative operation costs.

Rent control adds compliance costs and the overall cost to operate rental housing.

Major 2020 Rent Control Threats

Once rejected by voters, rent control is now back on the front burner across many U.S. states and municipalities as renters pressure lawmakers for stronger tenant protections, including rent caps.

Where rent control battles are playing out across the U.S.



LEGISLATION ENACTED:

California
New York
Oregon

LEGISLATION LIKELY TO BE FILED IN 2020:

California
Colorado
Illinois
Massachusetts
Washington

WATCHLIST FOR 2020 AND BEYOND:

Maryland
Minnesota
Nevada
Virginia
Washington, D.C.

California



43.9%

Renter-Occupied
Housing Units



53.9%

Rent-Burdened
Households



\$46.0K

Median Income of
Renter Households

What You Need To Know

Prior to the passage of the Tenant Protection Act of 2019, California residents soundly voted down Prop. 10 by 2.3 million votes in 2018. Rent control advocates are reviving the key provisions from the failed Prop. 10 bill and are forging ahead with another attempt at expanding rent control across the state in 2020 with a new proposition formally known as the Rental Affordability Act (RAA). The RAA calls for more restrictive measures than the recently passed Tenant Protection Act of 2019.

What Might Happen in 2020?

The new Rental Affordability Act (RAA) will likely go before California voters on November 3, 2020, seeking to amend the 1995 Costa-Hawkins law without completely repealing it. The proposed initiative has two key reform provisions.

VACANCY CONTROL

Remove landlord's ability to increase rent to market rate after a vacancy (i.e., removing vacancy decontrol) and limit rent increases to 15% over three years when the tenant moves out.

HOUSES AND CONDOS

Expand rent control to include three or more single-family houses or condos if owned by an individual. Currently, no single-family homes nor condos are rent controlled.

Colorado



34.5%

Renter-Occupied
Housing Units



50.9%

Rent-Burdened
Households



\$42.0K

Median Income of
Renter Households

What You Need To Know

Under current law in Colorado, local governments are banned from regulating rental markets. That has stopped cities like Denver and Boulder from setting price controls on rental units in its boundaries.

In 2019, Democrat Sens. Robert Rodriguez and Julie Gonzales of Denver introduced Senate Bill 225 to overturn a 1981 Colorado law banning rent control. S.B. 225 would not have required rent control, only allowed any county or municipality to enact their own rent stabilization measures on private residential property, or cap what landlords can charge in rent. Although the bill survived one committee vote last year, it died in the Senate.

What Might Happen in 2020?

Author Sen. Julie Gonzales and primary sponsors, Rep. Serena Gonzales-Gutierrez, Rep. Susan Lontine, and Sen. Robert Rodriguez expressed an ongoing commitment to moving similar rent control legislation forward in 2020.

Sen. Rodriguez also said the team may look at specifying alternative ways to increase the limited supply of affordable housing, such as property-tax incentives for developers or landlords who keep a portion of an apartment building at below-market prices.

MAJOR 2020 RENT CONTROL THREATS

Illinois



32.4%

Renter-Occupied
Housing Units



47.7%

Rent-Burdened
Households



\$35.4K

Median Income of
Renter Households

What You Need To Know

In 2018, Democrat Sen. Mattie Hunter from Chicago introduced Senate Bill 3512 that not only proposed repealing the Rent Control Preemption Act but also attempted to impose a statewide rent control program. The proposed legislation would have eliminated no-cause eviction and to establish six elected rent control boards spread around the state.

What Might Happen in 2020?

Two repeal-and-replace state house bills will be before legislators in spring 2020:

HOUSE BILL 255

House Bill 255 would repeal the 1997 Rent Control Preemption Act. The bill was introduced by Rep. Will Guzzardi and has 11 cosponsors. Advocacy groups like the Lift the Ban Coalition are mobilizing while real estate groups like Supporting Housing Affordability, Progress, and Equality (SHAPE) Illinois have coalesced around combating rent control legislation.

HOUSE BILL 2192

House Bill 2192 would establish statewide regulations on how much landlords can raise rents and offer tax incentives to smaller landlords to help encourage routine maintenance and offset the cost of property improvement. The bill was Introduced by Rep. Mary Flowers and has seven cosponsors.

MAJOR 2020 RENT CONTROL THREATS

Massachusetts



37.9%

Renter-Occupied
Housing Units



47.9%

Rent-Burdened
Households



\$40.3K

Median Income of
Renter Households

What You Need To Know

Although Massachusetts voted away rent control in 1994, an effort is afoot among some Boston-area policymakers to bring it back via House Bill 3294. However, Gov. Baker's alternative proposal to ease the process of zoning reform is gaining momentum, designed to address the lack of available housing without capping rent growth.

What Might Happen in 2020?

Massachusetts House Bill 3924, the Tenant Protection Act, seeks to repeal the 1994 ban on rent control and would allow a city or town to regulate the rent and eviction of tenants in multifamily housing. The bill is like a statewide measure that was adopted in New York in June 2019. It would regulate rent prices, impose just-cause eviction protections and regulate regulations for condos and mobile homes. The Joint Committee on Housing of the Massachusetts Legislature held a hearing on the rent control bill as recently as January 14, 2020, at the Massachusetts State House in Boston.

Massachusetts House Bill 4263 is an alternate bill being proposed by Republican Gov. Charles D. Baker. The bill was heard by the Joint Committee on Housing on December 23, 2019, and was referred to the House Committee on Ways and Means. If passed, H. B. 4263 would make it easier for municipalities to pass zoning changes that encourage more housing.

Baker's bill would change the current law to require only a majority vote to adopt certain zoning bylaws that encourage more housing.

