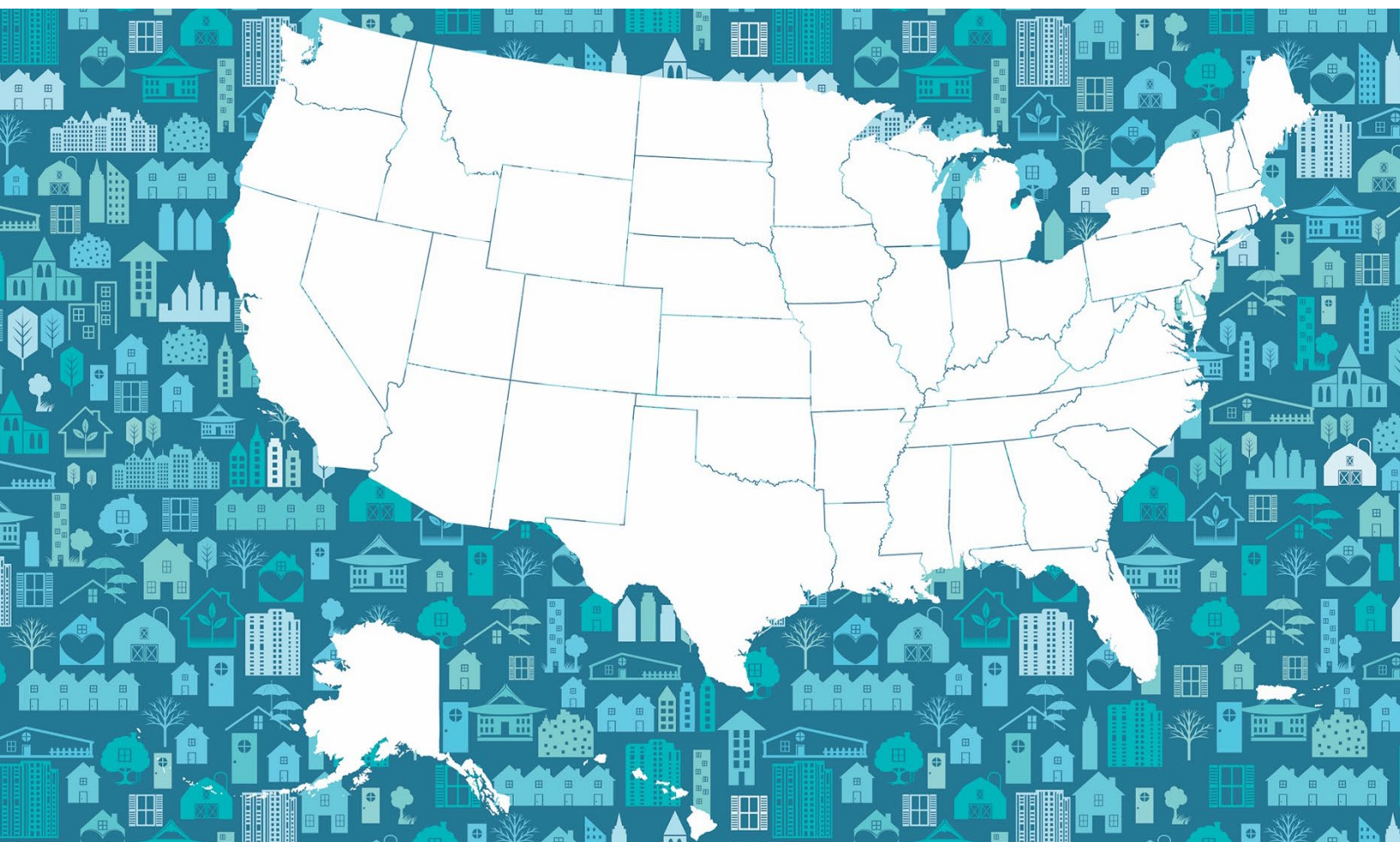


January 2022

NAA Housing Policy Outlook

Executive Briefing





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Industry Outlook

Apartment demand has been fueled by job growth, increased wages and limited affordable for-sale homes.

