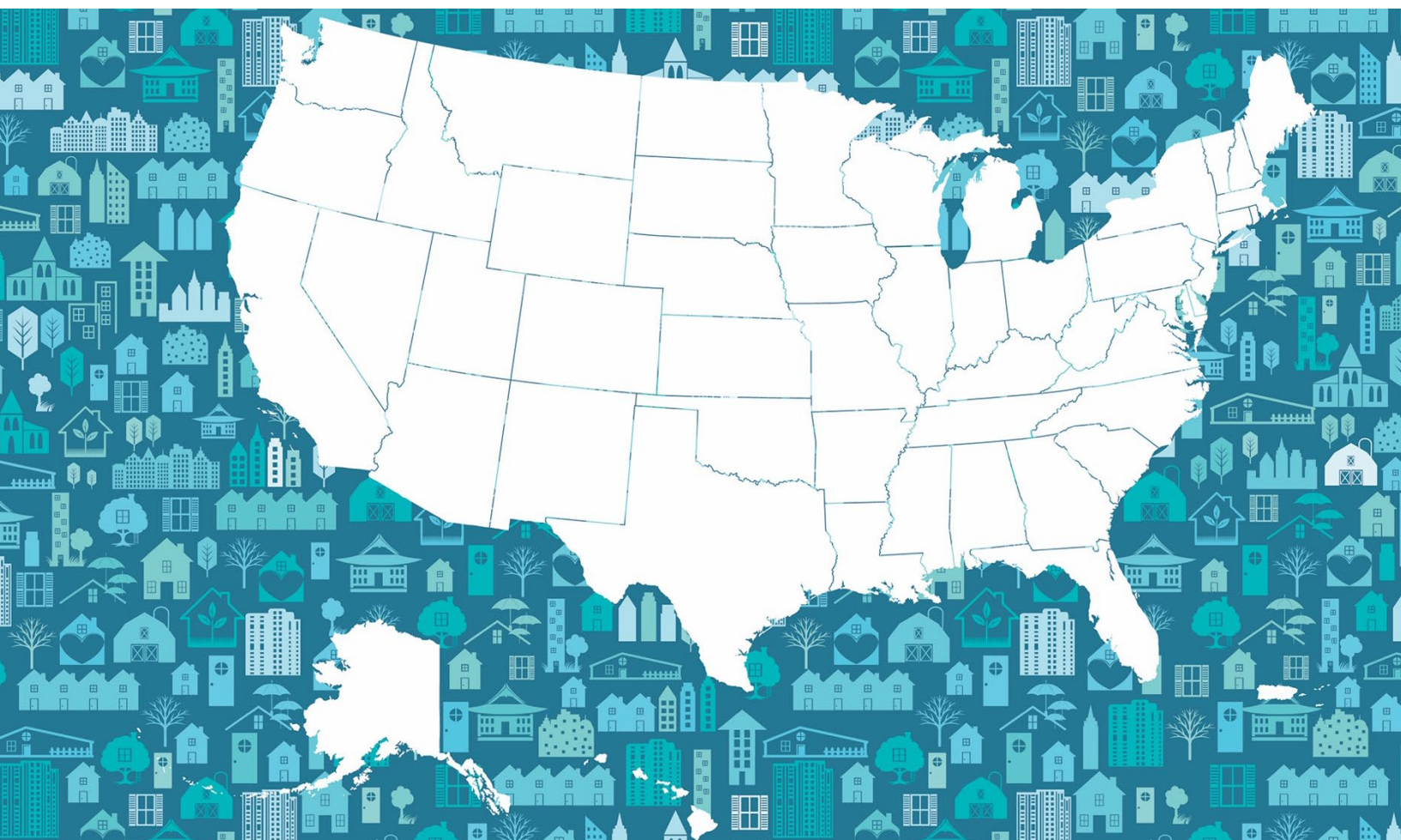


February 2021 Update

NAA Policy Outlook Report

Executive Briefing: Trending Apartment Industry Concerns





Outlook Contents

- Outlook Contents 1
- Industry Outlook and COVID-19 Relief 2
 - Rent collections are slipping, showing signs of pandemic-related stress.2
 - Financial assistance for rent payments has been critical.2
 - Financial support and liability protection are providing some help for apartment firms.3
- Major Threats to the Industry 3
 - Pandemic creates favorable conditions for passage of rent regulation.3
 - Strengthening eviction protections is a top priority for many progressive legislators and renter advocacy groups.4
 - President Biden recommits to affirmatively furthering fair housing and strengthening protections under the Fair Housing Act.4
 - Advocates continue efforts to remove resident screening barriers that restrict renters’ access to housing in areas of opportunity.5
- Emerging Issues 5
 - COVID-19 is driving changes to security deposit laws.....5
 - Energy and Environmental Policy a top-level priority for the Biden Administration.5
 - Big changes expected for employers as President Biden orders OSHA action.6
 - The 2024 International Code Council I-Code development cycle kicks off with new building and fire code proposals.6



Industry Outlook and COVID-19 Relief

Rent collections are slipping, showing signs of pandemic-related stress.

- Zego [reports](#) that renters are paying rent by credit card at an increasingly higher rate, up 43 percent in 2020 compared to 2019.
- According to [RealPage](#), as has been seen since the COVID-19 pandemic began, rent collections remain better in the upper-end and mid-range apartments than in the lower-tier properties.
 - RealPage stats show January payments through the 20th at 90.6 percent in the Class A block of product and 90.5 percent in the Class B inventory.
 - Collection levels are lower at 84.8 percent in Class C projects.
 - Nationally, the share of households paying January's rent through the 20th is off by 2.5 percentage points year-over-year.
 - Payments were received from more than 95 percent of the households in Providence, Miami and San Diego.
 - In contrast, rent has been collected from fewer than 90 percent of households in nine metro areas with just 85.6 percent of the households in New Orleans and 87.9 percent in New York City. Rent payment levels in Las Vegas, Milwaukee and Indianapolis ranged between 88 – 89 percent.
 - The largest declines in year-over-year payments are in Portland (-8.4 percentage points), Seattle (-6.3 points) and Charlotte (-5.3 points).
- Additionally, 32 percent of renter respondents to the [US Census' Household Pulse Survey](#) have no or only slight confidence in their ability to make next month's rent payment on time. Also, 19 percent of renter households report not being up to date with their rent payments.

Financial assistance for rent payments has been critical.

