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ELECTION MEMORANDUM | NOVEMBER 16, 2020

The November Elections: 2021 Rent Control Outlook

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Summary

While all eyes were focused on the outcome of the Presidential and Congressional elections, the results of down-ballot races could define the next generation of housing policies, including in several cities and states actively working to implement rent control.

In 2021, we anticipate rent control threats to emerge in various parts of the country, particularly in light of the COVID-19 pandemic. Even before the U.S. Centers for Disease Control and Prevention imposed a national moratorium on evictions, nearly all 50 states enacted their own eviction measures either through executive order, legislation or judicial order. To many lawmakers, rent control may be seen as a natural next step as federal and state moratoria expire.

We will be watching several states closely. We believe the most likely states for activity include Colorado, Illinois, Massachusetts, Nevada and Washington State. We also anticipate expansion efforts in California and New York. Several other states will require close monitoring for activity within state legislatures.

Rent control threats may come in the form of state legislation, municipal measures or, once again, state or local ballot initiatives. These efforts come at a time when housing affordability is on the minds of millions of Americans, particularly in light of the economic ramifications stemming from COVID-19. Lawmakers will be motivated to act.

The following is a look at the outcomes of key races and what we can expect in the months ahead.

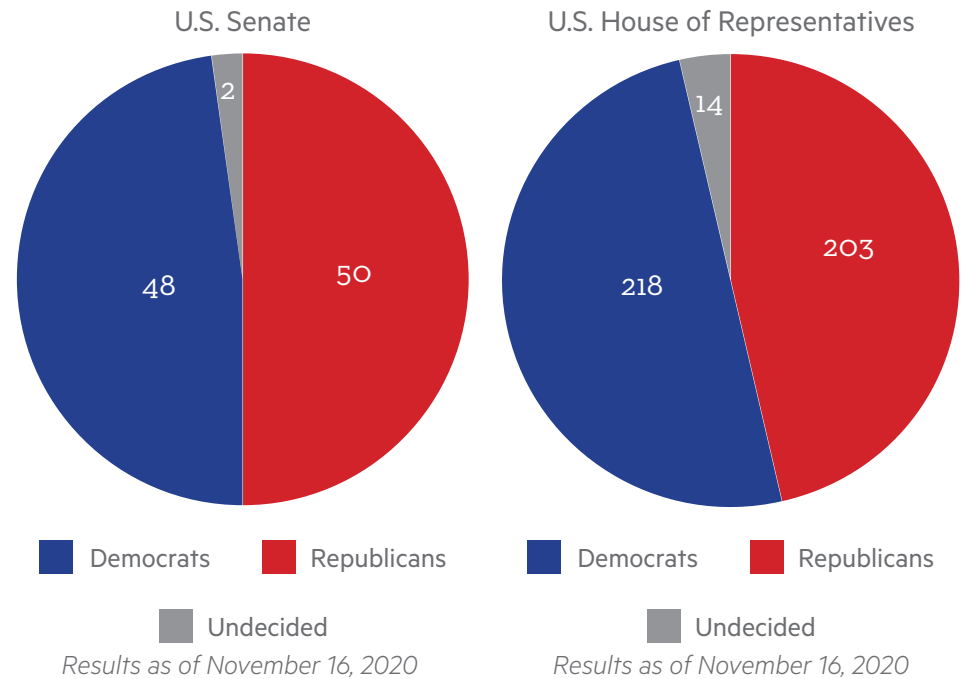
Federal Government Outlook

Historically, rent control measures have not been a concern at the federal level. While we do not anticipate a national rent control bill in Congress, it is noteworthy that U.S. Representative Alexandria Ocasio-Cortez (D-NY) introduced national rent control legislation in 2019 and is likely to remain committed to this approach.

In 2021, Democrats will maintain control of the U.S. House of Representatives, though with a slightly narrower margin than the past Congressional Session. Control of the Senate rests on the outcomes of the two Georgia runoff elections scheduled for January 5th.

Should both Democrats prevail in Georgia, the Democratic party will assume control of the Senate (Vice President-elect Kamala Harris would cast the deciding vote should there be an equal split in seats).

