

Climate Assessment

Office of Legislative Oversight

Bill 16-23: Landlord – Tenant Relations – Rent Stabilization

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 16-23 could have a positive impact on community resilience in the County, as housing stability is an important component of 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 16-23

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 16-23, the Housing Opportunity, Mobility, and Equity (HOME) Act, according to its sponsors, is to help “keep renters in their homes by preventing rent gouging, reducing displacement, and creating cost predictability for renters and landlords.”³ If enacted, Bill 16-23 would:⁴

- **Establish an annual maximum rent increase for rental housing.** The maximum rent increase would be up to 3 percent or the rental component of the Consumer Price Index (CPI), whichever is lower. The increase could only occur once within a 12-month period with the landlord providing at least a 90-day notice before increasing the rent.
- **Provide exemptions for certain buildings from rent stabilization requirements,** including newly constructed units for ten years, accessory dwelling units, certain owner-occupied properties, certain moderately priced dwelling units in buildings, health facilities, religious and non-profit organizations, and licensed facilities.

- **Permit a landlord to submit a petition for a rent increase to obtain a fair return.** If a petition is granted, the landlord would have to provide the tenant a 90-day notice before increasing the rent. If a petition is denied, the landlord would have the right to appeal the decision to the Commission on Landlord-Tenant Affairs.
- **Establish an excise tax for vacant rental units.** An owner of rental property with two or more units and determined as vacant for more than 12 months would be subject to an excise tax of \$500 per year per unit subject to interest and penalties. Funds collected through the tax could be used only for the acquisition of affordable housing and the administration of the Bill. The tax would take effect one year after the Bill is enacted.
- **Limit on rent increases for vacant units.** If a vacant unit returns to the market for rent, the new rental amount may include the allowable annual rent increase for each year the unit was vacant but cannot exceed 30 percent of the base rent amount paid by the prior tenant. However, the landlord may not reset the rent for the next tenant in an amount higher than the base rent paid by the previous tenant if a tenancy is terminated “for a reason not provided for in the lease or during the first year of a tenancy.”

Bill 16-23 contains several other provisions, including, among others, reporting requirements and rent increase banking allowances for landlords, and administrative requirements for the Department of Housing and Community Affairs (DHCA). The Bill would be enforced by DHCA.

Bill 16-23, Landlord-Tenant Relations – Rent Stabilization, 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 16-23: (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 the 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 16-23 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 3% or Voluntary Rent Guidelines (VRG) Cap** – 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 16-23 proposes a rent cap of 3% or the VRG, whichever rate is smaller.²¹ This is considered a lower cap, which could provide more affordable housing options.
- **Petition for Fair Return** - When a landlord is able to prove they meet the criteria for not receiving a fair return on their investment, they can be granted rent increases above the allowable yearly increase. Reasons to be granted an additional increase include covering costs for maintenance and capital improvements to property, which could encourage landlords to invest in their buildings' physical resilience.²² Bill 16-23 provides this option.
- **Limit on rent increase 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.²³ This can lead to a decrease in housing stability. To combat this, Bill 16-23 has a limit on rent increase for vacant units, specifically 30% above rent charged when unit was occupied. However, the landlord may not reset if a tenancy is terminated “for a reason not provided for in the lease or during the first year of a tenancy.”
- **Vacancy Tax** - A further proposed measure by Bill 16-23 is a vacancy tax that charges landlords \$500 per year for units that remain vacant for more than 12 months. The funds collected through the tax would be credited to the County's Housing Production Fund and can only be used for the acquisition of affordable housing and the enforcement and administration of the HOME Act. This tax could aid housing stability by incentivizing finding a tenant, rather than holding out for higher rent. In addition, tax revenue can go towards affordable housing programs.
- **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 16-23 proposes a 10-year exemption for new construction.²⁴

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.²⁵ 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.²⁶

Overall, OLO anticipates Bill 16-23 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 16-23 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 ["Councilmember Will Jawando, Councilmember Kristin Mink, and County Executive Marc Elrich Spearhead the Housing Opportunity, Mobility, and Equity \(HOME\) Act", Press Release, Montgomery County Council, March 2, 2023.](#)

⁴ Introduction Staff Report for Bill 16-23, Montgomery County Council, March 7, 2023. [Introduction Staff Report for Bill 16-23, 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.](#)

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.](#), ["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.](#)

¹⁵ ["Resilient Affordable Housing, Anti-Displacement, and Gentrification", Equitable Adaptation Legal and Policy Toolkit, Georgetown Law Climate Center, 2020.](#), ["Community Resilience Indicator Analysis: Commonly Used Indicators from Peer-Reviewed Research", Federal Emergency Management Agency, September 2022.](#)

¹⁶ https://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2022/20221024/20221024_PHED1.pdf

¹⁷ Cost burdened households are defined as households that spend 30% or more of their income on housing. Definition from: [United States Census Bureau](#)

¹⁸ 2021 1 – year ACS estimates

¹⁹ ["Housing as a Safety Net: Ensuring Housing Security for the Most Vulnerable", Galvez, M., et. al., Urban Institute, September 30, 2017.](#)

²⁰ ["Minneapolis Rent Stabilization Study", Edward G. Goetz, et. al., University of Minnesota Center for Urban and Regional Affairs, February 2021.](#)

²¹ For reference, the VRG is updated annually to represent the prior year's increase in the rental component of the Consumer Price Index (CPI) for the Washington Metropolitan Area. The 2023 VRG limit is 5.8% and the 2022 was 0.4%.

²² ["Laboratories of Regulation: Understanding the Diversity of Rent Regulation Laws", Been, V., et. al., NYU Furman Center, March 18, 2019.](#)

²³ ["Rent Control: Key Policy Components and Their Equity Implications", Stacy, C., et. al., Urban Institute, July 2021.](#)

²⁴ ["Laboratories of Regulation: Understanding the Diversity of Rent Regulation Laws", Been, V., et. al., NYU Furman Center, March 18, 2019.](#)

²⁵ ["Minneapolis Rent Stabilization Study", Edward G. Goetz, et. al., University of Minnesota Center for Urban and Regional Affairs, February 2021.](#)

²⁶ ["Out of Control: What Can We Learn from the End of Massachusetts Rent Control?", Sims, D., August 22, 2006.](#)

²⁷ Bill 3-22, Legislative Branch – Climate Assessments – Required, Montgomery County Council, Effective date October 24, 2022