

Climate Assessment

Office of Legislative Oversight

Bill 15-23: Landlord – Tenant Relations – Anti-Rent Gouging Protections

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 15-23 could have a positive impact on community resilience in the County, as housing stability is an important component of community resilience. However, as enhanced community resilience would be a co-benefit of increased housing stability, the significance of this impact is indeterminate.

BACKGROUND AND PURPOSE OF BILL 15-23

Rent regulation policies generally establish how much landlords can increase rents each year. Across the U.S., two states and nearly 200 municipalities regulate their rental market.¹ As explained in the “Minneapolis Rent Stabilization Study:”

“The details and implementation of rent regulations vary based on jurisdictional goals. Broadly, these goals include protecting tenants from excessive rent increases, alleviating the affordable housing crisis, preserving existing affordable housing, providing housing habitability and security of tenure for renters, maintaining economic and racial diversity, and preventing real estate speculation.”²

The intent of Bill 15-23, according to its sponsors, is to “eliminate excessive rent increases in a way that doesn’t threaten new housing construction” in the County.³ If enacted, Bill 15-23 would:⁴

- **Establish protections against rent increases above a threshold for certain rental units.** Annual rent increases for certain rental units in the County would be prohibited from exceeding the “rent increase allowance,” defined as 8 percent of existing rent plus the Consumer Price Index for All Urban Consumers (CPI-U) for the Washington-Arlington-Alexandria Area.
- **Provide exemptions from rental increase restrictions for certain units.** including newly constructed units for fifteen years, accessory dwelling units, certain owner-occupied properties, health facilities, religious and non-profit organizations, and licensed facilities.
- **Permit rental increases in cases of landlord financial hardship or to fund certain capital improvements.** Landlords subject to the annual rent increase allowance would be permitted to exceed the allowance in cases of undue financial hardship, as determined by the Department of Housing and Community Affairs (DHCA). If granted, the exemption would expire after one year, though it may be renewed annually. Landlords could also apply for an exemption to the annual rent increase allowance through a limited-term surcharge to fund certain capital improvements.

- **Require landlords to submit annual reports regarding rents.** Landlords would be required to submit an annual report regarding “regulated rental units, rents, and notices of rent increases” to DHCA.

Bill 15-23 contains several other provisions, including, among others, administrative requirements for DHCA and requirements for DHCA to submit Method (2) regulations for administering various portions of the Bill.

Bill 15-23, Landlord-Tenant Relations – Anti-Rent Gouging Protections, was introduced by the Council on March 7, 2023.

METHODOLOGIES, ASSUMPTIONS, AND UNCERTAINTIES

Methodology. OLO conducted a literature review of rent stabilization and its impacts on community stabilization and resilience, including its effects on housing stability and maintenance. OLO also spoke with County Staff with expertise on housing and rent stabilization policies.

Assumptions. The actions proposed by this Bill will increase housing stability for constituents, therefore positively impacting community resilience.

Uncertainties. There are a few uncertainties associated with the analysis of Bill 15-23: (1) Whether housing stability will be increased by the actions proposed by the Bill and; (2) if landlords will be incentivized to invest in capital improvements and maintenance for the physical resilience of buildings.

HOUSING STABILIZATION CAN ENHANCE COMMUNITY RESILIENCE

Rent stabilization policies establish a maximum yearly rent increase, which is usually a small percentage of the previous year’s rent. This allows for predictability and stability for renters, as they know what rent increases to expect from year to year.⁵ Rent stabilization can lead to increased housing stability for renters, which is an important component of community resilience.⁶ Housing stability is associated with physical, social, and psychological well-being for individuals, as well as enhanced social cohesion and community ties.⁷ Enhanced social cohesion and community ties enable residents to stay better connected, especially during extreme weather and other emergencies.⁸

While there are mixed findings in literature about rent stabilization’s impacts on the housing market and development of new housing units, there is widespread agreement that rent stabilization increases housing stability for tenants who live in regulated units.⁹ Additionally, little empirical evidence shows that rent regulation policies negatively impact new construction. Construction rates are highly dependent on localized economic cycles and credit markets. Further, most jurisdictions with rent stabilization specifically exclude new construction from controls for a set period of time to incentivize new development.¹⁰

Impact of Rent Stabilization on Maintenance and Capital Improvements. There is mixed evidence on the impacts of rent stabilization on maintenance and capital improvements.¹¹ However, one study notes that maintaining units is an issue in all long-term rental contracts where the owner is responsible for maintenance, regardless of whether the unit is subject to rent regulations.¹² However, maintenance issues in units can be abated by programs included in rent regulation policies, such as “fair returns” for landlords to increase rent to cover costs for maintenance and significant capital improvement projects. Upgrades to energy efficient appliances, weatherization (i.e., insulation, ventilation), and electrification of buildings are essential to enhance the physical resilience of buildings and help keep energy costs down for renters.¹³