2021 OUTLOOK: U.S. CONGRESS

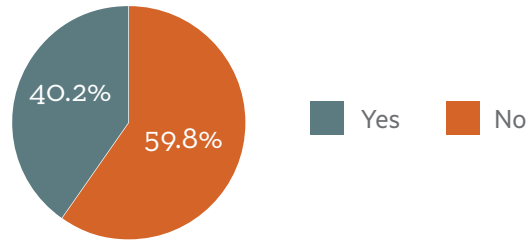


President-elect Joe Biden is in the process of forming his cabinet. Several names, many of whom have previously advocated for rent control, have been floated to lead the U.S. Department of Housing and Urban and Development. But again, while we may see more progressive housing measures, rent control at the national level is unlikely.

Ballot Initiatives

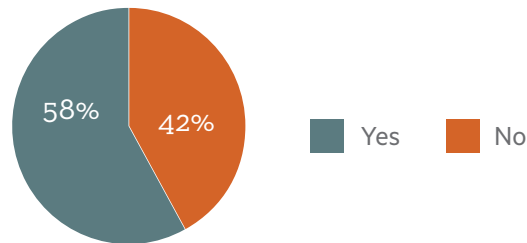
For the second time in as many election cycles, the people of California spoke loud and clear and defeated a short-sighted rent control ballot measure. Like 2018, it was a costly battle for the housing industry and rent control activists alike, but the costs would have been exponentially higher had the measure passed. Similar to 2018, Proposition 21 would have allowed cities and counties in California to apply more kinds of rent control to more properties than under current law. This year's rejection by approximately 20 percentage points is a victory for hardworking Californians who deserve real housing solutions that increase supply and bring costs down. Demonstrating this approach's lack of appeal, only one county in California (San Francisco County) voted for the measure.

CALIFORNIA: EXPANDING RENT CONTROL



Unfortunately, voters in Portland, Maine, chose the opposite path. A ballot initiative capping rent increases at the rate of inflation passed by a margin of 58% to 42%. In addition to the cap, the measure extends to 90 days the amount of notice property owners have to give tenants facing eviction. These new regulations exempt dwellings of four or fewer units where the owner also resides.

PORTLAND, ME: ESTABLISHING RENT CONTROL



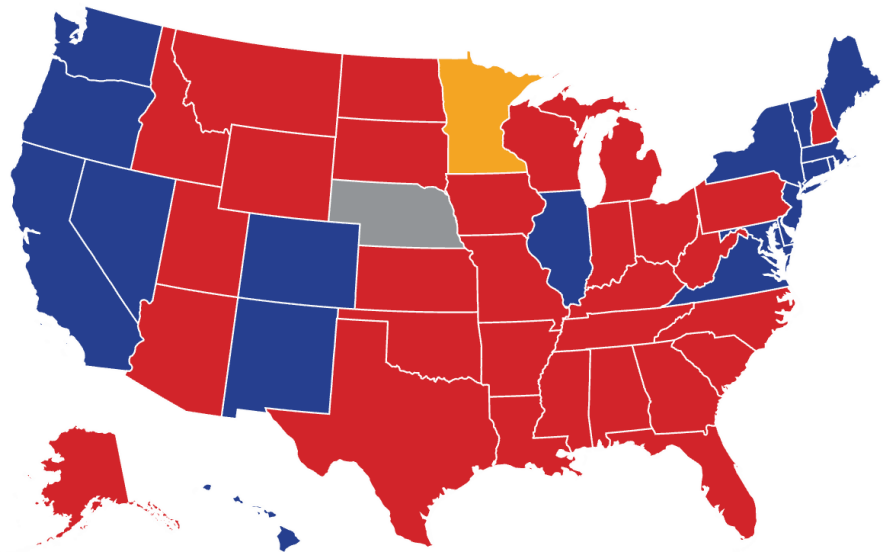
In 2021, we cannot overlook the potential for ballot initiatives in other markets. The Portland outcome may embolden activists in other municipalities in states without rent control preemption. And the statewide initiative in California, despite unsuccessful, is a model for rent control advocates elsewhere.