- On December 29, President Trump signed the [Consolidated Appropriations Act of 2021](#) into law, which includes several [provisions of interest](#) to the rental housing industry, notably \$25 billion in dedicated rental assistance and a one-month extension of the CDC eviction moratorium.
- The previous administration released FAQs for state and local grantees to use as they craft or refine their rental assistance (RA) programs in line with new federal requirements, shortly before President Biden took office. The U.S. Department of the Treasury (USDOT) has since announced that the agency has revised its FAQs and [post them shortly](#).
 - RA programs typically run through government agencies or nonprofits, and ultimately, eligibility requirements and application processes remain at their discretion.
- By January 27, the USDOT was required to distribute the emergency rental assistance allocations to state and local grantees. We are awaiting further confirmation and details from the agency.
- At least 68 state-level programs and 370 local-level programs have been established to provide emergency rental assistance for renters impacted by COVID-19.
 - Similar to the landlord compensation fund in Oregon, California passed AB 80/SB 91 that requires housing providers to forgive the remaining 20 percent in arrears and not pursue evictions or go after remaining debt.
 - The Pennsylvania Senate passed SB 109, which codifies provisions required in the new federal law.

- **Policy Outlook:** While the latest federal package is a life preserver for the countless Americans facing financial hardship, the \$25 billion in dedicated rental assistance dollars will only make a dent in what owed.
 - [Moody's Analytics and the Urban Institute](#) estimate that the typical delinquent renter will be almost four months and \$5,600 behind on their monthly rent and utilities, with another \$50 per month of late-payment penalties. Renters owe about \$57 billion in past due monthly payments.
 - [More must be done.](#) Under the constraints of eviction moratoria and other emergency renter protections, owners and operators of rental housing continue to shoulder the financial impacts of the pandemic alone. Learn more about recent developments [here](#).
 - We continue our efforts to support the affiliate network. [Join us](#) this month for a special edition of our GART virtual learning series as we continue the discussion on effective rental assistance advocacy and program best practices.


Financial support and liability protection are providing some help for apartment firms.

- **Policy Outlook:** NAA continues to urge Congress to implement policies that help owners and operators maintain housing operations during the crisis, including [targeted liability protections](#), broader eligibility for business relief (e.g., the Paycheck Protection Program), and [pandemic risk insurance](#) for the industry.