Displacement during disasters. Another potential benefit of rent stabilization is aiding renters who are displaced after natural disasters or other extreme weather events. In general, adequate protections do not exist for renters who are displaced after their housing is destroyed by a natural disaster. Renters must seek new housing, which is often much more expensive on top of the out of pocket costs associated with recovery from a disaster. As extreme weather events are more likely to occur due to climate change, it is important to protect renters from increased rent prices after a disaster.¹⁴ Further, renters with lower rent burdens have more financial resources not devoted to housing costs and are therefore more resilient and better able to absorb costs related to extreme weather events.¹⁵

Montgomery County Renters. After the moratorium on rent increases during COVID-19 ended in May 2022, many constituents reported significant rent increases.¹⁶ In the County, 51.4% of all renter households are cost-burdened households¹⁷, which puts these households not only at risk of eviction but can force them to choose between necessities like food and utilities, in order to pay rent and remain housed.¹⁸ Cost-burdened households are the most common form of housing instability and these households generally do not have sufficient resources to dedicate to necessities besides housing, such as food, childcare, education, transportation and healthcare.¹⁹

ANTICIPATED IMPACTS

Overall, housing stabilization legislation can lead to an increase in housing stability, which could positively impact community resilience. There are varied approaches to rent stabilization legislature, with some components contributing to more housing stability than others. Actions proposed by Bill 15-23 are listed below, with an explanation on how it could impact housing stability, based on a literature review on rent stabilization policies.

- **Rent Cap of 8% + CPI** – In general, literature suggests the lower the cap, the more affordable a unit is for tenants. Affordable housing increases housing stability for renters, especially low-income renters.²⁰ Bill 15-23 proposes a rent cap of 8% plus the CPI-U for the Washington – Arlington – Alexandria Area. An 8% rent cap is considered a higher cap, and with the addition of the CPI-U percentage, it could

exceed affordability for many tenants. For example, the median gross rent in Montgomery County is \$1,821 and an 8% increase of this would result in a \$146 increase, for a total of \$1,967.²¹

- **Permit rental increases in cases of landlord financial hardship or to fund certain capital improvements.** Allowing for rental increases in order to fund capital improvements can incentivize landlords to upgrade the physical resilience of buildings. Upgrades to energy efficient appliances, weatherization (i.e., insulation, ventilation), and electrification of buildings are essential to enhance the physical resilience of buildings and help keep energy costs down for renters.²² Bill 15-23 proposes allowing landlords to apply for a rent surcharge that is limited to the amount necessary to cover the costs of capital improvements to the regulated unit, which does not take effect until the improvements are completed.²³
- **Exemptions on New Buildings.** It is common in rent regulation policies to exempt new buildings for a certain period time. The purpose is to minimize the impact of regulations on new construction and balance the encouragement of new development while preventing excessive rent hikes. Bill 15-23 proposes a 15-year exemption for new construction.

However, there is no mention of reducing condominium conversions, which takes housing units out of the rental stock. There is precedent for a significant number of rental units to be turned into condominiums, when rent stabilization legislation passes without regulations on these conversions.²⁴ Some examples of disincentivizing this action include: (1) Requiring a certain number of years advance notice for tenants that their unit will be converted; (2) Requiring the owner to help tenants find new housing; and (3) Paying a severance fee.²⁵

Further, there is no proposed limit on rent increases for vacant units. When there is no regulation on increasing rent for vacant units, this creates an incentive for landlords to displace current tenants, raise the rent to market rate, and select new tenants that are willing to pay that rate.²⁶ This can lead to a decrease in housing stability.

Overall, OLO anticipates Bill 15-23 could have a positive impact on community resilience in the County, as housing stability is an important component of community resilience. However, as enhanced community resilience would likely be a co-benefit of increased housing stability, the significance of this impact is indeterminate.

RECOMMENDED AMENDMENTS

The Climate Assessment Act requires OLO to offer recommendations, such as amendments or other measures to mitigate any anticipated negative climate impacts.²⁷ OLO does not offer recommendations or amendments as Bill 15-23 could have a positive impact on the County's community resilience.

CAVEATS

OLO notes two caveats to this climate assessment. First, predicting the impacts of legislation upon climate change is a challenging analytical endeavor due to data limitations, uncertainty, and the broad, global nature of climate change. Second, the analysis performed here is intended to inform the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

PURPOSE OF CLIMATE ASSESSMENTS

The purpose of the Climate Assessments is to evaluate the anticipated impact of legislation on the County's contribution to addressing climate change. These climate assessments will provide Council with a more thorough understanding of the potential climate impacts and implications of proposed legislation, at the County level. The scope of the Climate Assessments is limited to the County's contribution to addressing climate change, specifically upon the County's contribution to greenhouse gas emissions and how actions suggested by legislation could help improve the County's adaptive capacity to climate change, and therefore, increase community resilience.

While co-benefits such as health and cost savings may be discussed, the focus is on how proposed County bills may impact GHG emissions and community resilience.

