Rent regulation

Overview

Rent regulation policies protect tenants from sharp increases in housing costs by regulating the amount that rents can be raised from year to year.

In cities, towns, and counties where it exists, rent regulation applies to a subset of the housing stock (typically older housing units). In regulated units, annual increases while a tenant remains in the unit are typically limited by a formula or set of criteria related to costs. The rent can also rise based on investments made in the property to improve unit or building conditions. When a tenant moves out of a regulated unit, the rent is also typically allowed to rise more than it can when a tenant stays in place (and in some cases it is permitted to rise to market levels). Rent regulated units do not come with means testing, meaning that tenants are not selected based on their income or assets. In most cases, there is no government subsidy provided to compensate the owner for the loss of rent revenue associated with the restricted units.
Approach

A rent regulation policy must provide a mechanism for determining the cap on rent increases that a landlord can impose in a particular year. This mechanism typically consists of two components. The first sets a cap on the maximum amount by which the landlord may raise rent in a year. This cap is typically determined by a board or agency according to a given set of criteria, and is often based on changes in the Consumer Price Index (CPI), though different mechanisms are used in some jurisdictions to determine increases based on operating costs.

A second component may allow for additional increases in such cases as vacancy when the rent may be allowed to rise to market. Also, landlords that invest in improvements to a particular apartment or make major capital improvements to the building may be permitted to raise the rent above the annual base cap.

While the primary concern of rent regulation laws is rent increases, many rent regulation laws also include other tenant protections, such as just-cause eviction requirements and a right to lease renewals.

There is considerable controversy around the topic of rent regulation. Proponents claim that it helps low-income tenants stay in their homes, while critics charge that it discourages investment in housing. Economists Rebecca Diamond, Timothy McQuade and Franklin Qian recently completed a paper that sheds new light on the question. They show that while rent regulations clearly help low-income tenants who are able to find regulated apartments, they worsen the affordability crisis in the long-term, as landlords are incentivized to pull their properties off the rental market, shrinking the overall supply of rental housing.

Exploiting a natural experiment in San Francisco, Diamond et al find that the tenants who benefited from the law were between 10 and 20 percent more likely to remain at the same address, compared to their counterparts in the non-rent controlled buildings. But the researchers also find that rent-controlled properties were 10 percent more likely to be converted into condos or dramatically renovated, making them exempt from rent control. Other landlords avoided the regulations by moving into the property themselves or buying off tenants. As a result of these landlord actions, rent-controlled buildings saw a 15 percent greater decline than comparison buildings in the number of renter residents between 1995 and 2012. They estimate that rent regulation reduced the overall supply of rental housing in the city by 6 percent, and increasing rent in San Francisco by 5.1 percent in the time period examined.

Similarly, Brian Asquith (2018) also examines rent control in San Francisco and finds that rent control increases the rate of no-fault evictions as rents rise, as landlords have
an incentive to turnover units to reset their rents to market levels, as the city’s rent laws permit.

**Coverage**
Most cities with rent regulation policies only cover multifamily buildings and only those already in existence when the restrictions are imposed. “New construction,” i.e., residential buildings built after the local rent control scheme was passed, is often exempted along with smaller homes so as not to discourage new construction.

**Eligibility**
Rent regulation policies typically do not include any tenant eligibility criteria. Only those units subject to the regulation (defined in the rent regulation laws) and the tenants living therein receive the benefits of the regulation. A criticism of rent regulation schemes is that they do not target benefits based on any measure of need.

**Other considerations**
- **Impact on investment.** When rent regulation results in landlords charging rents that are below what the market would otherwise allow, the policy can have the effect of discouraging investment. A landlord may be less willing to invest in building improvements if he or she cannot realize the benefit of those investments by charging substantially higher rents. As a result rent regulated units may not be maintained as well as market rate units. In situations where the rent is particularly low, rent regulation can also run the risk of leaving a landlord with less income than he or she needs to operate the building. If rent regulation extends to newly built units, it would likely also affect investment in those properties, which could have the effect of reducing housing supply overall. Many rent regulation laws allow rents to be raised when owners make an investment in the property to reduce the disincentive to make such investments.

- **What happens at vacancy?** Rent regulation policies typically do one of two things when an existing tenant moves out: they allow the rent to rise to the market rate rent (note, California’s Costa-Hawkins Act requires this) or they allow a larger increase than the increases allowed during a tenancy. The choice about what happens at vacancy can result in dramatically different policy outcomes. In a city or neighborhood where rents are rising quickly, allowing the rent to rise to the market rate only upon vacancy protects existing tenants, but does little to pass along the affordability of the unit from tenant to tenant. But, such a policy may mitigate the potential impact on investment addressed above. While a policy that allows only for a modest rent increase between tenancies does help to preserve the affordability of the unit over time. For more information on California’s rent control law, see the LA
Curbed Article here.

- **Incentive to harass.** When rent regulation schemes allow landlords to increase the rents they charge for a particular unit to market rate (or a substantial amount) upon vacancy, there is an incentive for landlords to take aggressive measures to try to get tenants to move out. To address this negative incentive, many municipalities have included “just-cause” eviction provisions with their rent regulation laws, requiring landlords to demonstrate a valid reason for evicting a tenant. Similarly, some municipalities regulate tenant buyouts—the process by which a landlord offers a tenant a sum of money to voluntarily move—to ensure that they are not offered in ways that are unfair or deceptive and that tenants are aware of their rights.

- **Succession rights.** Succession rights control the ability of a rent regulated tenant’s family members to take over the lease for the apartment when the primary tenant dies. Jurisdictions will have to determine when succession is permitted and what relationships trigger succession rights. Typically, succession rights only apply if the family member in question has been living in the unit with the primary tenant.

