

Rent Stabilization

Key Policy Components and Their Implications



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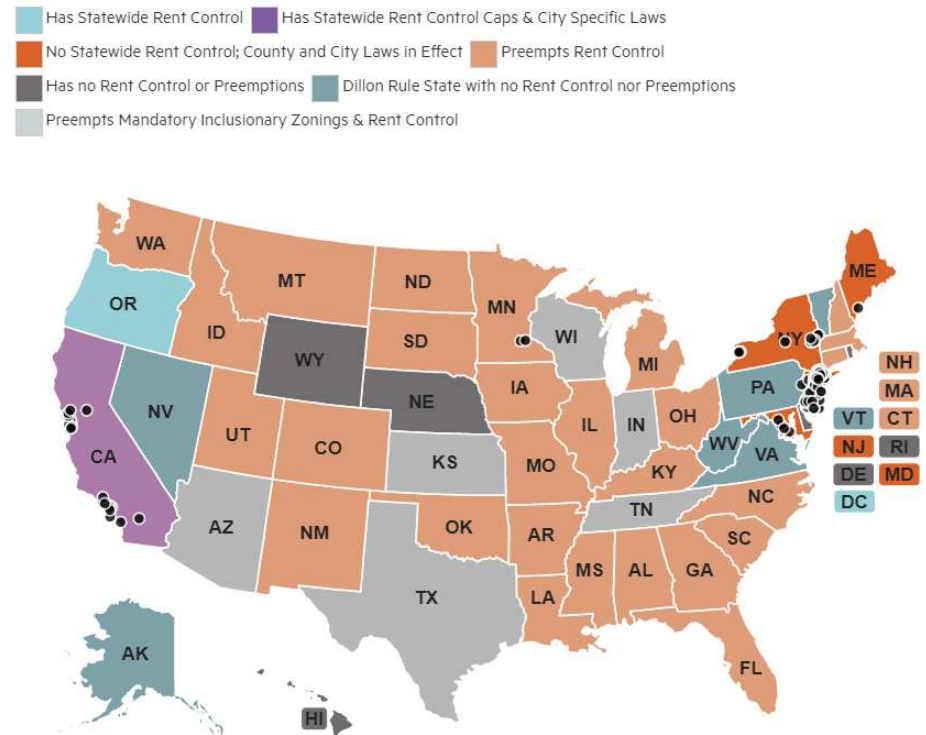
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Rent control/rent stabilization

- “Rent control” is a loose term used to cover a spectrum of rent regulations
 - Can vary from hard caps on maximum rents to limits on the amount that rent can increase over time
 - First implemented in the United States during World War II as a hard ceiling on rents (generally referred to as rent control)
 - Evolved into a less stringent and more nuanced regulatory scheme (generally referred to as rent stabilization)
 - Modern rent stabilization generally involves a cap on annual rent increases along with a set of accompanying regulations such as vacancy decontrol, condominium conversion regulation, hardship clauses, and exemptions based on building type and age

The current state of rent stabilization

- As of 2022:
 - Seven states and the District of Columbia have localities in which some form of residential rent stabilization is in effect (California, New York, New Jersey, Maryland, Maine, Oregon and Minnesota)
 - Thirty-seven states either prohibit or preempt rent stabilization
 - Seven states allow their cities to enact rent stabilization but have no cities that have implemented it



Source: National Multifamily Housing Council

Different stakeholders have diverging views about the efficacy of rent stabilization in ensuring equitable housing outcomes

Many landlords, for-profit developers, and real estate industry representatives are skeptical of rent stabilization's ability to provide affordable housing for renters with low incomes and renters of color

Many tenant advocates and housing policy researchers feel that policy loopholes or weak regulatory coverage are to blame when rent stabilization fails to improve housing affordability

Is rent stabilization effective?



Although rent stabilization has been shown to increase stability and affordability for tenants in controlled units, some studies have found that these benefits are offset by greater costs in the uncontrolled rental market because of reductions in the overall supply of rental units (Diamond, McQuade, and Qian 2018; Sims 2007).



Critics also question whether the benefits of rent stabilization truly reach renters with low incomes and renters of color who face the greatest affordability challenges (Ault and Saba 1990; Gyourko and Linneman 1989; Sims 2007) since usually rent stabilization is not means tested, meaning that anyone of any income can live in a rent-stabilized unit.

