



STATES AUTHORIZING RENT CONTROL

By: Julia Singer Bansal, Associate Legislative Analyst

RENT CONTROL

Jurisdictions often adopt rent control ordinances to ensure there is an adequate quality affordable housing supply.

While many ordinances allow residential landlords to set the rent for vacant units at market prices, once a tenant moves in, they limit the rate at which rents can be increased. The ordinances accomplish this by, for example, allowing rent to increase only (1) by a specific percentage per year or (2) to cover the cost of capital improvements.

ISSUE

Which states have laws authorizing local governments to adopt rent control ordinances? What type of parameters do these laws place on local governments?

This report has been updated by OLR Report [2018-R-0081](#).

SUMMARY

According to the book "*Renters' Rights*," by Portman and Stewart, four states and the District of Columbia have laws authorizing rent control ordinances (California, Maryland, New Jersey, and New York). At least 32 others have laws prohibiting local jurisdictions from adopting these ordinances. In states where the statutes are silent, local governments may enact rent

control ordinances pursuant to their general police powers, or they may be prohibited from doing so pursuant to case law, which is the case in Connecticut (see BACKGROUND).

Generally, the rent control enabling laws set a framework under which municipal or county governments may adopt rent control ordinances. They commonly address (1) jurisdictions in which rent control may be established, (2) the method for calculating maximum rent, and (3) exempt properties. The laws leave it to local governments to implement rent control through ordinances that fall within the parameters established by statute. Thus, approaches vary considerably.

STATE ENABLING LAWS

Three states and the District of Columbia have laws explicitly authorizing rent control. In California, courts have held that rent control is a local police power authorized by the state constitution. (California statutes place limits on municipal

authority to control rent.) Generally, state rent control laws have provisions addressing some, or all, of the following aspects of rent control:

1. purpose for which rent control may be established (e.g., housing shortage, substandard housing);
2. jurisdictions in which rent control is permitted (e.g., in any municipality, only in certain counties);
3. exempt property (e.g., new construction, single-family rentals);
4. tenant protections (e.g., prohibiting retaliatory evictions, requiring security deposits to be kept in interest-bearing accounts);
5. administrative machinery (e.g., public agency that assists municipalities in establishing and enforcing rent control);
6. formula for setting maximum rents (e.g., percentage increase tied to average consumer price index, factors for determining landlords' legitimate business expenses); and
7. remedies (e.g., penalty for landlords who violate ordinances, protections for landlords in substantial compliance).

The laws in California and New York are comprehensive and establish the most restrictive frameworks for jurisdictions adopting rent control. Their statutes cover most of the abovementioned aspects of rent control and ordinances must fall within those parameters (Cal. Const. Art. XI, § 7; NY Uncon. Laws Title 23; and West's Ann.Cal.Civ.Code §§ 1947.7 to 1947.15, §§ 1954.50 to 1954.535).

New Jersey's law is less restrictive than California's or New York's. It authorizes towns to control rent in substandard apartments and describes, among other things, the (1) types of apartments subject to regulation, as well as those exempt from it; (2) formula for maximum rents; and (3) conditions under which a landlord can evict a tenant in a rent-controlled unit (N.J.S.A. § 2A:42-74 et seq., § 2A:42-84.2).

The Congressional act authorizing the District of Columbia to establish rent control (1) creates a commission to implement rent control, (2) protects tenants from retaliatory action, and (3) establishes remedies for rent control violations. The Council of the District of Columbia has discretion concerning maximum rent calculations and exempted dwellings (PL 93-157 (November 21, 1973)).

Maryland's law is the least restrictive and does not establish any parameters for local governments. Rather, it authorizes two counties (Frederick and Washington)

to enact ordinances or adopt regulations to control rent. It appears each county has full discretion over implementation (MD Code, Local Government, §§ 13-921 to 923).

BACKGROUND

In Connecticut, the law does not permit municipalities to adopt rent control ordinances. The Connecticut Supreme Court reached this conclusion after finding that (1) municipalities have only the powers that are expressly conferred upon them and necessary to effect conferred powers and (2) the legislature's 1956 repeal of laws authorizing municipalities to enact rent control made it clear that rent control is contrary to the legislature's will (*Old Colony Gardens, Inc. v. Stamford*, 147 Conn. 60 (1959)). However, Connecticut law authorizes municipalities to establish fair rent commissions to "control and eliminate excessive rental charges." Commissions can receive and investigate rent complaints, issue subpoenas, hold hearings, and order landlords to reduce rents ([CGS § 7-148b](#)).

Some other states may prohibit rent control because these ordinances have been challenged as a violation of (1) the eminent domain, equal protection, and contract clauses and (2) substantive due process. Courts have generally held that for rent control ordinances to comply with the constitution, landlords must not be deprived of a just and reasonable return on the value of the rental property.

SOURCES

J. Portman & M. Stewart, *Renters' Rights*, Chapter 12, (Nolo, April 2012).

JSB:tjo