- **Demand:** Annual absorption reached a record-breaking 673,478 units, far outpacing new deliveries which totaled 358,734 units.
- **Occupancy:** Occupancy increased 0.2 percentage points from Q3 2021 to 97.4%, marking the first time occupancy has increased during the fourth quarter.
 - Raleigh-Durham, N.C.; Louisville, Ky.; Charleston, S.C.; San Antonio and Washington, D.C. were among the strongest markets for occupancy growth year-over-year.
 - Meanwhile, Lexington, Ky.; Tacoma, Wash.; Palm Beach, Fla.; Kansas City, Mo., and Minneapolis saw the highest increases in vacancy.
- **Rent Growth:** Effective rent soared to \$1,629, increasing 15.5% since Q4 2020.
 - Jacksonville, Tampa and Palm Beach led the U.S in rent growth, posting nearly a 30.0% increase from a year earlier.
 - Whereas, Lexington, Ky., Minneapolis and San Jose, Calif., were the markets to see rent growth below 5.0%.
- **Construction:** Multifamily construction starts in 2021 totaled 524,000 units, a sizeable increase of 56.0% since December 2020. Multifamily building permits increased by 41.8% to 675,000 units.
- **Permits:** The leading markets for permits issued in 2021 through November 2021 included New York City (37,165 units); Dallas (24,473 units) and Austin, Texas (23,036 units); Seattle (18,263 units) and Los Angeles (16,508 units).
- **Capital Market:** Apartment investment sales volumes totaled \$129.3 billion during the fourth quarter, increasing 70.4% year-over-year.
 - Dallas (\$21.9B); Los Angeles (\$18.5B), Atlanta (\$18.3B), Phoenix (\$16.4B) and Houston (\$15.3B) ranked as top markets by sales volume in 2021, as investors have generally shifted capital away from core coastal markets and into the Sun Belt region.

Major Legislative & Regulatory Challenges


Rental assistance distribution kicks into high gear, yet room for improvement exists.

- State and local grantees established [more than 500 programs](#) to distribute \$46.5 billion in federal emergency rental assistance (ERA) to renters and housing providers impacted by COVID-19.
- According to the [latest reporting data](#) from the U.S. Department of Treasury (USDT), programs have paid out more than \$16 billion in rent and utility payments for households in need, as of November 30.
 - USDT expects reporting through the end of 2021 to show that between \$25 to 30 billion was spent or obligated.
- Now the focus is shifting to USDT's recapture and reallocation process for excess funds.

- Several programs with the largest need [ran out of money](#), and the system to award the first round of reallocated ERA 1 funds fell far short of expectations.
- Beneficiaries in a handful of states (e.g. AZ, IN, GA, LA, NE, TN, WI) [reaped significant benefits](#) from voluntary in-state transfers, totaling more than \$875 million, while grantees from the rest of the country [split proceeds](#) from the \$240 million general fund.
- USDT now begins the process to award the second round of ERA 1 reallocations to applicants and will be required by statute to begin the process for ERA 2 reallocations by March 31, 2022.
- **Policy Outlook:**
 - NAA tirelessly advocated for the ERA grant program. It has been a critical lifeline to keep residents affected by COVID-19 safely housed and ensure unpaid debt will not jeopardize the long-term stability of the rental housing industry.
 - We strongly support enhancements to expedite ERA application and distribution processes. The requirement for housing providers to get resident approval of applications is particularly problematic.
 - Keep in mind that the Urban Institute is [encouraging scrutiny of housing providers](#) who refuse to accept rental assistance using source of income laws.

Federal policymakers continue to scrutinize eviction practices.