Major Threats to the Industry

Pandemic creates favorable conditions for passage of rent regulation

- January marked the beginning of legislative sessions in most states, and the perpetual battle over rent control is set to continue.
 - Oregon, Illinois, Connecticut, Tennessee, and Florida saw legislation to repeal rent control preemption laws introduced.
 - The Tennessee and Florida bills are unlikely to move with legislatures in each state controlled by Republicans.
 - Members of the Minneapolis City Council are aiming to get a rent control ordinance [on the November 2021 ballot](#). Regardless of how efforts pan out at the local level, it is possible that rent control emerges as an issue in the state legislature.
 - Members of the Seattle City Council [continue](#) to advocate for lifting the statewide preemption. Rent control remains top of mind for progressive lawmakers at the local and state levels.
- NAA and NMHC have submitted an [amicus brief](#) in support of a challenge to New York's Rent Stabilization Law by the Rent Stabilization Association of New York City, Community Housing Improvement Program, and individual property owners.
- **Policy Outlook:** Renters' rights advocates view rent control as both a mechanism to ensure vulnerable renters are not displaced once the economy recovers and an essential plank of a broader social justice platform. The economic effects of the government's response to COVID-19 have created [favorable conditions](#) for the spread of rent regulation. Expect the effects of the pandemic on low-income renters to be used against the industry to try and push legislation over the line.



Strengthening eviction protections is a top priority for many progressive legislators and renter advocacy groups.

- The current framework of eviction policies is [complex and sometimes conflicting](#), making compliance difficult.
- The CDC extended its eviction moratorium order [through March 31](#). The CDC order continues to force a one-size-fits-all solution on unique and varied local processes.
 - While it was intended to be temporary, the CARES Act's notice to vacate requirement has no clear sunset date, continuing to pose challenges for the industry. NAA continues to look for opportunities to address this issue.
- Several states are looking to expand and extend eviction moratoria. Renter advocates specifically are pushing to close perceived loopholes, including preventing housing providers from choosing not to renew leases and limiting allowable evictions to cases of "imminent danger" and "serious nuisance."
 - Right to Council legislation is gaining support. To date, the policy has been limited to [local jurisdictions](#). So far in 2021, Connecticut, Indiana, Maryland, Nebraska, South Carolina, and Washington have pending legislation.
- [A raft of studies](#) were published at the tail end of 2020 focusing on evictions during COVID-19. Taken together, these studies form a dual set of narratives that can be used against the rental housing industry.
 - They suggest that eviction moratoriums are sound policy that protect residents from displacement and by extension, contracting COVID-19. Secondly, they argue that evictions cause housing instability and poverty, especially for low-income renters of color, and therefore should be restricted as much as possible.
 - Renter advocacy groups and progressive policymakers agree with these narratives, resulting in even greater alignment in legislative priorities.
 - Renter's United Maryland partnered with several Maryland policymakers, including representatives, senators, and the state's Attorney General, to introduce the [Housing Justice Package](#).
 - Connecticut Housing Chair Representative Brandon McGee [hosted](#) the Connecticut Fair Housing Center for a zoom call and supports the group's policy goals.
 - Both groups are pushing for similar policy changes, including enacting right to counsel legislation, extending and expanding eviction moratorium protections, raising filings fees, and establishing eviction diversion programs.
- **Policy Outlook:** The pandemic has placed a spotlight on the eviction process. NAA continues to oppose any extension of the federal eviction moratorium and support the NAA affiliate network's advocacy to prevent additional state and local restrictions.

President Biden recommits to affirmatively furthering fair housing and strengthening protections under the Fair Housing Act.

- On January 27, President Biden issued the [Memorandum on Redressing Our Nation's and the Federal Government's History of Discriminatory Housing Practices and Policies](#).
- As expected, the President took action to open the door for the Secretary of Housing and Urban Development (HUD) to reinstate the 2015 Affirmatively Furthering Fair Housing Rule



and the 2013 Disparate Impact Rule which were repealed and replaced during the Trump Administration.

