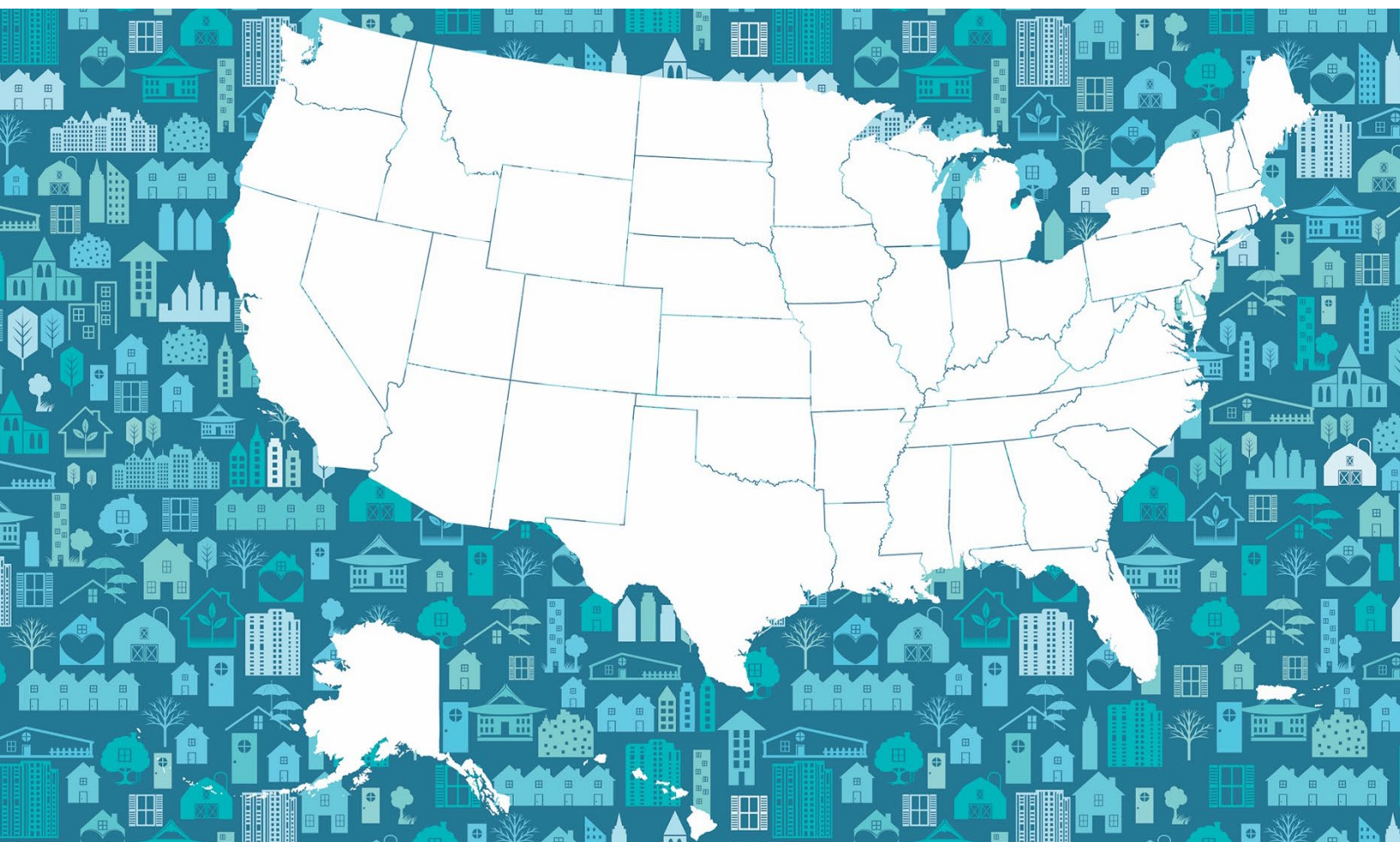


March 2021 Update

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
Industry scores a win against rent control, but threat remains.....	3
CDC Order ruled unconstitutional in Texas court. State legislatures consider their own eviction restrictions.	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
New OSHA Guidance sets the stage for workplace COVID-19 expectations.....	5
Should employers require vaccinations?	6