- The U.S. Department of Justice (DOJ) and the Consumer Financial Protection Bureau (CFPB) step up enforcement to protect military tenants.
 - Last month, DOJ and CFPB [sent joint letters](#) to rental housing providers & mortgage servicers reminding them of servicemembers and their dependents' rights in housing per the Servicemembers Civil Relief Act.
 - Expect heightened scrutiny from DOJ. CFPB also is engaging in this area as they see intervention is necessary to protect consumers.
- The U.S. Department of Housing and Urban Development (HUD) awarded \$20 million for eviction protection and diversion.
 - HUD held a stakeholder briefing announcing the recipients of its Eviction Program Grant (EPG) program ([ten non-profit legal service providers](#)) and that they intended to announce the names of top evictors in program reporting.
 - NAA engaged with HUD staff to discuss concerns over elements of the EPG and where our expertise can align on the industry's policy priorities including housing affordability, barriers to housing development, and housing choice vouchers.
- Expect continued enforcement of the CARES Act 30-day NTV requirement.
 - Since 2020, NAA has worked towards a legislative solution. Congress intended this notice requirement to be temporary as the CARES Act eviction moratorium was a "temporary moratorium on eviction filings". Federal agencies are now finding ways to make this federal overlay on eviction laws permanent.
 - Effective November 8, 2021, HUD's [interim rule](#) requires housing providers whose properties benefit from project-based rental assistance to provide their residents with a 30-day notice to vacate (NTV), including information about available federal ERA, prior to filing for eviction due to nonpayment of rent. [Here's what you need to know about the rule.](#)

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- Remember [HUD's eviction guidance](#) reiterates the agency's position on the responsibility of "covered landlords" to provide a 30-day NTV for evictions due nonpayment of rent.¹
 - FHFA [requires](#) multifamily borrowers to provide a 30-day NTV to residents who live in multifamily properties with mortgages backed by Fannie Mae or Freddie Mac (the Enterprises) and are being evicted due to nonpayment of rent. This is applicable to all Enterprise-backed multifamily properties, *regardless of whether the loan is in forbearance*.
 - FHFA also clarifies that as part of its efforts to offer multifamily forbearance until further notice, *at least* a 30-day NTV [is required](#) during repayment.
 - Join the NAA lawsuit to recover eviction moratorium losses.
 - [This is your opportunity to help the industry](#). Share information about the lawsuit including [this flyer](#) with your organization's leadership, industry partners, and colleagues to help spread the word. Encourage more owners to join.
 - **Policy Outlook:**
 - Given the growing interest in corporate landlords' business practices, single family rentals are now under a microscope.
 - Senator Elizabeth Warren (D-Mass.) [sent letters](#) to the CEOs of three private equity-backed firms, requesting detailed information about company business practices to determine whether they "have been taking advantage of the housing shortage to pad their pockets while raising housing costs, hiking up fees, and evicting Americans during the pandemic."
 - The Senator's reporting also alleges that renters in properties managed by these firms have been subjected to excessive fees and evictions during the pandemic.
 - Despite startling headlines throughout the pandemic, an eviction tsunami never came to pass. Clearly, housing providers' efforts to help their residents throughout the pandemic made a significant impact.
 - [Five Thirty Eight](#) confirms what the industry suspected about the Aspen Institute's assessment which initially set off alarm bells: "[W]hat we can say in hindsight is that a figure of 40 million evictions was likely far too high. That's because the data used for this estimate and several other early predictions was a poor barometer of likely evictions."
 - We remain concerned about [data collection of "informal evictions"](#) as this information contributes to an inaccurate portrayal of the eviction process in the public dialogue and drives support for harmful changes to eviction policy.
 - Eviction moratoria and other measures that interfere with lawful evictions should not be used as housing stability solutions. Instead, housing policy should focus on simplifying the process to develop and rehabilitate rental housing and more robust investments in housing subsidy programs.
 - [Read our analysis of whether congressional inaction will spark a federal eviction moratorium restart](#).

¹ Also see [HUD's Office of Multifamily Housing Programs guidance, Question 25](#) and [Office of Public and Indian Housing guidance, EM1 on page 10](#).



Rent limitations gain momentum amidst COVID-19 drawdown.

