



NATIONAL LOW INCOME  
HOUSING COALITION

END RENTAL ARREARS TO STOP EVICTIONS

# THE STATE OF STATEWIDE TENANT PROTECTIONS

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# Overview

Despite the official end of the COVID-19 public health emergency, many renter households nationwide continue to grapple with its effects, including exorbitant rental costs, a shrinking affordable housing stock, and stagnant wages. While the combination of emergency rental assistance (ERA) and COVID-19-era tenant protections, such as the federal eviction moratorium, helped [prevent](#) as many as 1.5 million evictions between March 2020 and June 2021, the end of ERA funding and the expiration of such protections have left tenants vulnerable to the threat of eviction. In many states today, eviction filings are already steadily rising, making it imperative that states pass more permanent protections for tenants as rates threaten to return to, or even exceed, pre-pandemic levels.<sup>1</sup>

Between January 2021 and March 2023, state and local jurisdictions passed<sup>2</sup> or implemented more than 200 tenant protections addressing both the short-term and long-term effects of the pandemic and its overall impact on housing stability. Today, as many of these pandemic-era protections have sunset or been rolled back, a growing number of states and localities are looking to enact legislation that will protect tenants over the long term. Long-term tenant protections, passed to provide permanent coverage to tenants during the entirety of their lease term, can guide housing advocates and policymakers looking to pass similar protections in their own jurisdictions. States have recognized the role they can play given the current lack of federal protections.

Starting in May 2023, NLIHC began updating its [State and Local Tenant Protections Database](#) to include state-level protections that have been passed both before and after the COVID-19 pandemic. The purpose of the database is to identify actions state-level policymakers are taking to divert eviction cases within their jurisdictions, as well as to provide a resource for advocates and renters to understand what rights exist.

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1 Fitzpatrick, A. & Beheraj, K. (2023, March 16). [Evictions Have Returned to – or Exceeded – Pre Pandemic Levels](#). *Axios*.

2 For more information on State and Local Tenant Protections passed during the pandemic, please see the NLIHC ERASE Tenant Protections Database: <https://nlihc.org/tenant-protections>

3 ["Source of Income Laws."](#) *Local Housing Solutions*.

This brief provides a summary of common tenant protections that have been enacted or implemented by state governments to support housing stability over the long term, as well as some of the challenges lawmakers have faced when passing such laws. While there are many additional protections that states can and should pursue at the state level, this brief covers five specific protections that policymakers have implemented to divert the threat of eviction: (1) the civil right to counsel, (2) measures prohibiting source-of-income-discrimination, (3) eviction record sealing and expungement legislation, (4) rent stabilization and anti-rent gouging legislation, and (5) "just cause" eviction laws.

For information on additional tenant protections that states and localities can put in place, please visit the ERASE State and Local Tenant Protections Database at <https://nlihc.org/tenant-protections>.

## I. THE NEED FOR STATE-LEVEL TENANT PROTECTIONS

Tenant protections – passed in the form of laws and/or policies – are crucial to preventing evictions and keeping renters stably housed. Not only can lawmakers make certain that tenants are able to access safe and affordable housing with fewer barriers to entry, but they can also ensure that tenants are able to maintain their housing over the long term, free from unjust discrimination and harassment.

Given the lack of federal tenant protections, tenants are often bound by the will of their landlords, [causing](#) a power imbalance. Currently, 29 states do not have in place source-of-income protections, creating opportunities for landlords to deny or refuse housing to prospective tenants trying to utilize Section 8 Housing Choice Vouchers or other sources of government subsidy when attempting to secure housing.<sup>3</sup> Such discrimination creates barriers

preventing tenants from effectively using federal, state, or local rental assistance and often provides a pretext for illegal discrimination against renters of color, women, people with disabilities, and others. Due to the lack of federal safeguards to protect against arbitrary, retaliatory, or discriminatory evictions or other abusive practices by landlords, landlords in states without protections are able to evict tenants for no reason and with impunity. Furthermore, landlords often evict survivors of domestic or intimate partner violence because of the actions of their abusers, or they refuse to rent to survivors, putting them at greater risk of housing instability and homelessness.<sup>4</sup>

