

NAHB | SB 5961 (WA) Rent Control | ANALYSIS

Senate Bill (SB 5961) is an act that will limit rent and fee increases, requiring a notice of rent and fee increases by the landlord to the tenant, limiting fees and deposits a landlord can charge, establishing a landlord resources center and associated services, authorizing a tenet least termination, allows attorney general to enforce, makes several amendments to the code sections, and adds a new section to Chapter 59.19 and 59.20 that includes penalties and declaring emergencies. Companion legislation is currently pending.

BACKGROUND:

Rent control has existed in the United States since the early 1920s. During World War II, there was large economic growth in urban areas, and in that decade, rent prices increased due to the influx of people moving into cities. The 1920s rent control policies mainly focused on placing price cap ceilings on the price of the rental unit and fluctuated based on standard of living increases. As time progressed, cities experienced population growth but simultaneously produced more housing. Because of this, rent control regulations were eased.

Rent control has two generations of policies. The first generation of rent control in the 1920s contained a “price freeze” that placed ceilings on how much a landlord could increase rent. The second generation was a set of policies passed in the 1970s that focused on certain types of buildings versus all rental property stock.

In the 21st century, rent control has become a popular political tool during election years. Interestingly, even though the idea of rent control has been popular among tenant groups, only seven states - California, New York, New Jersey, Maryland, Maine, Oregon, Minnesota, and Washington, D.C. - have policies passed some sort of rent control law.

Currently, 37 states either preempt or prohibit any rent control policies in their states or localities. A study by Kenneth Rosen, an economics professor at UC Berkeley, shows that while controlling apartment rents can help in the short term, placing price ceilings reduces housing supply over time.¹

¹ <https://www.nahb.org/-/media/NAHB/advocacy/docs/top-priorities/housing-affordability/rent-control-case-study-090820.pdf>

THIS BILL:

SB 5961 is rent control legislation that will cap rent and fee increases, require notices, limit fees, and deposits, authorize tenant lease termination, and create a landlord resources center.

Further, the measure adds new sections to chapters 59.18 and 59.20 under the Revised Code of Washington (RCW).

The legislative bill cites that Washington is home to 900,000 renters and that over 75% of Washingtonian renters have reported an increase in their rent of more than \$100 and 9% of those renters have experienced a rent increase of more than \$500. For these reasons, the legislature has brought forth this measure.

New Section: Section 101:

- New section that is being added to Chapter 59.18 of RCW.
- This section states that a landlord may not increase the rent and fees combined for any type of tenancy, regardless of whether the tenancy is month-to-month or for a term greater than month-to-month.
 - If the landlord increases the rent and fees, they must include facts supporting their claimed exemptions in the written notice of rent increase.
- A landlord who neglects and violates this section, will be liable for the following:
 - Damages any excess rent, fees, or other costs paid by the tenant.
 - Mandatory damages equal to three months of any unlawful rent, fees, or other costs charged by the landlord, and
 - Reasonable attorney fees and costs incurred in bringing the action.
- The remedies provided by this section in addition to any other remedies provided by law, including the remedies provided for in section 104 of this act.
- It is a defense to an eviction or other legal action that the action to remove the tenant and recover possession of the premises was for nonpayment of rent or fees that were unlawfully increased in violation of this section.
 - *In other words, you cannot evict a tenant if the tenant believes their rent increase was not lawful. The difference unpaid can be voided and the landlord can't evict the tenant.*
- A landlord may not report the tenant to a tenant screening service provider for failure to pay rent or fees that were unlawfully increased in violation of this section.
- A local government may adopt policies, ordinances, or other regulations to enforce this act.

New Section: Section 102:

- A landlord may increase rent and fees combined in an amount greater than allowed under section 101 of this act only as authorized by the exemption described in this section.

- If the first certificate of occupancy for the dwelling unit was issued 10 years or less before the date of the notice of the rent increase, rent and fee increases for the dwelling unit are not limited by section 101 of this act.