The bill would let towns designate specific districts — such as downtown or near public transportation — where it would be easier to get permission to build multifamily housing or mixed-use developments.

The bill would also allow a simple majority vote to approve permits for multifamily or mixed-use projects with 10% affordable units, built in commercial centers or near transit.

Washington



36.2%

Renter-Occupied
Housing Units



45.6%

Rent-Burdened
Households



\$44.6K

Median Income of
Renter Households

What You Need To Know

Democrat Gov. Jay Inslee has signaled support for a bill that would lift the statewide ban on rent control. The proposed legislation is expected to be similar to Oregon and California and will leverage the Stable Homes initiative passed by voters in the city of Federal Way, WA, in November 2019.

What Might Happen in 2020?

Upcoming statewide 2020 ballot provisions are expected to present voters with the following choices on rent control, introducing two major rent control reforms:

Rent Stabilization: 5% to 7% cap on annual rent increases plus consumer price index

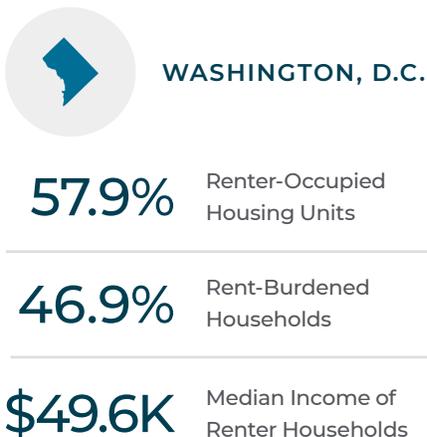
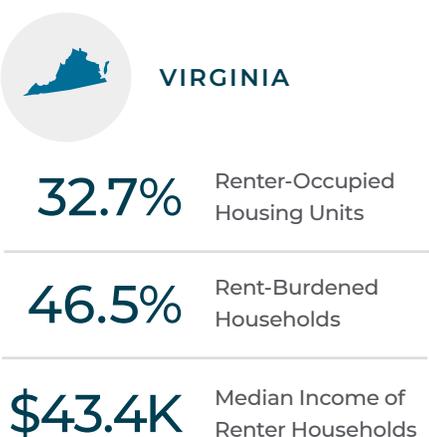
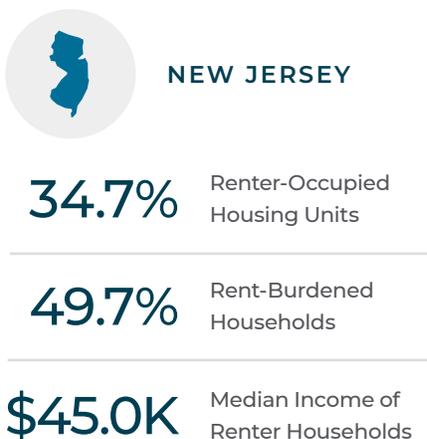
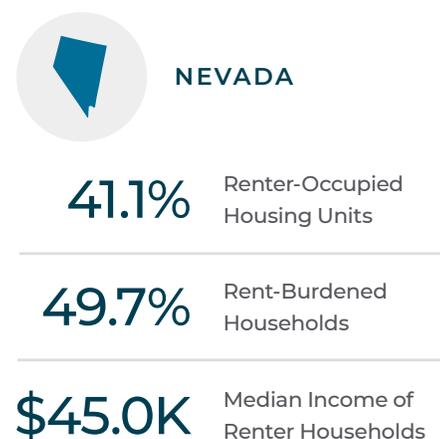
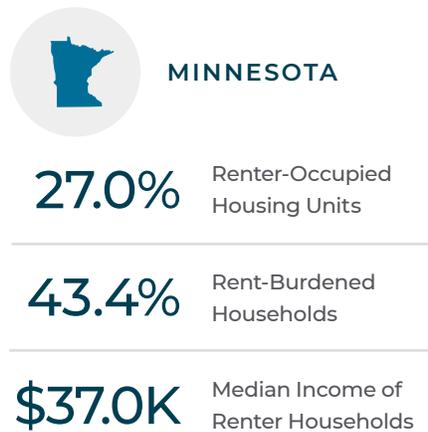
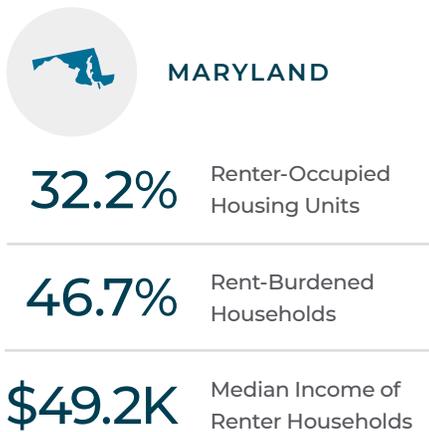
Would end no-cause evictions and prohibit retaliatory or discriminatory eviction

Expands rights for tenants to host immediate family members without facing eviction (barring no occupancy code violations)

If tenant protections are violated, landlord is obligated to pay tenant 4.5 times unit rent, attorney fees, and court costs

Looking Forward: Looming Threats

Here are a handful of additional states to keep on your watchlist for 2020 and beyond.



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NOTE: Berkadia will continue to monitor the legislative processes and will update the shifting landscape throughout 2020.

SOURCES: Berkadia; U.S. Census Bureau; Tetrad; Pew Research Center; Business Insider; Wall Street Journal; Joint Center for Housing Studies of Harvard University; Reuters; National Multihousing Council; Bisnow; Colorado Politics; Masslive; The Real Deal Miami; United for a New Economy; New Boston Post; Colorado Politics; GlobeSt.com; FACTCHECK; World Economic Forum; American Economic Association.