Evictions disproportionately impact Black, female-headed households. In 17 states nationwide, Black women are evicted at twice the rate as white renters.<sup>5</sup> Evictions haunt renters for years, pushing households into deeper poverty.<sup>6</sup> As such, state-level protections passed in the form of ordinances, legislation, executive orders, court orders, and policies can shift the power imbalance and ensure that all tenants have the tools they need to advocate for themselves, supporting housing stability and preventing homelessness.

## II. STATE TRENDS SINCE THE PANDEMIC

In January 2022, the End Rental Arrears to Stop Evictions (ERASE) Project released a report, [Tenant Protections and Emergency Rental Assistance During and Beyond the COVID-19 Pandemic](#), exploring federal- and state-level tenant protections in depth. At the time of publication, states and localities had passed or implemented more than 130 short- and long-term tenant protections. Within the last 16 months, however, the number of new protections passed has increased by more than 50%, demonstrating the growing interest of state governments in passing more permanent tenant protections.

Notably, since the start of the pandemic, 32 states and

4 Beiers, S., Park, S., Morris, L. (2020, January 10). [Clearing the Record: How Eviction Sealing Laws Can Advance Housing Access for Women of Color](#). New York City, NY: ACLU.

5 Beiers, S., Park, S., Morris, L. (2020, January 10). [Clearing the Record: How Eviction Sealing Laws Can Advance Housing Access for Women of Color](#). New York City, NY: ACLU.

6 Calabro, A., Saadian, S. (2021, July 26). [Expand Renters Protections](#). National Low Income Housing Coalition.

7 Park, S. & Pollock, J. (2021, January 12). [Tenants' Right to Counsel is Critical to Fight Mass Evictions and Advance Race Equity During the Pandemic and Beyond](#). New York City, NY: ACLU.

territories, including the District of Columbia and Puerto Rico, have [passed or implemented](#) new tenant protections for renters, resulting in more than 64 individual protections being passed at the state level.

## III. MAIN CATEGORIES OF STATE-LEVEL PROTECTIONS

There are five common types of state-level protections that support housing stability and prevent evictions at all stages of the eviction process: (1) right to counsel, (2) measures prohibiting source-of-income discrimination, (3) eviction record sealing and expungement laws, (4) anti-rent gouging and rent stabilization legislation, and (5) "just cause" eviction laws.



Right to Counsel  
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Source of Income  
21



Sealing/Expungement  
10



Anti-Rent Gouging  
3



Just Cause Eviction  
6

### RIGHT TO COUNSEL (RTC)

Right to counsel (RTC) provides a legal guarantee that tenants facing the threat of eviction will be provided with legal representation during the eviction process. When tenants have legal representation during the eviction process, they are more likely to remain in their homes.<sup>7</sup> With legal representation, tenants are more informed of their rights, better positioned to navigate complicated eviction processes, and more able to access tenant

protections that reduce fees or rent owed and allow them to avoid an involuntary move.<sup>8</sup> According to the National League of Cities, for cities that have implemented RTC policies and programs, the impact is clear: “In [New York City](#), 86 percent of represented tenants remain in their homes. In [San Francisco](#), 67 percent do. And in [Cleveland](#), 93 percent of represented tenants are avoiding eviction or an involuntary move.”<sup>9</sup> Despite these positive outcomes for tenants, for eviction cases nationwide, approximately 82% of landlords have some form of legal representation in housing court, compared to only 3% of tenants.<sup>10</sup>

When RTC protections are implemented, eligible individuals can receive legal services that support all phases of the eviction diversion and prevention process. These services can inform tenants of rights and protections that may already be in place and that may apply to their situations; provide representation in court proceedings; and help negotiate terms with landlord attorneys, ensuring additional time, smaller rent judgements, or the ability to move out of an apartment without an eviction showing up on a tenant’s record.<sup>11</sup>

Currently, three states have implemented some form of RTC protections: [Washington](#), [Maryland](#), and [Connecticut](#). In each state, RTC eligibility is determined via income. In Washington, tenants must have incomes at or below 200% of the federal poverty line, while in Maryland, tenants must have incomes at or below 50% of the state’s area median income to be eligible for RTC protections. In Connecticut, tenants must have incomes at or below 80% of the state’s area median income to be RTC-eligible.

