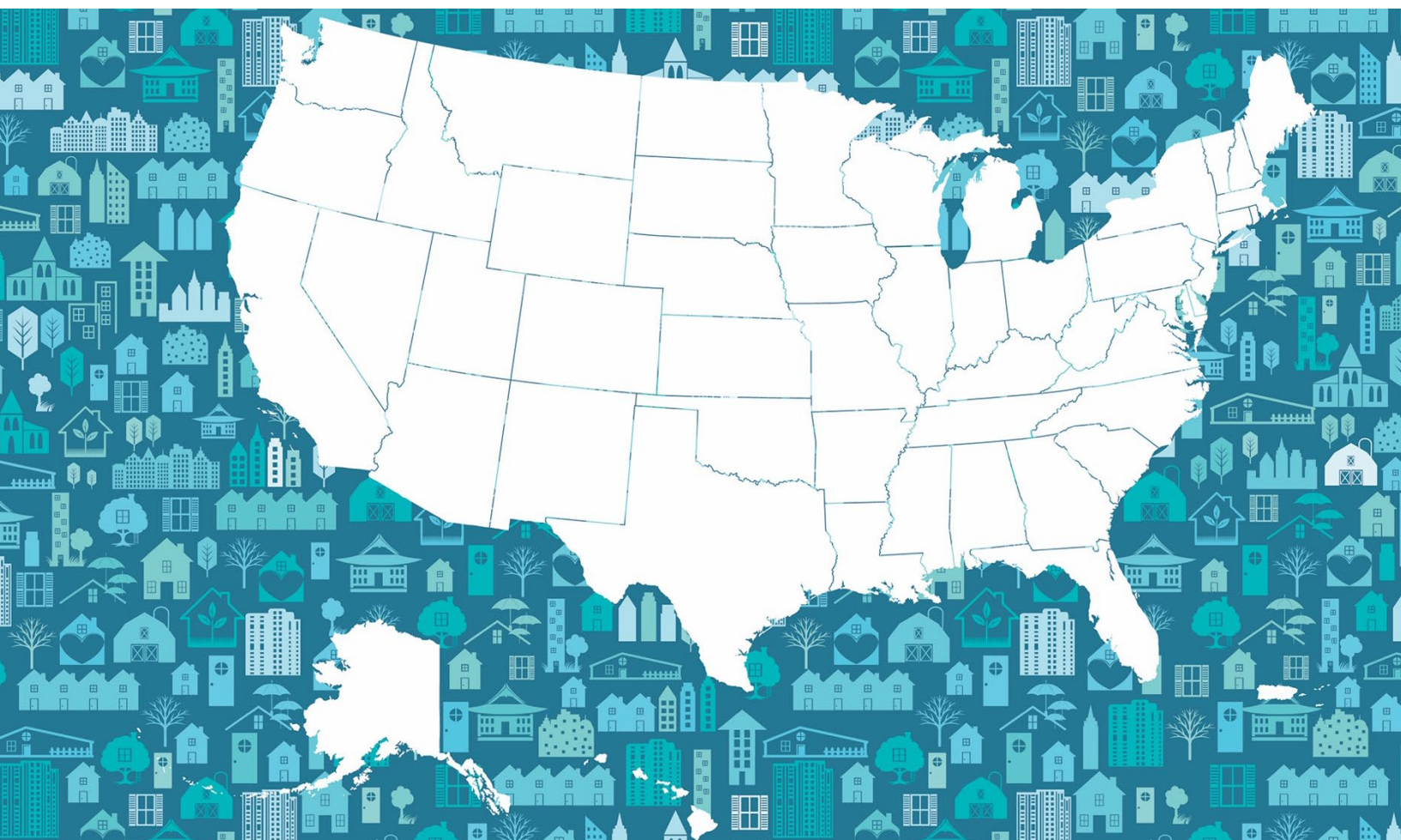


*July 2021 Update*

# NAA Policy Outlook Report

**Executive Briefing:** Trending Apartment Industry Concerns





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# Industry Outlook and COVID-19 Relief

Overall rent collections show signs of stabilization, although low-income renters still feel pandemic-related stress.