- In the memorandum, he ordered the HUD Secretary to reexamine the changes made to these policies under the previous administration and take necessary steps to ensure agency's policies align with the original rules' intent and this administration's interpretation of the Fair Housing Act's protections.
- Changes to these rules would impact fair housing regulation and enforcement actions against rental housing providers, for example, related to source of income, resident screening and occupancy standards.
- **Policy Outlook:**
 - We will continue to work with Congress and the Administration to make sure they understand how legislative and regulatory proposals affect the provision and operation of rental housing.
 - Learn more about what these changes mean for the industry on the [NAA website](#), including our previous reporting on [affirmatively furthering fair housing](#) and [disparate impact](#).

Advocates continue efforts to remove resident screening barriers that restrict renters' access to housing in areas of opportunity.

- Policymakers at all levels of government continue to attack housing providers' ability to evaluate applicants based on criminal, eviction, and credit history. Lawmakers also question the legitimate business need to evaluate immigration information.
- The [accuracy of consumer reporting](#) and how difficult it is to remove inaccurate information remain huge sticking points for social justice advocates.
- **Policy Outlook:** Under the Biden Administration, we expect additional scrutiny on the use of algorithms to rate consumers, given their purported disparate impact on communities of color, and anticipate proposed changes to the Fair Credit Reporting Act to prevent certain consumer information from ever being made public. These policies would restrict housing providers' access to critical information used to evaluate applicants.

Emerging Issues

COVID-19 is driving changes to security deposit laws.

- Advocates want to [change security deposit laws](#) to allow renters to utilize security deposit alternatives or pay upfront costs in installments (aka "renters' choice").
- **Policy Outlook:** A growing number of policymakers view traditional security deposits as a barrier to housing access and choice for lower income renters. We expect continued interest at the municipal level, with the potential for some action from progressive state legislatures.

Energy and Environmental Policy a top-level priority for the Biden Administration.

- President Biden's Inauguration Day executive orders (EO) signal an aggressive stance towards reversing the energy and environmental actions taken under the Trump Administration.
- The President [ordered](#) a complete review by all agencies to identify and rescind any policies inconsistent with the Administration's goals for environmental justice, the reduction of greenhouse gas emissions, and overall climate plan.

- In the order, President Biden revoked several Trump-era environmental regulations concerning the construction and development community including the 'Waters of the United States' Rule, rejoined the Paris Agreement on Climate Change, and ordered special review of several appliance and building efficiency standards.
- A [second EO](#) concerning climate, ordered additional agency focus on ways to encourage greater investment in green infrastructure, including the U.S. building stock.
- **Policy Outlook:**
 - President Biden's executive actions will surely set the tone for more stringent energy and climate related proposals in 2021.
 - We anticipate renewed focus on legislative and regulatory action that will target carbon footprint reduction in buildings as well as efforts to increase the supply of housing near modes of transit.
 - The question remains whether policymakers will also introduce new resources to support property owners as they embark on costly retrofits and building upgrades.

Big changes expected for employers as President Biden orders OSHA action.

- On January 21, President Biden ordered the Occupational Safety and Health Administration (OSHA) to take immediate action to issue new guidance on COVID-19 workplace safety for employers and employees. President Biden tasked OSHA with developing new workplace guidance by the beginning of February.
- This guidance will be coupled with greater enforcement action taken by OSHA against workplaces found to put their employees willfully at risk of contracting COVID-19.
- In addition, the order also tasked OSHA with deciding the viability of a temporary emergency standard that would include a federal mask mandate.
- **Policy Outlook:**
 - Under the Biden Administration, anticipate an OSHA that is committed to enforcing the reporting of workplace illnesses requirement, actively fielding inspectors to investigate cases of negligence, ensuring that adequate steps are taken to promote workforce health and safety.
 - Although most states have already mandated the use of face coverings in places of commercial business, a federal standard will introduce more uniform and, potentially, stricter requirements.

The 2024 International Code Council I-Code development cycle kicks off with new building and fire code proposals.

- The International Code Council is the source of model codes and standards that determine how buildings are constructed and maintained as they are adopted by state and local governing bodies.
- January marks the kickoff for the first of two one-year-long code development cycles, which will culminate in the production of the 2024 edition of the I-Codes.
- NAA has submitted two code proposals focusing on smoke alarms and sprinkler systems that will decrease the cost of construction and reduce the administrative burden of housing providers.
- **Policy Outlook:** Broad distribution of new proposals will commence in March, so little is known about what changes are being proposed for the International Fire Code and the International Building Code, two code sets with significant implications for the multifamily industry.