State Government Outlook

As always, our greatest rent control challenges initiate within state legislatures. 2021, we expect, will be no different. To name just a few, rent control regularly arises in Colorado, Illinois, Massachusetts and Washington State. The Nevada legislature, which did not meet in 2020, also seems poised to bring up rent control next year. Rent control expansion efforts are possible in California, New York and Oregon. The list goes on.

With respect to the 2020 elections, little changed at the state level. Political pundits and pollsters predicted that legislative chambers in Arizona, Iowa, Michigan, Minnesota, North Carolina, Pennsylvania and Texas could flip from Republican to Democratic majorities. However, Republicans kept control of each chamber expected to change hands. At the same time, Republicans flipped two state chambers in their favor – the New Hampshire Senate and House.

2021 OUTLOOK: STATE LEGISLATURES



[National Conference of State Legislatures](#)

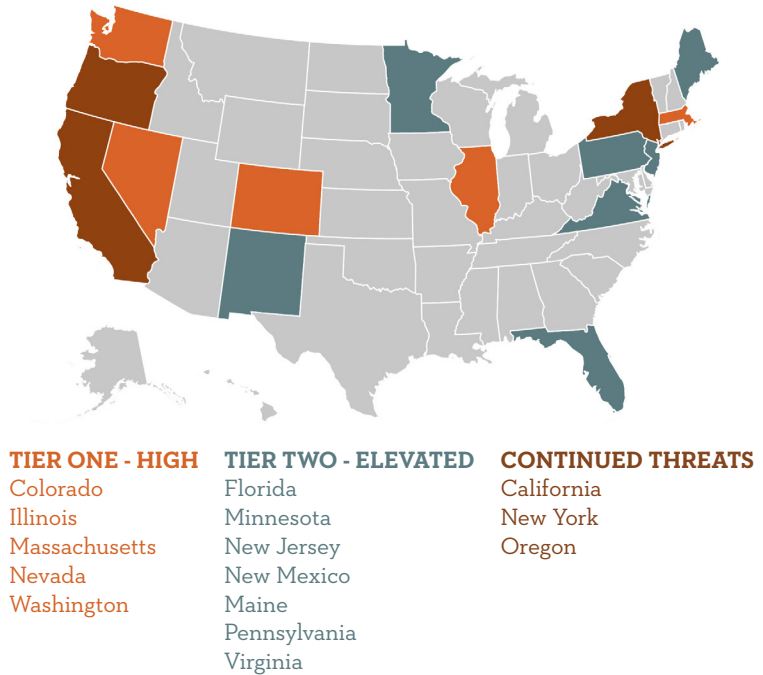


Eleven states held gubernatorial elections in 2020. Like the state legislatures, there were few changes. In nine races, the incumbent won. In the two open seats, Republicans maintained Utah and flipped Montana from blue to red.

Factoring in gubernatorial seats and legislative chambers, Republicans control all three bodies in 23 states, Democrats control 15 states and 11 are divided (Nebraska’s legislature is considered nonpartisan).

2021 RENT CONTROL FORECAST

Rent control emerged across the country in 2020 and we anticipate another active year ahead.



Local Government Outlook

In 2020, rent control measures were considered in Atlanta and Philadelphia, among other localities. We expect similar discussions will be held in city councils around the country, regardless of state preemption status.

It is important to note that 25 states do preempt localities from imposing rent control. However, city council activity is often a precursor to efforts at the state level to revoke preemption.

Conclusion

From the race for the Oval Office all the way down to state and local elections, the economic fallout from the COVID-19 crisis elevated housing issues among candidates seeking offices at all levels of government. Now, with the elections behind us, elected leaders will turn their attention to lawmaking.

To many officials, rent control may be seen as a natural extension of eviction moratoria. We know, however, that rent control fails to address housing affordability challenges. Rather, it only serves to jeopardize the stability of our nation's housing stock, exacerbating the housing shortages at the root of the affordability crisis.

The housing industry must be prepared to aggressively fight rent control measures wherever they emerge. NMHC will once again convene its members in states where we anticipate immediate action, mobilize other allies and lead the charge against these existential threats to our industry.

We know that housing affordability challenges will only be solved by collaboration. Lawmakers, community leaders and the housing industry need to work together to make housing affordability a genuine priority, especially at a time when home is our safe haven.