It matters how it is designed

Major rent stabilization policy components



Choice of cap/permitted rent increases



Set using a fixed formula determined by a state or local housing agency, or determined each year or in some other interval by a rent stabilization board



Programs with formula-based rent increases use a few common methods to set their yearly increases, such as the following:

- 1) increases equal to the full amount of the annual consumer price index (or some other flat percentage)
- 2) increases equal to a percentage of the annual consumer price index
- 3) changes in the cost of living throughout the duration of a lease



Anti-gouging: sets high max rent increase caps

Exceptions to rent caps

- Cost pass-throughs for maintenance or capital improvements
 - Meant to address property quality and maintenance concerns, but some tenant advocates argue that these improvements and subsequent pass-throughs can be unnecessary and overburden tenants
- Right to fair return
 - Hardship petitions seeking approval to raise rents over the standard permitted rent increases, typically calculated as a measure of income the property generates against the approved operating costs and valuation
 - In Washington, DC, landlords can file a petition if they earn anything less than a 12 percent rate of return on their investment property
- Banked increases
 - Allows landlords to not increase rents in some years but to bank them and use them in a later year

Exemptions/defining the rent-controlled stock

- Most rent stabilization policies exempt new construction, exempt buildings constructed after a certain date, or offer a grace period before a building is incorporated into the controlled stock
- They also generally exclude small buildings and single-family homes. But this raises equity concerns:
 - Single-family homes have become an increasingly larger share of the rental housing stock, particularly in racially diverse neighborhoods, and their tenants are more likely to have children living in poverty
 - And some large landlords own many small units, allowing them to evade rent stabilization regulations
 - Potential solutions:
 - Washington, DC, uses an alternative approach that bases coverage on the size of the owner's portfolio, rather than on the number of units within a building
 - California's 2019 Tenant Protection Act differentiates between small landlords and investors by ensuring that real estate investment trusts and corporate owners of single-family rentals are included in the coverage

Vacancy decontrol

- Allows landlords to raise rents to market rate or exclude units from regulation after a vacancy
 - Creates an incentive for landlords to displace current tenants and encourages them to select tenants who are more mobile and often have higher incomes
 - Studies have shown that cities with vacancy control—places where rent stabilization remains in place at the same level even after a tenant is replaced—experienced an increase in their share of Black and Latinx renters and were generally more affordable to low-income households. Conversely, jurisdictions with vacancy decontrol were less affordable and disproportionately displaced Black renters (Heskin, Levine, and Garrett 2007)

“We do like students. Number one, they leave...I always do raise the rents to market rates when they leave. The best tenants are the people that pay the most.” - Small landlord

Tenant protections

“The landlord doesn’t have to evict them, they can just choose to not renew their lease if they think somebody else will come in and pay more.” – Housing policy researcher

- Many jurisdictions have enacted tenant protections such as just-cause eviction requirements to mitigate the negative impacts of vacancy decontrol
- However, landlords have found so many loopholes around these protections that vacancy control may be the only way to truly ensure the stability and rights of tenants in rent-controlled units
 - Landlords may pressure and harass tenants to leave or reduce services and maintenance to rent-controlled units

Enforcement and implementation are just as important as policy design choices

- Have you invested enough money in enforcement and oversight?
- Do you have enough staff to oversee it?
- What data are you using to track it?
- How will tenants and landlords hear and become educated about the policy?

These decisions can have as much of an impact on policy outcomes as regulatory design choices

Case study: Saint Paul rent stabilization

	Choice of Cap	Exceptions	Exemptions	Decontrol	Compliance Education
Original 2021	3%	None	<ul style="list-style-type: none"> • “Reasonable return” language (Base NOI + CPI) 	No decontrol	<ul style="list-style-type: none"> • Not fully defined
As Revised 2023	3%	<ul style="list-style-type: none"> • New construction (first 20 years) • Subsidized or deed-restricted housing 	<ul style="list-style-type: none"> • Ability to self-certify up to 8% increases (subject to City review) • >8% allowed with documentation • “Reasonable return” (defined as base NOI + CPI) 	<ul style="list-style-type: none"> • At vacancy, landlords can increase rents 8% + CPI 	<ul style="list-style-type: none"> • Enforced by tenant complaint • To request an ‘decontrol’ increase, landlord must submit ‘just cause’ paperwork • 5 FTEs, \$635k