## MEASURES PROHIBITING SOURCE-OF-INCOME (SOI) DISCRIMINATION

Source-of-income (SOI) discrimination is the practice of denying an individual the full and equal enjoyment of housing based on that individual’s lawful source of income. This practice discriminates in particular against low-income

renters who use housing subsidies like housing vouchers, emergency rental assistance, or other forms of public assistance. SOI discrimination is often a proxy for illegal forms of discrimination, such as racial discrimination. Source-of-income protections prohibit landlords, property owners, and real estate brokers from refusing to rent to current or prospective tenants based on the income they use to pay for their housing. There is no federal law that classifies income as a protected class. As such, SOI laws are passed at the state level to protect individuals who either participate in the Section 8 Housing Choice Voucher program or who utilize other forms of federal or state public housing assistance. It should be noted that although source-of-income discrimination laws potentially help protect renters from being denied housing, resources are often not sufficient to monitor and enforce these laws. Additionally, some states, like Iowa, have statewide preemptions that limit or delay the ability of local government to provide protections against discrimination for low-income renters.

As of May 2023, [21 states have implemented SOI protections, an increase from the 16 states that had implemented such protections prior to the pandemic.](#)

## EVICTION RECORD SEALING AND EXPUNGEMENT LAWS

An eviction filing – regardless of the outcome – may follow a renter for years, making it difficult to obtain and maintain future housing and trapping individuals and families in cycles of housing instability, poverty, and potential homelessness. Many property owners use background screenings during the renter application process. While these reports can be outdated and contain inaccurate or misleading information, property owners and landlords often deny the rental applications of prospective tenants whose screening reports reveal eviction filings, regardless of the outcome or circumstances.<sup>12</sup>

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8 Park, S. & Pollock, J. (2021, January 12). [Tenants’ Right to Counsel is Critical to Fight Mass Evictions and Advance Race Equity During the Pandemic and Beyond](#). New York City, NY: ACLU.

9 Pollock, J. (2021, October 26). [Using Right to Counsel as an Eviction Diversion Strategy](#). *National League of Cities*.

10 [“Eviction Representation Statistics for Landlords and Tenants Absent Special Intervention.”](#) *National Coalition for a Civil Right to Counsel*.

11 Pollock, J. (2021, October 26). [Using Right to Counsel as an Eviction Diversion Strategy](#). *National League of Cities*.

12 Collatz, A. (2017, June 6). [Landlord Survey: Optimism in Renting Your Property](#). SmartMove.

Eviction record sealing and expungement laws [aim to ensure](#) that individuals who have an eviction present on their record do not face any barriers when seeking future housing. When an eviction record is expunged, it is removed from public view by a court system, preventing prospective landlords from seeing the eviction on a tenant's rental history and allowing the applicant to answer "no" when asked if they have been evicted. Eviction sealing, on the other hand, refers to a court controlling and restricting access to a record.<sup>13</sup>

Implementing eviction record sealing and expungement legislation prohibits any third-party individual, including future landlords, from accessing an eviction record and using it against a tenant in a negative way – including by denying individuals housing. Depending on how state laws are written, eviction record sealing and expungement legislation can be passed to target any stage of the eviction process and can be triggered automatically or through a petition process initiated by the tenant or landlord. For example, states like California and Colorado allow for the automatic sealing of an individual's record as soon as an eviction lawsuit has been filed, while other states, like Indiana and Minnesota, require a tenant to formally apply to have their record sealed or expunged once a court decision has been delivered. [Today, there are 10 states, including the District of Columbia, that have implemented eviction record sealing and expungement protections.](#)

## ANTI-RENT GOUGING AND RENT STABILIZATION LEGISLATION

Renters across the country have been facing rising inflation and rental increases. For two-bedroom units, the median rent nationwide [increased](#) by an average of 18% between the first quarter of 2021 and the first quarter of 2022. In a number of larger cities, like New York, Austin, and Miami, rent [increased](#) by as much as 40%.