- Saint Paul, MN Mayor Carter [plans to convene](#) a group of citizen stakeholders in the coming weeks to make recommendations to their 3% rent stabilization ordinance before it goes into effect in May.
- City councilmembers in Minneapolis, MN, [deliberated moving forward](#) with a rent control law in January. Five of the thirteen members expressed their support of a 3% annual rent cap which provided for inflation increases.
- The Massachusetts Joint Committee on Housing held [a hearing](#) on January 11 to discuss and take public comment on two bills which would revoke the state's preemption of rent control.
 - NAA CEO and President Bob Pinnegar provided [written testimony](#) in opposition to this legislation and Paula Munger, NAA's AVP of Industry Research and Analysis, joined virtually to share [original research](#) on the consequences of rent control in MA and Boston.
 - Boston, MA Mayor Wu [will convene](#) an advisory group to explore the creation of a rent control program in the city. This would require a change in state law which preempts local rent control.
 - As lawmakers in Boston and around the country increasingly consider short-term solutions like rent regulation, [NAA, alongside its affiliate partners like the Greater Boston Real Estate Board \(GBREB\), is committed](#) to advocating against these measures and rather for responsible remedies that ultimately address the nation's housing affordability crisis.
- The St. Petersburg, FL, [city council voted](#) 6-1 to consider pursuing a rent stabilization ordinance.
 - Due to state law limitations, the city council would have to declare a housing emergency, vote for a specific ordinance which would help that emergency, and call for a public vote on the ordinance.
 - The city is waiting to hear whether rising rent prices could legally constitute a housing emergency.
 - The neighboring city Tampa's city council [plans on holding](#) a workshop to discuss housing issues and rent control in February of 2022.
- **Policy Outlook:** Rent control proposals are [expected to increase](#) as eviction restrictions are set to expire. NAA will continue to work with members and affiliates in impacted jurisdictions to curb the proliferation of rent control proposals and their impact on the rental housing industry.
 - [Keep up with the public dialogue around rent control and discover our early warning system for local legislation.](#)

Efforts continue to remove resident screening barriers.

- CFPB's Regulation F which interprets the Fair Debt Collections Practices Act (FDCPA) goes into effect after several years of preparation. The complex rule largely governs third-party debt collections agencies and covered attorneys collecting past due rental obligations, with limited impact on their property manager clients.
 - The rule is worth reviewing to ensure that the agency and property managers are properly aligned on processes for debt documentation, itemization and dispute handling. [Here's what you need to know about Reg F.](#)
- CFPB also issued an advisory opinion to consumer reporting agencies (CRAs) asserting that name-only matching procedures were no longer in compliance with the Fair Credit Reporting Act (FCRA).

- Name-only matching identifies subjects of consumer reports by name only, not additional personally identifiable factors.
 - We remain concerned about the exclusion of publicly accessible databases, such as PACER, which operate name-only search engines and importantly are utilized in resident screening.
- Senate Banking Committee Chair Sherrod Brown wrote to CFPB Director Rohit Chopra to address resident screening companies regarding potential discrepancies that prohibit people from obtaining rental housing. Browns [letter](#) urges Chopra to request "... information about the pricing and marketing of tenant screening reports"
- **Policy Outlook:** Expect continued scrutiny of federal, state, and local consumer reporting and resident screening laws. While efforts, thus far, have targeted CRAs, policymakers at all levels of government are challenging housing providers' ability to evaluate applicants based on criminal, eviction, and credit history. Lawmakers also question the legitimate business need to evaluate immigration information.

NAA supports bipartisan action on Capitol Hill to improve Section 8 HCV.

- Senators Coons (D-Del.) and Cramer (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](#).
- **Policy Outlook:**
 - 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](#).
 - We are working with members of the House Financial Services Committee to secure companion legislation to the Coons/Cramer bill.

Emerging Issues

White House terminates workplace vaccination standard.

- The Biden administration has [announced](#) its intention to withdraw its shot-or-test rule effective Wednesday, January 26, 2022, after the United States Supreme Court concluded that the Occupational Safety and Health Administration exceeded its statutory authority in issuing the rule.
- **Policy Outlook:** While there is no longer any requirement to follow OSHA's standard, remain alert. OSHA may continue to advance the rule through notice-and-comment procedure. State agencies could take action as well.