New Section: Section 103:

- A landlord must provide a tenant with annual notice of rent and fee increases in substantially the following form.
 - To Tenant (s): Tenant Names
 - At Address where the tenant lives
 - **Rent and Fee Increase Note to Tenants**
- Rent and Fees combined can be increased up to 5% every 12 months in the State of Washington under this new section.

New Section: Section 105:

- Creates an online landlord resources center under the authority of the Department of Commerce.

Concerns:

The major concern is that, typically, rent control laws do not work and will not keep the market price low. For example, once an individual moves out of the apartment, the rent is automatically adjusted to the market rate. In states with rent control laws such as California, rent prices have increased and landlords who may have not increased the rent historically on the tenant are now forced to do so because of the limitations placed on them. In California, after the passage of rent control bills, more than 60% of the rental property that had gone back into the market 12 months after had doubled, and in comparison, to two years before that tripled. ²

One study by the Brookings Institute states that while rent control helped current tents in the short run, in the long run, renters faced a decrease in affordability, fueled gentrification, and created negative spillover in the neighborhoods. ³

One study from the Manhattan Institute states that rent control doesn't create affordability but restricts the supply of housing and that owners don't invest in the upkeep of the property. Further, the key findings of the study were that rent control decreased supply, created a waitlist in some rent-control housing for decades, and further, benefited the white population in New

² <https://www.brookings.edu/articles/what-does-economic-evidence-tell-us-about-the-effects-of-rent-control/>

³ <https://turnercenter.berkeley.edu/wp-content/uploads/2022/09/AB1482-Brief-Final.pdf>

York City in comparison to black or Hispanic tenants in the city. Rent control benefited higher-income households versus those in low income since rent control affects price increases.⁴ In theory, what the legislation tries to accomplish is to help low-income households, but it simply prices out those households.

ARGUMENTS of SUPPORT:

Rent control legislation helps tenants who are currently in their rental property. It caps the amount a landlord can increase yearly, requires the landlord to provide an adequate amount of time to notify the tenant, and protects the tenant during their lease period.

The tenant can live in the leased property without fear of being evicted by the landlord. Further, the tenant has protections in place that if an owner increases the cost of the rent after the lease is over—the rent increase becomes minimal, if the rent increase is found to be higher than the allowed percent increase, the tenant is not obligated to pay that increase. This gives flexibility to the renter and can place ease when the renter can be worried about making the payments, especially with the fear that their rent may go up once their lease expires.

ARGUMENTS of OPPOSITION:

Rent control doesn't work. Studies have shown that rent control priced out individuals who were low-income versus those who were middle-class out of the rental market. Rent control may work for a short term of the duration of 12 months, but once the tenant leaves the unit, the price increases based on the market value.

Further, rent control pushes less rental stock in the rental market since many home owners are afraid that most rent control policies are not homeowner-friendly which in turn increases the cost of housing costs. To achieve affordable housing, it is essential to increase the opportunity to build more housing. If history has taught us anything, from the 1920s to the 1950's, housing rent control policies changed because more housing was being built, which meant more housing stock helped keep the rental prices stable. In fact, in the 1950s increase in building more housing, rent prices became stable in major cities, and elected officials did not pursue rigorous rent control policies but instead focused on helping low-income families in areas that traditionally had low-income housing and units in part of programs like Section 8.

⁴<https://manhattan.institute/article/issues-2020-rent-control-does-not-make-housing-more-affordable>



SIMILAR LEGISLATION/CURRENT LAW:

States that Preempt Rent Control:

- There are 33 States that Preempt Rent Control in their States:
 - WA, ID, MT, UT, AZ, NM, CO, ND, SD, KS, OK, IA, MO, AR, LA, WI, OH, KY, TN, MS, AL, GA, FL, NC, SC, NH, MA

Rent Control at the Local Level

- New York, Maryland, DC, Maine, New Jersey, Minnesota, Connecticut

Rent Control Statewide and at the Local Level:

- California

Rent Control Statewide/ Local Preemption:

- Oregon

POTENTIAL SUPPORT:

Rent control advocates, teacher unions, and labor unions

POTENTIAL OPPOSITION:

Building Industry Association of Washington, Washington Chamber of Commerce, Washington Association of Realtors