Industry Outlook and COVID-19 Relief

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

- MRI Software [reports](#) that credit card payments accounted for 26 percent of all rent payments in January 2021, increasing by five percentage points since January 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 February payments through the 20th at 91.5 percent in the Class A block of product and 91.6 percent in the Class B inventory.
 - Collection levels are lower at 85.1 percent in Class C projects.
 - Nationally, the share of households paying February's rent through the 20th is off by 2 percentage points since last year.
 - Payments were received from 96 percent or more of the households in Providence, Tampa, Fort Lauderdale, Virginia Beach, West Palm Beach and Miami.
 - In contrast, rent has been collected from fewer than 90 percent of households in New Orleans, Las Vegas, New York, Seattle and Baltimore. Rent payment levels in San Jose, Portland, Greensboro, Charlotte and Kansas City ranged between 90 to 92 percent.
 - The largest declines in year-over-year payments are in Portland (-7.9 percentage points), Seattle (-6.3 points) and San Jose (-5.6 points).
- Additionally, 30 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, 18 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.
- On February 22, the U.S. Department of the Treasury (USDT) released an [updated FAQ document](#) after receiving feedback from both industry representatives and advocates. The FAQs replace the version issued under the Trump Administration shortly before President Biden took office. These FAQs are intended for state and local grantees to use as they craft or refine their rental assistance (RA) programs in line with new federal requirements. Also, official guidance is expected to be forthcoming.
- While the new document did include an industry recommendation to allow residents to self-certify that they meet eligibility criteria, USDT did not provide guidance for housing providers applying for assistance on behalf of residents and are unable to retain written consent from the resident. NAA remains in conversation with USDT, as they continue to work with stakeholders on guidance and technical assistance.
- Congress is [considering](#) adding an additional \$20.25 billion in emergency rental assistance, \$5 billion for emergency housing vouchers, \$750 million for tribal housing needs, and \$100 million for rural housing. The bill also includes \$5 billion for homelessness interventions and long-term supports, \$9.96 billion for homeowner assistance, and \$100 million for housing counseling.

- Of note, \$1.2B of the emergency rental assistance is earmarked for communities deemed high need with large numbers of very low-income renter households paying more than 50% of their income towards rent or living in substandard/overcrowded housing. The AMI targets from December will still stand—preference for 50% AMI and below but an ability to go up to 80% AMI with income being certified on day of application.
- 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.
 - More rental assistance dollars are desperately needed to close the growing gap of tens of billions in rental debt that accumulated in 2020 and prevent additional rent-in-arrears from building this year.
 - 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.

- **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

Industry scores a win against rent control, but threat remains.

- Due to its advocacy efforts, the Washington Multi-Family Housing Association prevented [SB 5139](#), which would have limited rent increases in the state, from advancing out of committee. This is the third year in a row that NAA's affiliate has defeated rent control legislation. [Learn more](#) about the economic impacts this proposal would have had on Washington.
- Arizona Senator Marin Quezada has introduced a rent regulation bill, [SB 1611](#).
- New York Sen. Jamaal Bailey has introduced [S 03365](#), a bill to further cap the amount of collectible rent increases due to major capital improvements, which is already severely limited by the 2019 Housing Stability and Tenant Protection Act.
- 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. We expect the



effects of the pandemic on low-income renters to be a key argument in support of these measures.

CDC Order ruled unconstitutional in Texas court. State legislatures consider their own eviction restrictions.

- On February 25, Judge John Baker of the U.S. District Court, Eastern District of Texas [ruled](#) in Lauren Terkel et al. v. Centers for Disease Control and Prevention that the CDC eviction order is unconstitutional. There will likely be an appeal by which the CDC could stay this decision.
 - NAA is reviewing the decision in detail for its implications for rental housing owners and operators.
- Several states are looking to expand and extend their own eviction moratoria restrictions. 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.”
 - [Rhode Island](#), [Ohio](#), [Michigan](#), and [Maryland](#) are examples of states considering legislation that would accomplish this.
- New York’s legislature is again considering statewide just cause eviction legislation ([S 3082](#)), which includes a provision to prevent evictions when a renter defaults on rent because of a rent increase greater than 3%. The bill has 22 democratic cosponsors and sits currently with the Senate Judiciary Committee.
- Renters’ right to counsel and eviction diversion programs are 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.
 - Coronavirus relief funds are being used to operate these programs by a slew of jurisdictions.
 - Grantees that received federal emergency rental assistance funding can use a portion of their allocation to fund these types of activities, so expect the proliferation of these programs to continue.
- **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 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.
- On February 19, NAA hosted a webinar on emerging resident screening trends. A recording of the webinar can be found [here](#).
- **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").
- Columbus becomes the latest city to introduce such legislation.
- **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.

New OSHA Guidance sets the stage for workplace COVID-19 expectations.

- 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.
- OSHA delivered new workplace guidance for dealing with COVID-19 on January 29 which included the following:
 - Recommendations for the wearing of face coverings in workplaces;
 - Framework for mitigative measures that can be utilized in workplaces;
 - A reference of required reporting requirements for workplace illness;
 - and additional key measures on ensuring workforce safety.

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- President Biden has already made the wearing of face coverings on federal property mandatory, as well as require the wearing of face coverings on all public transportation and inside transportation hubs.
 - **Policy Outlook:**
 - Under President Biden’s executive order, OSHA is also required to determine the need for an emergency temporary standard (ETS) for COVID-19 protection in the workplace. An ETS would contain federal regulations enforced by OSHA inspectors.
 - An ETS circumvents the onerous procedures of the normal rulemaking process, allowing for faster deployment. However, the ETS eliminates the opportunity for public input in shaping the standard.
 - While the need or content of an ETS is yet to be determined, it is expected that many of the guidelines issued by OSHA would transition to federal requirements, including the mandatory wearing of face coverings and required health screening by employers.

Should employers require vaccinations?

- COVID-related safety efforts in the rental housing industry continue to pose a variety of challenges for employers, and the COVID-19 vaccine rollout means that the rental housing industry will have decisions to make regarding their approach to vaccine policies. Learn more about [NAA’s operational resources](#).