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Repeal on Statewide Ban on Rent Control Introduced in Colorado Senate

Due to a multifaceted and diverse economy, and a corresponding influx in available jobs, Colorado has experienced tremendous growth over the last 10 years as the state's population has increased by more than 13 percent since 2010. However, despite the apparent boom in apartment development, the for-rent housing supply has not kept pace as tens of thousands of new residents flock to our state. For instance, Denver has a 93 percent occupancy rate, meaning the market does not have the inventory needed to meet existing demand. This, combined with other factors (such as a dearth of condominiums due primarily to construction defect litigation), has led to a sharp increase in housing costs.

In response, Democratic Sens. Robert Rodriguez (32-Denver) and Julie Gonzalez (34-Denver) and Democratic Reps. Susan Lontine (1-Denver, Jefferson County) and Serena Gonzalez-Gutierrez (4-Denver) have introduced a bill ([SB 19-225](#)) to repeal the statewide ban on rent control and grant local governments authority to impose rent control measures within their respective communities.

If passed, this legislation would lead to negative impacts in the real estate market (for tenants and landlords), assuming that circumstances unfold here as they have in other markets where rent control has been enacted.

Summary of Proposed Rent Control Bill

In 1981, the state legislature enacted a statute (C.R.S. § 38-12-301) that prohibited counties and municipalities from imposing rent control restrictions on privately held residential properties. [Colorado was in good company](#), as at least 31 other states have enacted statewide prohibitions on rent control restrictions, whereas only six states currently have rent control in one form or another.

The pending rent control bill (SB 19-225) would repeal this statewide prohibition entirely and replace it with an express authorization for any "local government" (i.e., any county or municipality) to "enact and enforce any ordinance, resolution, agreement, deed restriction, or other measure that would stabilize rent on either private residential property or a private residential housing unit."

Unlike the [recent legislation in Oregon](#), which imposed a statewide cap on increases in rent equal to inflation plus 7 percent, SB 19-225 does not create any specific rent control policy or enact a statewide rent control program. However, while a sweeping change, the Oregon legislation included express exemptions to protect landlords in certain situations. For example, it allows landlords to charge market rent for the first 15 years after new construction and exempted subsidized housing. In contrast, if SB 19-225 passes, it will grant Denver, Boulder, Pitkin

County and every other county and municipality in Colorado carte blanche authority to enact any rent control measure(s) of their choosing, with no restrictions or exemptions of any kind.

Impact on the Market

Rent control measures were popularized in the 1970s and 1980s, but have since largely fallen out of favor due to the near unanimous conclusion of economists (from conservative **Thomas Sowell** to liberal **Paul Krugman**) that the short-term impacts of capping rent are significantly outweighed by the long-term distortions to the marketplace. Perversely, rent control restrictions have often had the opposite effect of what was intended—developers build fewer apartments, which further constricts supply, tenants become less mobile as they are trapped in rent-controlled apartments, and rents skyrocket for units that are not rent-controlled, all of which exacerbates the housing crisis.

If SB 19-225 passes, renters should expect to see similar outcomes in Colorado.

Legislative Process

SB19-225 was introduced in the Colorado Senate on April 1, 2019, and was assigned to the State, Veterans, & Military Affairs Committee, which has set a hearing to consider the bill on April 10 at 1:30 p.m. If the bill passes the House and Senate and Gov. Polis signs the bill into law, it will become effective Sept. 1, 2019, unless a referendum petition is filed within 90 days after the final adjournment of the General Assembly, in which case the bill's effective date would be tolled until the bill is approved by popular vote at the general election in November 2020. In 2018, voters in California rejected a statewide effort to expand rent control by a margin of 59.43 percent to 40.57 percent, or 2.3 million votes..

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This document is intended to provide you with general information regarding a proposed bill in the Colorado legislature that would repeal a statewide ban on rent control measures. The contents of this document are not intended to provide specific legal advice. If you have any questions about the contents of this document or if you need legal advice as to an issue, please contact the attorneys listed or your regular Brownstein Hyatt Farber Schreck, LLP attorney. This communication may be considered advertising in some jurisdictions.