Rent stabilization laws – also known as rent control or anti-gouging laws – place limits on the maximum rent and/or the speed of rent increases for privately owned rental units, including how often landlords are allowed to increase a tenant's rent. These limits can be written into legislation or decided by a Rent Board or Commission, such as in the [State of California](#). Rent stabilization laws, when implemented, prohibit excessive rent increases that make an individual's residence unaffordable and difficult to maintain, especially as increasing rental costs can force an individual to seek out other more affordable and sometimes less desirable housing opportunities.<sup>14</sup> Rent stabilization laws [can also](#) dampen price appreciation, slow tenant displacement, and improve housing stability for some lower-income renters. There are currently three states – [California, Oregon](#), and the [District of Columbia](#) – that have implemented anti-rent gouging or rent stabilization laws.

For example, California's "[AB 1482](#)," passed in 2019, limits annual rent increases for a tenant's lease to 5% plus a local cost of living adjustment of no more than 5%, for a maximum increase of 10%. There is no limit on rental increases that occur after a tenant has vacated and before a new tenant moves into a unit. "[AB 1482](#)" applies to all multi-family rental units in California, except for owner-occupied duplexes, single family homes and condos, and newly constructed buildings for the first 15 years after their construction.<sup>15</sup>

## JUST CAUSE EVICTION LAWS

The end of a lease term is a particularly vulnerable time for low-income tenants. In many states and localities around the country, landlords are not required to provide a reason for evicting a tenant at the end of a lease term or for evicting a tenant without a lease. Moreover, landlords who are unable to evict a tenant during their lease term may choose not to renew the tenant's lease and use the lease holdover as grounds for eviction.<sup>16</sup>

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- 13 Scherer, James J. (2021). [Changing the Rule that Changes Nothing: Protecting Evicted Tenants by Amending Cleveland Housing Court Rule 6.13](#). *Cleveland State Law Review: Volume 70, Issue 1*.
- 14 Diamond, R. (2018, October 18). [What Does Economic Evidence Tell Us About the Effects of Rent Control?](#). *Brookings Institution*.
- 15 "[Tenant Protection Act of 2019](#)." *Fair Housing Foundation*
- 16 Vasquez, J., Gallagher, S. (2022, May 17). [Promoting Housing Stability Through Just Cause Eviction Legislation](#). *National Low Income Housing Coalition*.

To support renters at risk of housing instability, a growing number of states across the country have passed “just cause” eviction legislation. “Just cause” eviction laws, often known as “good cause” or “for cause” eviction laws, limit the reasons for which a landlord can evict a tenant or refuse to renew a tenant’s lease when the tenant is not at fault or in violation of any law.<sup>17</sup> Currently, no federal just cause laws exist. When just cause eviction laws are implemented, they seek to prohibit landlords from discriminatorily evicting a tenant. Instead, they allow landlords to evict tenants only for certain reasons, such as nonpayment of rent, criminal activity, or violation of the lease agreement.

There are six states that have implemented just cause eviction laws: [California](#), the [District of Columbia](#), [New Hampshire](#), [New Jersey](#), [Oregon](#), and [Washington](#).

## IV. THE CHALLENGE OF STATE PREEMPTIONS

State and local lawmakers attempting to enact permanent tenant protections face several challenges. While lawmakers often come up against obstacles such as political opposition or administrative barriers, preemption laws passed and implemented at the state level can be one of the largest roadblocks.