- MRI [reports](#) that credit card payments accounted for 27 percent of all electronic rent payments in April 2021, increasing by seven percentage points since April 2020.
- 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 June payments through June 13 at 91.5 percent in the Class A block of product and 90.7 percent in the Class B inventory.
- Collection levels are lower at 86.2 percent in Class C projects.
- Payments were received from more than 95 percent or more of the households in Providence, R.I; Miami, Fort Lauderdale, Tampa, and West Palm Beach, Fl; Salt Lake City, Ut; and Virginia Beach, Va; Cincinnati, Oh; and Austin, Tx.
- In contrast, rent has been collected from fewer than 88 percent of households in Milwaukee, Wi; New Orleans, La; Seattle, Wa; and Portland, Or.
- The largest declines in year-over-year payments are in Milwaukee (-7.1 percentage points), Portland (-5.4 points) and Seattle (-3 to -4 points).
- According to recent estimates,<sup>12</sup> by the end of Q2, there could be a collective \$26.6 billion in rent debt that has no federal rental assistance to cover it.
- In its [2021 State of the Nation's Housing Report](#),<sup>3</sup> Harvard's Joint Center for Housing Studies (JCHS) finds that housing cost burdens have moved up the income ladder. ["Seventy percent of renter households earning between \\$25,000 and \\$34,999 and nearly 50 percent of renters earning between \\$35,000 and \\$49,999 were cost burdened in 2019."](#)

Emergency rental assistance remains a critical resource, but distribution efforts are slow.

- Approximately 422 programs have been established to provide emergency rental assistance (ERA) for renters impacted by COVID-19.
- Visit [the National Council of State Agencies' \(NCSHA\) website](#) for updated statistics on the state programs.
  - Of the more than \$46 billion in ERA allocated by the federal government, state programs expect to pay more than 200,000 renters more than \$1 billion in assistance to cover back rent and utilities and avoid evictions and homelessness in July, [according to NCSHA projections](#).

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<sup>1</sup> <https://www.urban.org/urban-wire/many-people-are-behind-rent-how-much-do-they-owe>

<sup>2</sup> <https://www.globest.com/2021/05/10/apartment-owners-are-out-8b-from-missed-rent-payments-this-quarter/>

<sup>3</sup> NAA contributes to this flagship annual report, providing JCHS with information on new developments in housing policy, data, research and other insights reflecting our members' concerns, of which the Joint Center might not otherwise be aware.

- State programs provided approximately \$880 million to more than 130,000 renters by late June, according to data from state program administrators.
  - Disbursements of hundreds of locally-run programs, accounting for roughly one-third of ERA grantees, have not been tracked comprehensively.
- On June 24, 2021, the United States Department of Treasury (USDT) released another round of updated ERA [guidance](#) and [Frequently Asked Questions](#), including new recommendations on bulk processing and streamlining across local programs. Learn more [here](#).
- **Policy Outlook:** We continue outreach with Congress and the Administration to educate them on programmatic challenges that discourage housing provider participation and hinder the overall success of state and local programs that received federal monies. [Learn more](#) about the progress of NAA's COVID-19-related federal advocacy.

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

- The Biden Administration has [extended](#) the single-family foreclosure and eviction moratorium for all federally backed mortgages until July 31, 2021. The Federal Housing Finance Agency (FHFA) also [extended](#) multifamily forbearance until September 30, 2021 which comes with its own eviction restrictions during the repayment period.
- **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](#) and [pandemic risk insurance](#) for the industry.

## Major Threats to the Industry

The Centers for Disease Control and Prevention (CDC) announces the final extension of the federal eviction moratorium.

- The CDC [extended](#) its nationwide stay of evictions for covered persons through July 31, 2021.
- As part of its "whole of government" approach to support renters and homeowners affected by the pandemic, the [White House convened a summit on June 30](#) to promote eviction mitigation measures as both the White House and the CDC say the federal eviction moratorium will expire at the end of the month.
  - Following the public program, the White House facilitated a series of breakout sessions, featuring stakeholders from 50 cities to develop community-specific solutions. Industry leaders from NAA's affiliate network provided the housing provider perspective and brought balance to the advocacy discussions.
- With the growing legal precedent declaring the CDC Eviction Order unlawful, the future of the order remains uncertain.
  - [DC](#), [Texas](#), [Tennessee](#) and [Ohio](#) cases have built over the foundation of NAA's lawsuit. NAA is actively participating as amici or plaintiffs in a number of cases, including one in [Iowa](#).
  - The CDC also [faces another legal challenge](#), this time from the Florida Realtors.
  - In the DC lawsuit (Alabama Association of Realtors v. U.S. Dept. of Health and Human Services), the Supreme Court [denied the plaintiffs' emergency request](#) on June 29, which prevents protected evictions from moving forward. This means that a stay on the district





court judge's decision, vacating the CDC Order in its entirety, remains in place while the government's appeal makes its way through the judicial system.