Push to expand broadband access could impact the industry.

- On January 21, Federal Communications Commission (FCC) Chairwoman Jessica Rosenworcel [issued a press release](#) highlighting a draft order, intended to promote competition and choice for broadband in apartments and office buildings. It would impact interactions between broadband providers and property owners and managers:
 - Prohibiting graduated revenue share agreements.
 - Clarifying that sale and leaseback wiring agreements are not allowed.
 - Requiring broadband providers to disclose to a renter/customer whether an exclusive marketing arrangement is in place with an owner/manager.


- NAA and NMHC also successfully ensured that multifamily properties are explicitly eligible for the \$42.5 billion broadband deployment fund in the Bipartisan Infrastructure Package.
 - Funds will be used to deploy or upgrade broadband at low-income communities. The Program will be implemented by the National Telecommunications and Information Administration (NTIA) and sent to states for allocation. NAA and NMHC will file comments with the NTIA in early February.
- **Policy Outlook:** We continue to urge Congress to accelerate broadband deployment and modernization in communities across the country, including at existing multifamily properties. Regulation should encourage broadband competition and efficient investment, which benefits residents.

FinCEN plans major regulatory overhaul of business reporting requirements.

- The Financial Crimes Enforcement Network (FinCEN) announced three rulemaking procedures:
 - An [Advance Notice of Proposed Rulemaking \(ANPRM\)](#) to solicit public comment on a potential rule to address money laundering and illicit activity risks in all-cash real estate transactions.
 - A [Notice of Proposed Rulemaking \(NPRM\)](#) to implement the beneficial ownership information reporting provisions of the Corporate Transparency Act (CTA).
 - A [request for information \(RFI\)](#) seeking comments on ways to streamline, modernize, and update the AML regime of the United States.
- **Policy Outlook:** FinCEN's NPRM will have greatest impact for the multifamily industry as it will mandate virtually every business entity, with the exception of 23 exempted business structures, to disclose beneficial ownership information. NAA will provide comment to FinCEN as to how best promulgate rules that reduce the administrative burden placed on businesses.

Housing is infrastructure.

- Congress has passed, and the President has signed, the bipartisan *Infrastructure Investment and Jobs Act*.
 - The more than \$1 trillion legislation [includes new investments](#) in the nation's roads, bridges, rail and transit systems, waterways, and broadband infrastructure over five years.
 - In addition to the importance of upgrading our nation's roads, bridges, and other transportation infrastructure, NAA has been advocating for housing's inclusion in infrastructure legislation, urging members of congress to include a housing component in the final bill.
 - The bill directs substantial funding for programs aimed at increasing the resiliency and sustainability of the nation's housing infrastructure and includes billions of dollars for programs like broadband deployment, weatherization, flood mitigation, and building energy efficiency,
- **Policy Outlook:** The investments made in the *Infrastructure Investment and Jobs Act* aim to ensure that housing remains ready to withstand climate and financial-based risk. With the passage of this bill, Congress has recognized that, as NAA has been articulating, housing and infrastructure are inextricably linked.
- Thank you to all NAA advocates who took action on the *Promoting Affordable Housing Near Transit Act* grassroots campaign. Thanks to your advocacy efforts, the *Promoting Affordable*



Housing Near Transit Act passed Congress as part of the 2022 National Defense Authorization Act and was signed into law by President Biden on December 27, 2021.

- The Act, proudly supported by NAA, will help address the ongoing affordability crisis across the country.

Keep up with NAA

Keep up with the progress of NAA's federal advocacy.

- Follow along in real time on our new interactive real-time policy tracking maps.
 - [NAA Federal Legislative Tracker](#)
 - [NAA State Legislative Tracker](#)
- Tune into NAA's Monthly Legislative and Regulatory Calls for the latest updates on federal, state, and local housing policy changes. [Register today!](#)
- Visit [NAA's Advocacy Action Center](#) to learn more about NAA's advocacy programs, view advocacy resources, and learn how to be an effective advocate for the industry!
- 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.