Preemption laws are passed by a state’s legislature and limit or eliminate the power of local governments, whether at the municipal or county levels, to pass or implement laws addressing certain issues. Preemption laws addressing housing issues such as SOI or rent stabilization measures prevent municipal or other local lawmakers from implementing such protections in their communities.

Today, several state governments have implemented preemption laws that limit the passage of rent control policies and source-of-income ordinances. So far in 2023, sweeping preemption bills have been introduced in [Florida](#) and [Texas](#), threatening to gut pre-existing tenant protections in both states. In Florida, for example, lawmakers in the Senate passed “[SB 1586](#)” in April 2023 to return the power to regulate tenant protections back to the state, potentially impacting 46 ordinances in 35 of the state’s localities. In addition to Florida and Texas, 30 other states have enacted laws preempting the passage of rent

control policies in some way, while three states – [Indiana](#), [Iowa](#), and [Texas](#) – have enacted laws preempting the passage of SOI ordinances.

With preemption laws in place, the only relief generally afforded to local governments attempting to work around such laws are provisions that allow for protections to be enacted in alternative ways. In [Minnesota](#), for example, lawmakers are able to introduce rent control legislation through ballot measures.

## V. CONCLUSION

As states continue to run out of emergency rental assistance and housing prices remain high, state governments must intervene to protect low-income and marginalized households from rising rents, the risk of eviction, and, in the worst cases, homelessness. NLIHC recommends that state and federal lawmakers take the following measures to ensure that tenants can access safe, stable, and affordable housing over the long term:

### State-Level Actions

- ◀ State lawmakers must continue to pass tenant protections to address all stages of the eviction process and advance housing as a human right, including the tenant protections described in this brief: (1) the civil right to counsel, (2) source-of-income-discrimination prohibitions, (3) eviction record sealing and expungement laws, (4) rent stabilization and anti-rent gouging measures, and (5) “just cause” eviction legislation.
- ◀ States that have passed long-term tenant protections must assess their laws and programs to ensure maximum effectiveness in preventing evictions, from improving enforcement of source-of-income discrimination laws to adequately funding right-to-counsel programs.
- ◀ After passing tenant protections and tenant supportive measures, state and local governments should provide adequate funding to support implementation and enforcement and develop equitable marketing strategies that efficiently communicate new protections to renter households

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<sup>17</sup> “[Just Cause Eviction Policies](#).” *Local Housing Solutions*.

so that renters are aware of their rights and can exercise those rights in interactions with their landlords or in court.

- ◀ State and local policymakers must support tenant organizing efforts and meaningfully engage tenants in the development of tenant protection legislation and advocacy and in education, outreach, and enforcement activities.
- ◀ State and local courts and lawmakers must establish stronger mechanisms to collect and analyze eviction filing and judgement data to help housing counselors, legal aid providers, and policymakers better serve low-income renters, enforce existing tenant protections, and understand the impact of state and local tenant protections for the purpose of informing future advocacy and implementation.
- ◀ State policymakers must allow local governments to pass tenant protections in their jurisdictions, free from preemption laws.

## Federal Actions

- ◀ Congress should enact legislation to establish protections for renters, including (1) just cause eviction standards to ensure greater housing stability and prevent arbitrary and harmful actions by landlords; (2) a right to counsel to help more renters stay in their homes and mitigate harm when eviction is unavoidable; (3) source-of-income discrimination bans to help ensure that landlords do not discriminate against renters with rental assistance or other sources of income; (4) habitability standards to ensure access to safe, quality affordable housing; and (5) other measures to protect renters nationwide. A full list of additional federal protections is provided [here](#).

# Looking for more information?

- ◀ For more information about evictions and eviction record sealing and expungement protections, please visit the [ERASE website](#)
- ◀ If you have a question, please contact the ERASE team at [eraseproject@nlihc.org](mailto:eraseproject@nlihc.org)