Other considerations

Minimizing condo conversions

- Significant evidence shows that rent stabilization policies have led to an overall reduction in rental units through condominium conversions, building sales, and owner move-ins
 - In San Francisco, rent stabilization was associated with mass condominium conversions, and apartment buildings under rent stabilization were 10 percent more likely to be converted to condominiums than noncontrolled buildings
 - Now, San Francisco limits condominium conversions to 250 annually. But property owners still find ways to work around the policy: *“[The way] in which they convert property in cities like San Francisco is to hold property as tenancy in common. So, six people will buy a building together, and each will have their own agreements and occupy different units, so they’re technically not condos, but they operate like them.”*
- Other jurisdictions have passed reforms to address such policy loopholes and prevent decontrol or loss of additional affordable rentals:
 - In Mountain View, California, an ordinance prevents condominium conversions until the city has a certain number of apartments in the housing stock
 - In Cambridge, Massachusetts, conversion applications must be submitted three years ahead of time
 - In San Jose, California, selling a property does not trigger any change in rent stabilization, and demolition is the only way a landlord can remove a property

Impact on new construction

- While older regulations did not include new construction as part of rent stabilization, newer policies do or have a short period of exemption for new construction
 - Most of the research on rent stabilization was conducted on the older policies that exempt new construction, so it is not yet clear what impact these newer policies have on new construction

What about means testing?

- Most rent stabilization regulations do not employ means testing
- Pros of means testing:
 - Could help to better target rent stabilization to those who truly need it
- Cons of means testing:
 - Bureaucracy and administrative costs
 - It takes away from the broad application of rent stabilization as a consumer protection policy that encourages neighborhood stability

“Means testing isn’t the issue. Everybody needs low-cost housing if you want a better society. [If you use means testing,] then what happens to people who are middle income and they lose their jobs? We want to make housing less of a commodity and more of a community asset, or we’re not going to have stable communities. We don’t have communities because people can’t stay where they are.” – Tenant Advocate

What about incentivized rent stabilization?

- Tax exemptions are sometimes used to add units in recently constructed buildings to the controlled stock
 - Can help mitigate negative supply effects
 - However, can be overly generous and “a monumental giveaway to developers” as rents are still initially set at market rates
 - Examples:
 - The Affordable New York program (421-a) provides developers with a subsidy to place their units under rent regulation, and their J-51 exemption and abatement program subsidizes renovations or conversions of industrial or commercial spaces into apartments under the condition the buildings remain stabilized for 20 years
 - rent stabilization provisions can also be placed temporarily on buildings that were developed using other tax credits or exemptions but are transitioning to market rate

Case study: Incentivized/voluntary stabilization “4D Affordable Housing Incentive” in Minneapolis

- Utilizes a state statute that provides a tax rate reduction for low-income rentals for existing/naturally occurring affordable housing
 - ~40% decrease on property taxes for protected units
 - 10-year affordability guarantee (60% AMI), with rent increases capped at 6%/year
 - Access to other incentives (e.g., green energy)
 - Simplified compliance process
 - Affordability restrictions follow property sales
- 770 units enrolled in first year (2019); program now expanded to 5 cities and ~12,000 units



Other costs/benefits

- Potential costs: May reduce the overall rental stock, potentially harming people who are not lucky enough to be in a rent-controlled unit
- Potential benefits: builds social ties through stability
 - renters in regulated units may build stronger social networks, tenant associations, and unions
 - may also be more likely than renters in unregulated units to challenge landlord harassment and insist on unit repairs
 - stabilization helps mitigate landlord-tenant power imbalances and gives tenants needed social support

“Rent control has made a key difference in challenging the power imbalances not only between tenants and landlords but [also in] increasing civic engagement.” - Tenant advocate

How to design the right rent stabilization regulation



If a place does decide to enact rent stabilization, they should design the policy carefully to make sure that it preserves affordability for stabilized renters while not harming the overall supply of housing



And, they should pair it with direct investments in affordable housing and land use reforms that address supply constraints, such as increasing height allowances, removing parking minimums, and simplifying the development process

“I’m going to say that 40 years ago, when I first started being a building contractor, I could walk into the county building with a plan that was basically three pages. I would walk out with a permit, and it would cost me about \$200, in an hour, one hour. Now, it would take you, probably, at least four to six months to get a permit, which would cost you \$30,000.” —Small contractor

Additional resource

- **Four-part webinar series (recorded):**
 - Rent Stabilization: Policy Choices and Impacts
 - Understanding the Rental-Market Impacts of Rent Stabilization Policy Choices
 - Lessons Learned from Implementing Rent Stabilization Policies
 - Local Approaches to Advance Tenant Stability
- **Written Summary:**
<https://www.minneapolisfed.org/article/2022/an-overview-of-rent-stabilization-from-national-housing-experts>



For more information:

<https://www.urban.org/research/publication/inclusionary-zoning-how-different-iz-policies-affect-tenant-landlord-and-developer-behaviors>

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