

# The breakdown: How California's new rent control law compares to New York's

Real estate lobby group secured an exemption to units older than 15 years, limits on vacancy decontrol and restrictions on municipalities instituting lower rent caps

By **Natalie Hoberman**



From left: California Governor Gavin Newsom, Governor of New York Andrew Cuomo, and California Assembly Member David Chiu (Credit: Getty Images, iStock, and Wikipedia)

With a little more than 48 hours before the clock ran out, three of New York's most powerful landlords made a desperate, last-ditch phone call to Gov. Andrew Cuomo. By that point, the real estate industry had already spent millions of dollars, hired seasoned lobbyists and launched media campaigns in an effort to eliminate the threat of historic tenant protections on 1 million apartments. Cuomo declined to kill the bill, and landlords across the state say billions of dollars in investment were wiped out overnight.

But across the country in Sacramento, a curious thing happened. The legislature on Wednesday passed AB-1482, a statewide rent control measure that will affect an estimated 8 million people, and top industry trade groups barely made a peep.

The California Apartment Association, which represents the owners of around 65,000 rental units in the Greater L.A. area, dropped opposition to the current form of the bill after negotiating to extend an exemption to units older than 15 years (lawmakers first proposed a 10-year limit),

limiting vacancy decontrol, and restricting municipalities from instituting rent caps lower than the cap in AB-1482.

The CAA, which has pushed the state to loosen development restrictions in favor of denser residential development, declined to answer questions about AB-1482, which in most cases will limit rent increases to 5 percent plus inflation.

But tenant sources on both coasts say that while the measure dramatically expands a form of rent regulation, the industry's relative silence may actually be an astute strategy to pacify progressives' calls for radical change. In other words, a year after soundly defeating Proposition 10, a ballot measure that would have repealed a statewide ban on new rent regulation, they aren't crying over AB-1482.

"CPI plus five percent is causing most people to breathe a sigh of relief, we can live with that," said Dean Zander, an executive vice president and multifamily specialist at CBRE. "It's not unfair, it's not gouging, and I don't see it affecting sales or values at all."

Zander believes the measure could spark even more investment in the state because it provides some certainty to investors. "There's no fear of the unknown," he said. "We have a super strong market in California and knowing that 1482 passed, we know what to expect and we can underwrite for that."

George Azrt, a lobbyist with Extell Development and a longtime political strategist in New York, said landlords in California made out better than their counterparts on the East Coast.

"There's no doubt that rent control is the cause of the moment, nationally. Everyone is trying to figure out what to do about the housing crisis. But a statewide rent cap, which passed yesterday, while stringent — is not as stringent as New York."

Here's what AB-1482 looks like under the hood, and how it compares to New York's new rent law:

## Potential to spread

- California: AB-1482 does not apply to any units already under local rent ordinances, such as those in the cities of Los Angeles, Santa Monica and San Francisco. It also bars California municipalities from instituting a lower annual rent hike cap than 5 percent plus inflation, a provision negotiated by the CAA.
- New York: While most of New York City's rent-regulated stock is concentrated in New York City, a path for the spread of rent stabilization is baked into the new rent law. One provision allows municipalities to "opt in" to rent stabilization, as long as the municipality has a vacancy rate of less than 5 percent and a housing emergency is declared. That has already led municipalities including Kingston, Schenectady and Rochester to take steps toward rent regulation.

## Regulatory control

- California: AB-1482 does not set up a dedicated agency or department to handle enforcement. A tenant's first choices for enforcement is the court system. They can also file a complaint with the California Department of Fair Employment and Housing

if they feel their landlord is violating the law, according to a spokesperson for the bill author, Assembly member David Chiu.

- New York: Homes and Community Renewal is the state agency that regulates New York's rent regulated housing stock. The agency is often a source of frustration for tenant advocates and the real estate industry alike, and has faced budget cuts over the years. The nine-member Rent Guidelines Board, which is appointed by the New York City mayor, also sets yearly rent increases for rent-regulated housing in the five boroughs.

#### Annual rent caps

- California: Annual rent increases are capped at 5 percent plus inflation or 10 percent, whichever is lower. Just 7 percent of California properties listed on Zillow last year saw increases of more than what is allowed under AB 1482, according to a New York Times analysis. Newsom has called the cap an “anti-gouging” measure to combat drastic rent hikes.
- New York: There are no rent caps on market-rate housing, but for any rent increase greater than 5 percent, all landlords in the state must provide a 30-day notice. For tenants who have had a lease for more than a year, landlords must give 60-days notice, and for those tenants who have had a lease for more than two years, the number of days goes up to 90.

#### Just cause eviction protections

- California: Once a tenant has occupied a unit for 12 months, the landlord cannot evict the tenant unless certain requirements are met. For example, a landlord can evict a tenant if they fail to pay rent, breach a lease, undertake criminal activity on the property or cause a nuisance as defined by state law. Those are considered

“at-fault just cause” evictions. The landlord can also execute a “no fault” eviction if they or immediate family will occupy the unit or convert, if they convert the unit into a condominium, plan to demolish the unit or are required to by law. In those cases, the landlord must pay the tenant for relocation costs.

- New York: Multifamily and small landlords alike breathed a sigh of relief when State Sen. Julia Salazar's controversial bill, which would have prevented landlords from evicting tenants without “good cause,” was left off the final version of the rent law. Salazar's bill would have prevented evictions as a result of rent increases at 150 percent of the Consumer Price Index, which in New York City was 1.8 percent as of August, according to the Bureau of Labor Statistics.

#### Permanency

- California: AB-1482 will be in effect through Jan. 1, 2030 and is automatically repealed on that date.
- New York: Rent regulation laws had previously expired every few years, and were coupled with New York City's 421a tax abatement program until 2016, causing a cyclical showdown that defined the lobbying landscape of New York. Now, the Housing Stability and Tenant Protection Act of 2019 is permanent — but whether that favors tenant advocates or proponents of real estate-friendly revisions to the law is up for debate.

#### Vacancy decontrol

- California: Landlords are allowed to raise rents to market rates when a tenant lawfully vacates a unit regulated under AB-1482. From there, they are limited to rent hikes of 5 percent plus inflation.

- New York: Vacancy decontrol was eliminated with a stroke of Gov. Andrew Cuomo's pen in June. Now, real estate attorneys say that except under very specific circumstances, there is little incentive for vacancies. Prior to June, landlords of regulated apartments were able to deregulate apartments if certain conditions were met: if the apartment's rent was over the \$2,700 limit and there was a vacancy.

#### Properties eligible for regulations

- California: AB-1482 specifically targets single-family properties owned by institutional investors and corporations, seemingly in an attempt to save the “mom-and-pop” landlords from higher costs associated with the new regulations. The new regulations only apply to single-family properties owned by a real estate investment trust, “a corporation” and an LLC “in which at least one member is a corporation.” All units issued a certificate of occupancy before the last 15 years, on a rolling basis, come under the new regulations.
- New York: While many of the changes to the rent law affected all apartments in New York State — such as restrictions on security deposits, eviction timetables and fines for retaliatory evictions — most of the components of the bill just apply to rent-regulated apartments, of which there are about 1 million.

While AB-1482 is a state-level measure, it does not repeal Costa-Hawkins, which barred any municipalities from regulating units built after that year. Tenant advocates tried to repeal Costa-Hawkins through the Proposition 10 ballot measure last year, but 60 percent of voters rejected the measure