- The [Consumer Financial Protection Bureau](#) (CFPB) and the [Federal Trade Commission](#) (FTC) [continue](#) their enforcement efforts against housing providers who violate the CDC Order.
- The CFPB also [warned](#) housing providers and consumer reporting agencies to report rental information accurately.
  - Hear [what industry experts had to say](#) in an NAA webinar about a number of important debt collection and consumer reporting topics.
- Congresswoman Maxine Waters (D-CA), Chairwoman of the House Committee on Financial Services, [announced](#) she sent letters to the nation's largest corporate housing providers and "top evictors" during the pandemic urging them to work with tenants to inform them of their rights and connect them with emergency rental assistance.
- **Policy Outlook:** NAA urges the Administration to let the federal eviction moratorium expire on July 31 and encourage more flexibility for grantees to speed up distribution of federal emergency rental assistance dollars. We also encourage directing more funding to housing subsidies for low- and moderate-income renters who need more time to recover from the pandemic.

The Biden Administration will ensure CARES Act 30-day NTV requirement will be enforced.

- The White House [announced](#) that HUD/FHA and USDA will ensure that no landlord whose underlying financing is backed by the federal government, purchased or securitized by Freddie Mac or Fannie Mae, or that is receiving assistance from the federal government may require a tenant to vacate their unit for non-payment of rent until 30 days after the landlord has provided the tenant with a notice to vacate in accordance with [Section 4024 of the CARES Act](#).
  - Also see HUD's [Office of Multifamily Housing Programs guidance, Question 25](#) and Office of Public and Indian Housing guidance, [EM1 on page 10](#).
- **Policy Outlook:** NAA maintains that Congress intended this notice requirement to be temporary as the CARES Act eviction moratorium, also in Section 4024, was a "temporary moratorium on eviction filings". Since 2020, NAA has worked towards a legislative solution.

States make major changes to eviction moratoriums in advance of the federal order's expiration.

- In Minnesota, Gov. Tim Walz has signed [HF. 4](#) aimed at drawing down the state's eviction moratorium.
  - Beginning on June 14, 2021, the plan will resume evictions for certain groups over the course of a 105-day 'off-ramp' style process.
  - Also under the plan, renters with pending applications for rental assistance (RA) would be protected from evictions until June 1, 2022.
  - The Minnesota Multi Housing Association expressed concerns over the pending application provision and worked with lawmakers to include amendments that would put a 30-day timeline on RA application decisions. The amendments were not agreed to by lawmakers.
- Gov. Jay Inslee of Washington announced the extension of his state's eviction moratorium to September 30, 2021.

- In his announcement, Gov. Inslee referred to the moratorium extension as a 'bridge' that will allow renters more timely access to eviction diversion services created under [SB 5160](#), like Washington's Eviction Resolution pilot program and Right to Counsel program.
- New legislation is headed to the desk of Gov. Kate Brown of Oregon that will halt evictions for renters awaiting rental assistance.
  - [Senate Bill 278](#) will provide a 60-day eviction moratorium for renters who can certify their application for rental assistance.
  - Last month, [Senate Bill 282](#) was signed into law extending the grace period for renters with outstanding rental debt until February 28, 2022 to repay their balance.
- Gov. Gavin Newsom of California has signed [AB 832](#) which extends the state's eviction moratorium until September 30, 2021.
  - The \$5.2 billion effort will replace the state's current rental assistance structure which reimburses housing providers for no more than 80 percent of overdue rent in exchange for rent forgiveness of the remaining balance. Under the new law, housing providers and eligible renters can apply for 100 percent coverage of overdue rent.
- **Policy Outlook:** With the federal eviction moratorium set to expire on July 31, state and local lawmakers will continue to weigh their options to ensure continuity of renter protections while providing date certainty for ending their own eviction moratoriums. NAA and its affiliates continue their work with lawmakers to develop equitable solutions that balance the needs of housing providers and renters.

## Affiliate Spotlight: New Jersey Apartment Association (NJAA) advocates for smart eviction moratorium off-boarding.

- New Jersey lawmakers have sent [S. 3691](#), ending the eviction moratorium for most renters, to Gov. Phil Murphy for signature.
  - Championed by NJAA, the bill would end the eviction moratorium for households earning more than 80 percent of the area median income (AMI) on August 31, 2021 with targeted protections for low- and moderate-income households until December 31, 2021.
  - Click [here](#) for more about NJAA's advocacy and how other states are drawing down eviction moratoria.