- **State law prohibitions.** For localities interested in implementing a rent regulation system, it is crucial to consider the state law context. Most states in the U.S. have laws on the books that prevent localities from imposing rent regulations. As of 2018, local rent regulations only exist in the District of Columbia and jurisdictions in four states (California, Maryland, New Jersey, and New York).

- **Controversy.** There is considerable controversy around the topic of rent regulation. Proponents claim that it helps low-income tenants stay in their homes, while critics charge that it discourages investment in housing.

**Examples**

- **California** passed a statewide cap, limiting annual rent increases to 5% after inflation for most tenants, the boldest step yet to address an affordable housing crunch that has helped push people into the streets. The legislation creates “a statewide standard that will put more than 95 percent of multifamily units under a consistent and uniform rent standard.” Click here to read more about the bill. (Click here for a PDF version.)

- **New York State** passed sweeping rent regulation reforms for New York City, and its surrounding counties, that maintained and strengthened the city’s existing rent stabilization laws. The new set of regulations limits Major Capital Improvement bonuses to a 2% rent increase (down from 6%) and mandates that the value of Major Capital Investments, along with Individual Apartment Improvement increases, expires after 30 years. The bill also ends high-rent vacancy deregulation, as well as the 20% “vacancy bonus” (which allowed landlords to raise rents when a tenant moved out).
San Francisco, CA has one of the most expansive rent control policies in the country, covering all rental units except for “new construction” units from after 1979 and a few other classes of residences, such as HUD housing projects, residential hotels, dormitories, and single family homes, among others. In San Francisco, landlords can only raise a tenant’s rent by a set amount each year that is tied to inflation, but can petition for other increases, such as capital improvements that can be passed through to the tenant (subject to an annual cap). These rent increases must be documented and approved by the Rent Board before they can be imposed. San Francisco also allows landlords to “bank” annual increases and impose them in later years. Also bundled with the rent regulation law is a “just cause” eviction policy and a regulation of buyout agreements to protect tenants and keep any negotiations or agreements fair and transparent. San Francisco Rent Board, Fact Sheet 1 – General Information, (undated).

Washington, DC employs a similar set of policies to that of San Francisco. D.C.’s rent regulation applies to multifamily buildings built after 1975. Landlords may increase the rent in covered units by a maximum of CPI plus 2%, or by CPI only for elderly tenants and people with a disability. Upon vacancy, rather than automatically allowing landlords to raise rents to market level when a tenant moves out of a unit, a landlord can only raise the rent by 10% or to the price of a comparable unit, but no more than 30%. D.C. also grants tenants the right of first refusal should a landlord choose to sell a rental building. Washington D.C. Department of Housing and Community Development, What You Should Know About Rent Control in the District of Columbia, (undated).

Oregon became the first state to enact statewide rent control after voting in favor of Senate Bill 608. The bill will establish annual rent increases at no more than 7% + consumer price index in a 12-month period subsidized rent and new construction for 15 years would be exempted. Upon vacancy, landlords can raise rents without a cap, as long as tenants left at their own accord. The bill will also require landlords to give a reason for evicting tenants.

Related resources
- National Multifamily Housing Council, Rent Control Laws by State, May 2, 2018 — this website provides a summary of rent regulation laws organized by state.
- NYU Furman Center, Profile of Rent-Stabilized Units and Tenants in New York City, NYU Furman Center, June 2014 — this data report describes the units in New York City that are subject to rent control and rent stabilization and the tenants living in them.
- Peter A. Tatian, *Is Rent Control Good Policy?* Urban Institute, Urban Wire, January 2, 2013 — this essay provides an overview of some of the critiques of rent control and rent stabilization and links to some empirical studies.


- Rebecca Diamond, Timothy McQuade, Franklin Qian, *The Effects of Rent Control Expansion on Tenants, Landlords, and Inequality: Evidence from San Francisco*, the National Bureau of Economic Research, January 2018 — this paper exploits quasi-experimental variation in assignment of rent control to study its impact on tenants, landlords, and the overall rental market.

- Brian Asquith, *Do Rent Increases Reduce the Housing Supply Under Rent Control? Evidence from Evictions in San Francisco*, the National Bureau of Economic Research, July 8, 2018 — this paper examines the effect of rent control on “No Fault Evictions” in San Francisco.

- Manuel Pastor, Vanessa Carter, and Maya Abood, *Rent Matters: What are the Impacts of Rent Stabilization Measures?*, USC Dornsife Program for Environmental and Regional Equity, October 2018 — this paper argues that moderate rent regulation is a useful tool to be nested in broader strategy.

- Brian Asquith, *Do Rent Increases Reduce the Housing Supply Under Rent Control? Evidence from Evictions in San Francisco*, SSRN, July 2018 — this paper examines the effect of rent control on “No Fault Evictions” in San Francisco.

- Vicki Been, Ingrid Gould Ellen, and Sophia House, *Laboratories of Regulation: Understanding the Diversity of Rent Regulation Laws*, March 18, 2019 – This paper reviews the implications of the choices that policymakers must make in enacting and implementing rent regulation. The authors highlight the variety of regimes that have been adopted in practice.

- Joshua D. Ambrosius and colleagues, *Forty years of rent control: Reexamining New Jersey’s moderate local policies after the great recession*, December 2015 – The findings conclude that the type moderate rent regulation found in many New Jersey cities has little effect on the housing market, but it potentially increases transparency between landlords and tenants and tenant security.

**See also:**
- “Just cause” eviction policies
- Protection from condo conversions
Eviction prevention programs