CONTRIBUTIONS

OLO staffer Kaitlyn Simmons drafted this assessment.

¹ ["Minneapolis Rent Stabilization Study", Edward G. Goetz, et. al., University of Minnesota Center for Urban and Regional Affairs, February 2021.](#)

² Ibid

³ ["Councilmembers Introduce Tenant Assistance and Protection Package to Address Growing Crisis in Housing Affordability", Press Release, Montgomery County Council, March 7, 2023.](#)

⁴ ["Introduction Staff Report for Bill 15-23", Montgomery County Council, March 7, 2023.](#)

⁵ ["Options and Tradeoffs: Rent Stabilization Policies", U.S. Department of Housing and Urban Development, Office of Policy Development and Research, June, 28, 2022..](#)

⁶ ["Community Resilience Benchmarks: Housing", Alliance for National and Community Resilience, August 2021.](#)

⁷ ["Rent Matters: What are the Impacts of Rent Stabilization Measures", Pastor, M., et. al., University of South California Dornsife, Program for Environmental and Regional Equity, October 2018.](#)

⁸ ["Resilient Affordable Housing, Anti-Displacement, and Gentrification", Equitable Adaptation Legal and Policy Toolkit, Georgetown Law Climate Center, 2020.](#)

⁹ (Ambrosius et al., 2015; Diamond et al., 2019; Glaeser and Luttmer, 2003; Gyourko and Linneman, 1989; Heskin et al., 2000; Sims, 2007; Levine et al., 1990), as cited in ["Minneapolis Rent Stabilization Study", Edward G. Goetz, et. al., University of Minnesota Center for Urban and Regional Affairs, February 2021.](#)

¹⁰ ["Minneapolis Rent Stabilization Study", Edward G. Goetz, et. al., University of Minnesota Center for Urban and Regional Affairs, February 2021.](#)

¹¹ ["Rent Matters: What are the Impacts of Rent Stabilization Measures", Pastor, M., et. al., University of South California Dornsife, Program for Environmental and Regional Equity, October 2018.](#)

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- ¹² ["Tenancy Rent Control and Credible Commitment in Maintenance", Arnott, R. and Shevyakhova, E., September 4, 2013.](#)
- ¹³ ["Weatherization and Energy Efficiency", Baltimore City Department of Housing and Community Development, Accessed 3/24/23.](#)
- ¹⁴ ["Resilient Affordable Housing, Anti-Displacement, and Gentrification", Equitable Adaptation Legal and Policy Toolkit, Georgetown Law Climate Center, 2020.](#)
- ¹⁵ ["Post Katrina Housing Affordability Challenges Continue in 2008, Worsening Among Orleans Parish Very Low Income Renters", Plyer, A., et. al., Greater New Orleans Community Data Center, October 13, 2009.](#)
- ¹⁶ ["Resilient Affordable Housing, Anti-Displacement, and Gentrification", Equitable Adaptation Legal and Policy Toolkit, Georgetown Law Climate Center, 2020.](#)
- ¹⁷ ["Community Resilience Indicator Analysis: Commonly Used Indicators from Peer-Reviewed Research", Federal Emergency Management Agency, September 2022.](#)
- ¹⁸ ["Memorandum on Expedited Bill 22-22, Landlord - Tenant Relations - Limitations on Rent Increases", From Christine Wellons, Senior Legislative Attorney to Planning, Housing, and Economic Development Committee, October 19, 2022.](#)
- ¹⁹ Cost burdened households are defined as households that spend 30% or more of their income on housing. Definition from: [United States Census Bureau](#)
- ²⁰ 2021 1 – year ACS estimates, United States Census Bureau
- ²¹ ["Housing as a Safety Net: Ensuring Housing Security for the Most Vulnerable", Galvez, M., et. al., Urban Institute, September 30, 2017.](#)
- ²² ["Minneapolis Rent Stabilization Study", Edward G. Goetz, et. al., University of Minnesota Center for Urban and Regional Affairs, February 2021.](#)
- ²³ [Montgomery County, Maryland Profile, United States Census Bureau, Accessed 3/24/23.](#)
- ²⁴ ["Weatherization and Energy Efficiency", Baltimore City Department of Housing and Community Development, Accessed 3/24/23.](#)
- ²⁵ ["Introduction Staff Report for Bill 15-23", Montgomery County Council, March 7, 2023.](#)
- ²⁶ ["Minneapolis Rent Stabilization Study", Edward G. Goetz, et. al., University of Minnesota Center for Urban and Regional Affairs, February 2021.](#)
- ²⁷ ["Out of Control: What Can We Learn from the End of Massachusetts Rent Control?", Sims, D., August 22, 2006.](#)
- ²⁸ ["Rent Control: Key Policy Components and Their Equity Implications", Stacy, C., et. al., Urban Institute, July 2021.](#)
- ²⁹ Bill 3-22, Legislative Branch – Climate Assessments – Required, Montgomery County Council, Effective date October 24, 2022