## The Administration makes good on its promise to strengthen fair housing protections through rulemaking.

- In June, the U.S. Department of Housing and Urban Development (HUD) published two fair housing rules in the Federal Register which reestablish Obama-era policies that were repealed and replaced during the Trump Administration.
  - The Rule [Restoring Affirmatively Furthering Fair Housing Definitions and Certifications](#) will take effect on July 31.
  - Comments for HUD's Proposed Rule, [Reinstatement of HUD's Discriminatory Effects Standard](#), are due on August 24.
- **Policy Outlook:**
  - We will continue to work with Congress and the Administration to make sure they understand how these fair housing policy changes 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 for renters.

- [Read about](#) recent efforts by the New Jersey Apartment Association and the Nevada State Apartment Association to protect the industry from onerous “Fair Chance Housing” legislation.
- **Policy Outlook:** 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.
  - At the federal level, we also 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.

## Bipartisan Action on Capitol Hill on Section 8 HCV Reform

- On May 20, 2021, Senators Coons (D-Del.) and Kramer (R-N.D.) introduced S. 1830 the “[Choice in Affordable Housing Act](#)”, bipartisan legislation that will increase resources and reduce programmatic barriers in the Section 8 Housing Choice Voucher (HCV) program to attract and retain robust housing provider participation in the program voluntarily. [Learn more.](#)
- The National Apartment Association proudly supports the bill and applaud both senators for their work. [Tell your senators to cosponsor this important piece of legislation.](#)

## Emerging Issues

### Affiliate Spotlight: IAA secures veto override, enacting law granting state legislature sole authority to regulate all landlord-tenant matters.

- On March 18, 2020, the Indiana General Assembly passed [a law](#) that would prohibit all municipalities from regulating the tenant screening process; security deposits; lease applications; leasing terms and conditions; disclosures concerning the property, lease, or rights and responsibilities of the parties involved in the landlord-tenant relationship; the rights of the parties to a lease; and, any fees charged by a landlord.
- On March 25, 2020, Governor Eric Holcomb vetoed the bill, disagreeing with the timing of the legislation amid a growing global pandemic.
- On February 17, 2021, the Indiana General Assembly overwhelmingly voted to override Governor Holcomb’s veto of the legislation, enacting the legislation into law immediately.



## 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”).
- Baltimore says NO to security deposit law. In June, Mayor Brendan Scott of Baltimore vetoed the City Council’s renters’ choice bill [citing](#) concerns over the proposal’s inclusion of security deposit insurance as a deposit alternative.
  - Mayor Scott’s decision was sustained when City Council refused to override the veto during a Council hearing last month.
- Currently, seven states have enabling legislation that allows housing providers to accept security deposit alternatives.
- At least four cities require that landlords accept security deposit alternatives, such as security deposit insurance and payments in monthly installments.
- **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.

## Housing is infrastructure.

- Negotiations continue over the size and scope of the federal infrastructure package during Congress’ Fourth of July recess.
- House and Senate Republicans have brought forward smaller proposals focused on traditional infrastructure, while Democrats’ plan calls for more than \$1.7 trillion in spending on both traditional and “social” infrastructure, like housing, the environment, elder care, and job training.
- The “pay-fors” are of critical importance to the rental housing industry as the proposed changes to tax policy will determine how the deal is funded. Some proposals impact the 1031 like-kind exchange, increase the capital gains tax, and place limitations on carried interest.
- **Policy Outlook:** Lawmakers have two hurdles to clear to achieve bipartisanship on infrastructure: (1) find compromise on defining infrastructure and (2) deliver smart policy solutions to pay for the deal.

## Keep up with NAA’s advocacy.

- Keep up with the progress of NAA’s federal advocacy on our new [timeline](#) and don’t forget to check out the newly updated [tracking map](#) which captures federal bills of interest to the industry as well as state-level housing policy trends. Local bill tracking coming soon!
- Tune into NAA’s Monthly Legislative and Regulatory Calls for the latest updates on federal, state and local housing policy changes. [Register today!](#)
- NAA is here to be a resource for our affiliate network! Watch NAA’s [“Understanding Grassroots Advocacy” Webinar](#) to learn more about how we can help with your next advocacy campaign.